**CITY OF DOVER PLANNING COMMISSION**
**April 21, 2014**

The Regular Meeting of the City of Dover Planning Commission was held on Monday April 21, 2014 at 7:00 PM with Vice Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Holt, Mr. Baldwin, Ms. Still and Mr. Tolbert. Dr. Jones, Mr. Ambruso and Colonel Welsh were absent.

Staff members present were Mrs. Townshend, Mrs. Dawn Melson-Williams, Mr. Cook, Mrs. Harvey and Mrs. Mullaney. Also present were Mr. Sean Sokolowski, Mr. Carl Krienan, Mr. Jonathan Street, Mr. Gregg Moore, Mr. Alan Perry, Ms. Denise Anderson, Mr. Jim Kelly, Ms. Eileen Thorp, Mr. Mark Ziegler, Mr. Jim McCulley, Mr. Dev Sitaram and Mr. Charles Owensbe. Also speaking from the public were Colonel Dix, Ms. Rachel Dunning, Ms. Lois Dunning, Mr. Rhett Ruggerio and Mr. John Paradee.

## APPROVAL OF AGENDA

Mrs. Townshend stated that application SB-04-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan has been postponed at the request of the applicant until the Planning Commission meeting scheduled for May 19, 2014.

*Mr. Cregar moved to approve the revised agenda to include the applications previously scheduled for the March 17, 2014 meeting and also the removal of application SB-14-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan, seconded by Ms. Still and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

## APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 18, 2014

*Ms. Still moved to approve the Planning Commission minutes of February 18, 2014, seconded by Mr. Holt and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

## APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF FEBRUARY 19, 2014

*Ms. Still moved to approve the Planning Commission Quarterly Workshop minutes of February 19, 2014, seconded by Mr. Holden and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

## COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting will be held on Monday, May 19, 2014 at 7:00 PM in the City Hall Council Chambers.

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop is scheduled for Tuesday, May 20, 2014 at 12:00 noon in the City Hall Conference Room.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on February 24, 2014, March 10, 2014, March 24, 2014 and April 14, 2014.

Mrs. Townshend stated that there were cards on the desks of the Commission members about the "Restoring Central Dover Open House" scheduled for May 2-10, 2014. There is also some available to the public. This is a community driven planning effort to look at how they can revitalize the residential neighborhoods of Downtown. She encourages people to get out and participate because participation is what makes a planning effort successful.

## OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

## OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

Mr. Holden recused himself from applications C-10-05, S-14-04 and S-14-05. His employer is the engineer of record.

2) Revision to Development Applications:
   a) C-10-05 New Dover High School: Revision to Sidewalk – Revision of sidewalk network design for the New Dover High School. The property is zoned R-10 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property is located on the south side of Forrest Avenue and east of Dover High Drive. The owner of record is the Capital School District. Address: 1650 Forrest Avenue. Tax Parcel: ED-05-076.00-02-07.00-000. *The Planning Commission conditionally approved Conditional Use Site Plan C-10-05 on December 20, 2010, Final Site Plan Approval was granted to S-11-18 and approval granted to a Revised Parking Justification and Waiver Request for Parking Justification on October 21, 2013.*

**Representatives:** Mr. Sean Sokolowski, Capital School District; Mr. Carl Krienen, ABHA Architects

Mrs. Townshend stated that the area of discussion on the Site Plan for the Dover High School that came to the Planning Commission as a Conditional Use Site Plan in December 2010 is the S-sidewalk located at the front of the site. This sidewalk was included in the Site Plan as part of the requirement to have access from the frontage sidewalk into the site. There are other locations where there is access from the frontage sidewalk into the site but this sidewalk would bring you into the front of the building. As the applicant has been working with the District and DelDOT to get the HAWK signal at the east entrance and the sidewalks on the north side of Route 8 in the vicinity of the high school, it was pointed out by a member of the public at a City Safety Advisory and Transportation Committee meeting that the S-sidewalk creates a reason for students from Cranberry Run to want to cross at an uncontrolled location instead of at the signalized location. Since they are trying to direct pedestrians to go east using the sidewalk and then across the street at the signal, they thought they should bring forward a request to the Planning Commission for that S-sidewalk at the front of the school property be eliminated because it could encourage unsafe crossings of Route 8.

Mr. Cregar stated that the Department of Transportation is in agreement with the elimination of this sidewalk and although they can't guarantee that no one will cross at uncontrolled locations, it is probably a much better situation to try to move people to that signalized location. Responding to Mr. Cregar, Mrs. Townshend stated that the front grass area is actually going to be planted in

meadow grasses so with meadow grasses and no sidewalk it will be more likely to discourage but not eliminate that crossing.

Mr. Cregar questioned if the representatives of this application had any questions or concerns? Responding to Mr. Cregar, Mr. Sokolowski stated that he is the Business Manager for Capital School District. Dr. Thomas sends his apologies as he could not make it; he had a previous engagement tonight. The District doesn't have a strong preference whether the sidewalk goes in or not. Obviously, they want the safest means for their children, but they will defer to the Planning Commission as far as what they feel is most reasonable.

*Ms. Still moved to approve C-10-05 New Dover High School: Revision to Sidewalk, seconded by Mr. Baldwin and the motion was unanimously carried 5-0 with Mr. Holden recused and Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

## NEW BUSINESS

## NEW DEVELOPMENT APPLICATIONS

1) S-14-04 Kent County Community School Additions at 65 Carver Road and 901 Forest Street – Public Hearing and Site Development Plan Review to permit the construction of building additions totaling 18,280 S.F. between two buildings with the associated site improvements on a 45.46 acre parcel. The building additions consist of 2,640 S.F. to the Kent County Community School at William Henry Middle School and 15,634 S.F. to Booker T. Washington Elementary School. The property is zoned I-O (Institutional and Office Zone) and subject to the COZ-1 (Corridor Overlay Zone 1). The property is located on the north side of Forest Avenue between Weston Drive and Carver Road. The owner of record is Dover Special School District (Capital School District). Property Addresses: 65 Carver Road, 901 Forest Street. Tax Parcels: ED-05-076.07-01-55.00-000, ED-05-076.07-01-65.00-000, ED-05-076.07-01-66.00-000, and ED-05-076.08-01-28.00-000. Council District 4.

**Representatives**: Mr. Jonathan Street, Becker Morgan Group; Mr. Carl Krienen, ABHA Architects

Mrs. Melson-Williams stated that this application was for the Kent County Community School building additions to be located at the William Henry Middle School site and the Booker T. Washington Elementary School site which are part of the same complex located north of Forrest Avenue and east of Carver Road. The property is zoned IO (Institutional and Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone 1) which plays into the some of the design and landscaping requirements for the project. The project has two components. The first is an addition to the main Kent County Community School building. This proposed addition to the east side of the building consists of 2,640 S.F. The second and much larger proposed addition involves the Booker T. Washington Elementary site. It has two components; one is a renovation project to what is the original section of the school building and the second component is a 15,634 S.F. of new building at the site. Previously, the Planning Commission may remember that a Site Development Master Plan was reviewed for this two school complex in 2010. Part of that has actually been implemented in that the first phase did a lot of work to reconfigure the site access and circulation on the property and by improving bus and parent drop-off areas. Subsequent to that first phase, there is a second

phase that made the connection to Weston Drive and as of this morning the light at the intersection of Weston Drive and Forrest Street was to move into a partial operational mode.

This project was not identified as part of that Master Plan project; it stands as its own Site Plan. It has the two components and the Corridor Overlay Zone (COZ-1) focuses on the Forrest Avenue portion of the site. There are a number of provisions of that zone related to landscaping, building placement and setbacks. There are a number of things outlined in the report that are recognized as nonconforming situations because the school building was originally constructed prior to the *Zoning Ordinance* including the Corridor Overlay Zone (COZ-1) provisions. For the most part, where they can comply they are complying. In particular, the proposed addition does bring the building closer to the street which is one of the concepts in the Corridor Overlay Zone (COZ-1).

There are a series of architectural drawings related to the proposed building addition. They continue to utilize the brick and carry a number of the details for the Booker T. Washington Elementary School building in the form of cornice work and window design. Specifically related to the Corridor Overlay Zone, there are architectural review requirements associated with that frontage of the building. They are complying with those architectural element requirements in proposing windows and an operational entrance as part of the historic porch entrance to that building as well as integrating landscaping to the new building addition.

There are no proposals related to parking with this project. There are a number of sidewalk changes as they make the additions to the front of the Booker T. Washington Elementary School to deal with handicap accessibility to that portion of the building. The site is actually recognized overall as non-conforming related to parking. If going by the total building square footage on the property, it would require over eight hundred fifty (850) parking spaces. Previously, the Planning Commission has recognized that the provision of doing the parking calculation related to the large spaces in those buildings is more appropriate in the case of these elementary and middle school situations so the site actually contains three hundred ninety-four (394) parking spaces and in addition a number of bus parking spaces as well. Bicycle parking is provided on the site and sidewalks are present along the street frontages for the property.

They are including some landscaping as part of this project and will actually be planting a number of trees to meet those tree planting requirements. The Planning Office provided a number of comments specifically with this application. They have one recommendation which is to install a bicycle parking rack in the vicinity of what is the historic front of the school building as that area may actually be utilized for special events and activities as an entrance. They want to give the opportunity for bicycle parking in that area. The other DAC review agencies including the City's Public Works Department, Electric Department, the Office of the Fire Marshal, DelDOT and DNREC's Sediment and Stormwater Management Program have provided comments regarding this Site Plan application. There are no waiver requests.

Mr. Street stated that he is the project manager for the civil portion of this project. Mr. Carl Krienen with ABHA Architects will be handling the architectural piece of the project. As Mrs. Melson-Williams stated, there are two main portions of site construction that will be taking place. There is a modest addition that will be taking place on the back of the Kent County Community School which is located to the rear of William Henry Middle School. Modest improvements include a handrail and sidewalks and curb to accommodate the building egress to the rear of the addition itself. The

majority of the additions and site work will be held to the Booker T. Washington site which fronts Forrest Avenue. He believes there is approximately 15,000 S.F. of building additions to the Booker T. Washington School. Essentially what they will be doing is pulling out most of the non-compliant sidewalks and ramps that currently access the school. There is a lot of pavement in the front of the school that fronts on Forrest Avenue and replacing it with more elegant, more ceremonial entrance to the Booker T. Washington School, to the old historic piece of the building. Mr. Krienen can speak to the improvements that will be done with that. They will also be providing stormwater management in conformance with the new regulations set forth by the State. They will be providing new water access more than likely to the building to include fire suppression systems for the historic piece which is not currently sprinklered.

Mr. Krienen stated that the Kent County Community School allows space for students with special needs within all of Kent County which is sponsored by Capital School District. The need is for additional space. The second aspect to the project really allows for the main Booker T. Washington School site to utilize the historic area of the building which is current underutilized or not utilized. Its part historic renovation and part additional square footage for the students. (Power Point Presentation shown.)

To the left of the drawing shown on the projector in the foreground is the historic area. Part of that is to be completely renovated for the students but also to try to repair as much as possible some historic aspects of the building and to also connect to a new addition location further down along Forrest Avenue. This is making it a school that is integrated with the more modern portions of the Booker T. Washington School. Students from these areas, the historic area and the modern area, will interact together so that the school is considered one school but the renovations really help to facilitate that.

A view of the school right after construction of the original historic wing was shown. As most of the Commission members know, historically this was an African American school for the City of Dover so there are some historic components of that. The second view was a more recent photograph of some of the more recent renovations. What they would like to do is to go back to the original historic frontage of the building. They are trying to recreate the main entry and archway area as well as modify the ramps to allow for appropriate accessibility but so to reinvest the front of that building. To the right as it connects back to the more modern area of the building, there is more contemporary detailing so it kind of meshes between the older building and the newer building. It creates an improved frontage along the entire portion of Forrest Avenue and as Mrs. Melson-Williams mentioned to bring the building a little closer to help fortify that street edge. With the materials shown, brick as much as possible and the detailing for cornices and soldier courses to really pick up some of the new pieces really make it look like what was there before. Similarly, the newer areas pick up some of the detailing in the historic area and this connector porch is to try and to tie the two pieces together.

The last component is the parking lot side of the building which is the main working entrance of the building. In order to get more space and functionality there will be a new corridor piece that will connect between the historic building and the new building that will front the playground areas and then overlook the parking.

Mr. Street stated that they have no questions or comments for staff with the Staff Report with one exception, the recommendation to add bicycle parking at the historic entrance of the building which is the Forrest Avenue side of the building. Since this area is going to be a secure and more of a ceremonial entrance they would like the recommendation to state that they are going to add bicycle parking to the actual entrance of the school. This is located at the back side of the school on the parking lot side in the area of the covered overhang in between where the buses and the parent drop-off areas are located. They would like the front of the building to remain more ceremonial and possibly free of bike racks.

Mr. Tolbert questioned if their only problem was with the bicycle rack? Responding to Mr. Tolbert, Mr. Street stated that they would like the bike rack to be located in the back at the actual physical entrance of the school not the front ceremonial entrance of the school.

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

Mr. Cregar questioned if there was any reaction from staff regarding the bicycle location? Responding to Mr. Cregar, Mrs. Townshend stated that they have no issues with the bicycle rack being located at the back of the school.

*Mr. Holt moved to approve S-14-04 Kent County Community School Additions at 65 Carver Road and 901 Forest Street including the bicycle rack being moved to the back of the school at the main entrance of the school and all DAC comments, seconded by Mr. Baldwin and the motion was unanimously carried 5-0 with Mr. Holden recused and Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

2) S-14-05 Winner Volkswagen Showroom at 1387 North DuPont Highway – Public Hearing and Site Development Plan Review to permit the construction of a new 20,178 S.F. showroom and service building adjacent to an existing showroom building with associated site improvements on a 5.505 acre parcel. The property is zoned C-4 (highway Commercial Zone) and a portion is subject to the SWPOZ (Source Water Protection Overlay Zone). The property is located on the east side of North DuPont Highway and northwest of the entrances to Dover Mall. The owner of record is 1387 DuPont Highway, LLC c/o Michael Hynansky and lessee is Winner Dover 1387, LLC c/o Michael Hynansky. Property Address: 1387 North DuPont Highway. Tax Parcel: ED-05-057.00-01-15.00-000. Council District 3. *Waivers Requested: Reduction of Arterial Street Buffer, Consideration of Tree Mitigation Plan.*

**Representatives:** Mr. Gregg Moore, Becker Morgan Group; Mr. Alan Perry, Montchanin Development Group

Mr. Cook stated that this application is a Site Development Plan to permit construct of a new 20,178 S.F. showroom and service building with associated site improvements at 1387 North DuPont Highway. The property is zoned C-4 (Highway Commercial Zone) and a small portion is subject to the SWPOZ (Source Water Protection Overlay Zone). The existing site consists of two structures: a dealership sales service building along the highway frontage and an additional service building in the rear. A third structure is to be added at the south of the property, south of the existing sales and service building. Starting in the front, the Site Plan proposes a continuous sidewalk along the

highway frontage as well as a sidewalk leading from the frontage into the property. Multiple existing entrances from North DuPont Highway are consolidated down to a single point of entry and exit to and from North DuPont Highway. The proposed new structure is primarily glass with portions of metal panels and metal corrugated siding on the sides. The rear portions are primarily masonry and the rear segments of the sides are also mostly masonry.

Rear portions of the site are currently grass and are proposed to be paved and used as vehicle display and parking. An underground stormwater infiltration area is shown on the Site Plan and the details of that are found in the packet. A reserved area is shown for a future entrance from the Dover Mall entrance road.

There are two waivers being requested by the applicant. One is a request for a reduction of the required thirty (30) foot arterial street buffer to ten (10) feet. The second is a consideration of a Tree Mitigation Plan to allow for the tree plantings to be planted off-site as allowed under conditions of the *Zoning Ordinance*. The applicant has proposed plantings of the total eighty (80) required trees on properties of the Dover Housing Authority and Caesar Rodney School District at locations within the City limits. The DAC Report includes comments from the Planning Office, Department of Public Works, Fire Marshal's Office, DelDOT, Kent Conservation District and the Dover Kent County Metropolitan Planning Organization.

Mr. Moore stated that they were separating the Volkswagen dealership from the Subaru dealership. They both are housed in the current building. One building will be renovated and become solely the Subaru building which is the existing building and the new building will be built and used by Volkswagen so that both franchises are separated. This is something that has been done by Winner Ford at one of its other locations. The franchises are pretty much demanding that all of these buildings be separated and operated autonomously because of competition reasons. This plan was actually presented to the Planning Commission a number of years back to have a separate Volkswagen dealership under the previous ownership. That building was never commenced so Winner Group is here for that purpose today.

Mr. Cregar questioned if all of the issues with DelDOT and the entrance to and from the highway have been cleared? Responding to Mr. Cregar, Mr. Moore stated yes, they had a meeting with DelDOT to go over their comments and they are agreeing to install a right turn lane directly in front of the new building which is their basic request. That right turn lane is going to extend the full length of the property and provide safer access into that single entrance. They provided a letter summarizing that.

Mr. Tolbert questioned if there was an agreement with the party they will be dealing with on the Tree Mitigation Plan? Responding to Mr. Tolbert, Mr. Moore stated yes, they presented letters to that affect for each so that the trees will be used in the City. The one waiver request, which is the reduction of the buffer, is necessitated again by widening Route 13 a little bit. It is actually now more important than it was prior to them putting it in.

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

Mr. Baldwin stated that on the earlier application for the old building they were unable to do sidewalk so they did a painted stripe walk because of the geography. Will the applicant be able to address this issue this time? Responding to Mr. Baldwin, Mr. Moore stated yes, this proposal is for a concrete sidewalk for the entire frontage and they have incorporated that into the Site Plan so it won't be paint striped.

*Mr. Cregar moved to approve S-14-05 Winner Volkswagen Showroom at 1387 North DuPont Highway, including the waivers for reduction of Arterial Street Buffer and Tree Mitigation Plan as discussed in the DAC comments, seconded by Mr. Holt and the motion was unanimously carried 5-0 with Mr. Holden recused and Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

3) C-14-04 Personal Service Nail Salon at 235 West Loockerman Street - Public Hearing and Conditional Use Review to permit a nail salon in an existing 1,400 S.F. ± first floor tenant space with associated interior improvements. The property is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone). A Conditional Use permit is required when other personal service stores are located within 250 feet of the proposed business site. The property is located on the north side of Loockerman Street and east of the intersection with South New Street. The owner of record is Shreege Properties, LLC. Property Address: 235 West Loockerman Street. Tax Parcel: ED-05-77.09-01-50.00-000. Council District 4.

**Representative**: Ms. Denise Anderson

Mrs. Harvey stated that the Conditional Use Plan is to permit a nail salon on the first floor of an existing building located at 235 West Loockerman Street. The property is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone) located on the north side of Loockerman Street. The building was built in the 1920's and listed in the National Register of Historic Places as a contributing resource to the Victorian Dover Historic District. The building consists of three floors. The first floor was most recently utilized as the Ancient Way Massage and Day Spa and the second and third floors consist of two separate apartments. Due to the proposed location and type of land use as a nail salon, a Conditional Use approval is required by the Planning Commission as noted in Article 3, Section 13.21 of the *Zoning Ordinance* regarding a personal service store located within two hundred fifty (250) feet of another personal service store.

Ms. Anderson stated that she is planning on owning the business "California Nails" and renting from Shreege Properties, LLC. It's going to be a nail salon and even though Tresses Hair Salon is next door, they do not have a manicurist table or a nail tech table inside their salon so they are not competing. They actually told her that they would refer customers to her business. The closest nail salon is Bee Hive Beauty Shop located further down the street towards East Loockerman Street to where the old Loockerman Exchange was located. She doesn't feel like they are any kind of competition to her business. Besides the one manicurist table located in the Bee Hive Beauty Shop which is a hair salon, she is going to be the only manicurist on Loockerman Street. She has found that the closest manicurist to this address is located on Route 13 called "LA Nails". She feels that her business will be a good thing not a bad thing. Even though there are a lot of other salons in the area, she is going to be the only nail salon.

Mr. Tolbert questioned if the applicant had a questions or concerns regarding the DAC Report? Responding to Mr. Tolbert, Ms. Anderson stated no, she is just hoping to get approved so that she can get everything squared away.

Mr. Cregar stated that the applicant would have to do a more detailed presentation with the different comments as were laid out in the DAC Report. He questioned if that represented a problem for the applicant to do so because it's more substantial than the information that was presented. Responding to Mr. Cregar, Ms. Anderson asked for clarification.

Mr. Cregar stated that in the DAC Report there are considerable comments about the plan that needs to be presented with the different notes and things that the Planning Office would require. He questioned if that was going to be a problem for her to prepare and present it back to staff for approval? Responding to Mr. Cregar, Ms. Anderson stated no, that would not be a problem. She went over each requirement in the DAC Report. It was previously the Ancient Way Salon so the plumbing is already setup. The things that are required by the Fire Marshal, the handicap accessible bathroom has already existing. This was kind of her reason for choosing this particular space because everything already exists. The electrical comments were for any kind of major things done where it would need permitting which is not going to happen. They are going with a more natural method of pedicures where it's waterless pedicures. It's even setup for the actual pedicures with the faucet lines but she is choosing not to use them. They are already closed but she is going to use them for sanitary purposes. A lot of water will not be used. In a normal nail salon to water usage would be hundreds of gallons a year or more. The only concern she has with trash collection is that she may need a special trash can or method of eliminating chemical type containers. She already spoke to her landlord regarding this issue and they said to work it out with the maintenance person. She didn't see any of the other comments being a problem since the Ancient Way Spa had taken care of everything.

Mr. Cregar questioned if the Planning staff would work with the applicant to get a more detailed plan? Responding to Mr. Cregar, Mrs. Townshend stated yes, they have done it past where if she has an 8.5"x11" they will provide an 8.5"x11" with all of the information she needs for a data column and then they can copy it as a 11"x17". They make it as easy as possible.

Mr. Baldwin questioned if the current business located within the two hundred fifty (250) feet area would want to do a nail salon what would be their position at a later date? Responding to Mr. Baldwin, Mrs. Townshend stated that they are already a person service business so it wouldn't affect that.

Mr. Baldwin further questioned if the existing business wanted to have a nail salon there wouldn't be any issue? Responding to Mr. Baldwin, Mrs. Townshend stated yes, as long as it's within an existing personal service.

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

*Ms. Still moved to approve C-14-01 Personal Service Nail Salon at 235 West Loockerman Street including all DAC comments, seconded Mr. Baldwin and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

4) C-14-02 YMCA of Delaware Kent Swim Club at 825 Kenton Road – Public Hearing and Conditional Use Site Plan Review to permit the construction of a new 1,600 S.F. pavilion, conversion of the property to public sewer service, and associated site improvements on the 18.3 acre parcel. The property is zoned R-10 (One-Family Residence Zone). The property is located on the east side of Kenton Road and south of Walker Road. The owner of record is YMCA of Delaware. Property Address: 825 Kenton Road. Tax Parcel: ED05-067.18-02-01.00-000. Council District 1. *Waiver Requested: Partial Elimination of Sidewalk Requirement.*

**Representatives:** Mr. Jim Kelly, Chief Operating Officer for YMCA of Delaware; Ms. Eileen Thorp, CDA Engineering

Mr. Cook stated that this application is a Conditional Use Site Development Plan to permit site improvements and the construction of a 1,600 S.F. pavilion structure at 825 Kent Road. The property is zoned R-10 (One-Family Residence Zone). This property was formerly the Kent Swim Club and was annexed into the City in 1969 then zoned R-10 (One-Family Residence Zone) in 1996 with one of the City's Comprehensive Rezonings. The *Zoning Ordinance* allows Conditional Uses in residential zoning districts subject to approval by the Planning Commission. An annual membership club is a permitted Conditional Use and the continued use of the property is unchanged following the change of ownership to the YMCA of Delaware.

The 1,600 S.F. pavilion is proposed in the interior of the site adjacent to the existing parking lot. This is a simple wood post structure with a shingled roof and open on all four sides. It's typical of what would be seen in a park. A 120 S.F. mobile restroom facility is proposed adjacent to the existing pool house. It's a mobile facility that has both men's and women's facilities with running water, lighting, heating, ventilation and an air conditioning system. This facility is intended for use by youth camp participants. The applicant is working with the adjacent property owner to establish a connection to public sewer. That is proposed to run through the wooded area and connect to the condominium adjacent to the property.

Tree removal is proposed for the pavilion site as well as along the proposed sewer line path. Tree planting is proposed inside the property line along the Kenton Road frontage near where the existing tennis courts and volleyball courts are located. More tree planting is planned along the entrance drive from Kenton Road and additional tree inside near the parking lot and then a few near the stormwater retention pond at the corner of Walker Road.

The existing courts are proposed to be removed and a future site will be reserved for a playground. Also, a sidewalk from Kenton Road along the entrance drive to the interior of the property is proposed. There is one waiver being requested by the applicant which is a request to eliminate the required sidewalk along a part of the Kenton Road frontage. The applicant seeks a waiver for the portion of Kenton Road south of the entrance drive. That particular part of the property frontage has several utility fixtures that make construction of a sidewalk difficult and future DelDOT capital plans would necessitate reconfiguration of the right-of-way and relocation of the utilities. The applicant has proposed payment to the DelDOT Kent County Sidewalk and Multi-Use Paths Fund in lieu of the requirement to construct the sidewalk.

The DAC Report includes comments from the Planning Office, Department of Public Works, Fire Marshal's Office, DelDOT and the Kent Conservation District.

Mr. Holt questioned if this is going to be strictly a summer time program, what will the hours be? Will there be night time activities as well? Responding to Mr. Holt, Mr. Kelly stated that the hours would be primarily 8AM – 8PM. There may be some activities where they have an evening program once in a while but they would take the time to inform the current members of the community in that area that they would be having a program for the children. They run an evening program currently called Club 58 for kids in $5^{th}$-$8^{th}$ grade and they would like to incorporate some of that into the pool area in the evenings but only once in a while not every night. They would normally close at 8PM.

Mr. Cregar questioned if the mobile restroom would be removed when the summer ends and the pool is closed or will it be left permanently? Responding to Mr. Cregar, Mr. Kelly stated that it would be removed. They would like to move it to at least inside the fenced area or someplace else for storage.

Ms. Thorp stated that they are looking to install a 1,600 S.F. pavilion and a small mobile restroom; however, it will have permanent facilities such as sanitary, water and electric for a hygiene hut to be used by children campers during the summer. It will also be providing an ADA accessible port-a-potty on-site for the children who need assistance because this structure will not be ADA accessible. They will also be providing bike racks along the sidewalk that's entering the site and this sidewalk will be ADA accessible as well. They are also adding additional handicap parking stalls within the existing paved surface.

They have made contact with English Village and are heading down the path in which to obtain a right-of-way easement for the sanitary sewer. What they would like to do is to remove the site off of septic. Currently, it has an existing septic field and they do not know the current condition of it. To best serve the community and the YMCA facility it would be best to connect into the City sewer. The way of doing that is through English Village Condominiums. The pool will not dump into the sewer; it has a separate filter system called a wash-out filter system. It does not backwash into the sanitary sewer system so they won't be adversely charging the system frequently with any pool water.

Mrs. Townshend stated that in terms of the DelDOT comments since they are going to be improving Kenton Road there is a payment in lieu of sidewalks.

*Mr. Tolbert opened a public hearing.*

**Colonel Thomas Dix – 664 Independence Blvd Dover DE 19904**

Colonel Dix stated that his property borders on the property described as 825 Kenton Road. He received his undated notice in the mail and it came from an applicant who works for CDA Engineering, Inc. It suggested the construction of a 1,600 S.F. pavilion, conversion of public sewer service and associated site improvements. There was one sign posted to tell the public of this review. It was in a ditch near the main entrance on Kenton Road. It's barely visible from Kenton Road; in fact it's behind a tree. No sign was posted on the Walker Road entrance or along any property boundary other than at the main entrance.

Who owns the property and what does the owner plan to do with the property? This would be basic information for a Conditional Use Site Plan. The associated site improvements are very mysterious. He has a few problems with the use of the Conditional Use Site Plan to develop the land at this location. The site is zoned R-10 (One-Family Residence Zone). An open sided pavilion which measures 40'x40' is not architecturally consistent with a residential neighborhood. There is no large pavilion in the residential zones in the City of Dover at this time. The Kent Swim Club used public address systems and bright lights which are not allowed in residential zones. His knowledge of the City *Zoning Ordinance* is rather limited and it is not known for a specific allowance for conditional structures in a low density zone with a Conditional Use Site Plan. On April 17, 2014 he became aware of a mobile hygiene hut which was to be used as he thought a locker room or restroom. Will pool patrons be mixed with the users of the pavilion? This does not sound like a healthy situation. The use of a mobile structure in an R-10 (One-Family Residence Zone) is certainly a violation of the *Zoning Ordinance* and a Conditional Use waiver would be unacceptable to the neighbors.

The real problem is that this site came into the City of Dover as a residential property several years ago and the zoning was never changed. Some type of recreational zoning would seem appropriate with a pavilion and its past use. The use of mobile hygiene hut does seem appropriate with some type of recreational zoning. He is afraid that such a hut would be vandalized in the winter months and become a neighborhood eyesore. He would suggest a permanent restroom for the pavilion. A changing room with showers and lockers would seem to be required by the State of Delaware Public Health Department. He would like to see a commitment of improvements that are permanent. He is lead to believe that within the next few years, the City will be in a position to re-zone this site. He is asking the Planning Commission to promote this zoning change for the entire site in question.

Mr. Tolbert questioned if he has been in contact with the applicant regarding his concerns? Responding to Mr. Tolbert, Colonel Dix stated no, he did not know where the notice came from. He went to the Kent Swim Club site and it said that the property was going to be leased to the YMCA so he was not aware that YMCA had purchased the property. He would love to see campers at this location during the summer but he would like to get the zoning changed.

**Ms. Rachel Dunning & Ms. Lois Dunning – 21 Lamplighter Ln Dover DE 19904**

Ms. Rachel Dunning stated that her property boarders the property of 825 Kenton Road. As for the Site Plan, where do they intend to build the new clubhouse, pavilion and pool along with the parking lot and possibly sidewalks and landscape buffers? Where are the improvements on the site in relation to 21 Lamplighter Lane? Has DelDOT required a new Traffic Impact Study and have they done a Wetlands Delineation of the remainder of the property? Where do they intend to put the new entrance? If it is off of Walker Road, they will be disturbing the wetlands to create it. Will the pavilion be used by the public as well as by Kent Swim Club members? This will add to additional foot traffic possibly leading to additional crime in the area which is already a problem. The mention of reserving space for a park in the future; there is Independence Park directly next to them so there would be a park on each side of them. She thought was an issue with the spacing of parks. There is the possibility of the traffic interfering with the Fire Department activity. Also with the new Dover High School there will probably be traffic going that way as well. What will happen to the woods on Walker Road that back up to their property? They also have issues with the portable shower units. What upgrades are they planning as far as lighting, sound systems, etc.? In the past, there

have been activities at this location lasting until 10PM or 11PM with the speakers going. How much parking will be available and where will it be located? Will the woods be taken down?

Ms. Lois Dunning stated that with the YMCA holding all of these programs at this location, the community doesn't know who will be there or when they will be held. They need to see some plans as far as what's being planned for that area. If they are going to have activities for children going on once in a while and what times they will be held. They need to see these things in writing. She was not aware that the YMCA had purchased the Kent Swim Club. She was aware that they were leasing Kent Swim Club for swimming meets not for all of this additional activity. She would like more background as to how they got to this point.

Ms. Rachel Dunning stated that they also received the same letter as Colonel Dix just a couple weeks ago and it was very vague. The problem for them is that their property boarders right along this location and they've dealt with the sound and some of the other things throughout the years. But this plan just upset them.

Ms. Lois Dunning questioned where the sidewalks would be located? Would they be going down Walker Road? Responding to Ms. Lois Dunning, Mrs. Townshend stated that there are already sidewalks on Walker Road.

Ms. Lois Dunning further questioned if there were going to be additional sidewalks? What's going to happen to the entrance and exit that is on Walker Road? Responding to Ms. Lois Dunning, Mrs. Townshend stated in terms of the entrance and exit there is no Traffic Impact Study required; this is a very small improvement. It does not generate enough daily trips to warrant a Traffic Impact Study. The entrance off of Kenton Road will remain and the exit only off of Walker Road will remain. A sidewalk will be installed along the north portion of Kenton Road but where they are requesting a waiver is for the southern section. She thinks there are some grade issues at this location but also DelDOT has a Capital Transportation Project to come through and improve Kenton Road in the next several years so the applicant would make a payment to DelDOT in lieu of constructing the sidewalk if they were to get the waiver.

Ms. Lois Dunning questioned what makes it worthwhile to have a DelDOT study because that also affects all of the traffic coming thru? Responding to Ms. Lois Dunning, Mrs. Townshend stated that the property use as a swim club was recently researched by staff. When the property was annexed into the City in 1969 it was zoned Recreational and Commercial (RC). She is not sure of the reason but she suspects that it had to do with a large wooded area but in 1996 when the City did the Comprehensive Plan and the associated Comprehensive Rezoning, the property was re-zoned to R-10 (One-Family Residence Zone). She would suspect that it was done to protect the wooded area from going to a more intense commercial use. What the applicant is proposing at this point does not change anything existing as part of what would be a legal non-conforming use. The only thing that changes is the addition of the pavilion to support the day camp program and the addition of the hygiene hut. The applicant has done a Wetland Delineation; there was no proposed impact to any of the areas that have been delineated as wetlands. The only impacts to the wooded area include the footprint of the pavilion and the area where they will need to connect sewer. Even without this Conditional Use Site Plan, there is no change in what the applicant can do at this location. What Kent Swim Club has done here for years is allowed to continue. It's the addition of the pavilion that brings them to the Planning Commission. The entrances and exit stay the same. There will be

sidewalk installation on Kenton Road north of the entrance and a request for a waiver south of the entrance. None of the wooded area along the property line with English Village or Lamplighter Lane would be changed. What the Planning Commission is reviewing is the pavilion and the removal of some playing courts that have deteriorating over time and have not been maintained. In terms of property transfers, while she believes property transfers are listed in the newspapers there are no public notification process for property transfer. For Kent Swim Club to sell this property to the YMCA is no different than for her to sell her house to someone else from a public notice standpoint.

Ms. Lois Dunning stated that she understood what Mrs. Townshend was saying but she was pointing out that there were all kinds of publicity about leasing and helping the Kent Swim Club out and they there was no knowledge of the sale, like it was done quietly. She is sure that this is above the law and allowable but she feels that things are done whereas the people surrounding the area may not aware. They weren't aware that the YMCA had purchased the property and wanted to have children's programs. Who knows where, how many kids will be around, how safe it's going to be for the children and where this activity is going to take place on the property? She thinks they need more information in writing and a study done.

Ms. Rachel Dunning questioned if the applicant would be able to expand into the wooded area at a later point in time? Responding to Ms. Rachel Dunning, Mrs. Townshend stated that it would be a separate application to the Planning Commission with the same notification process. If the Planning Commission grants approval this evening, they could not go in and put another pavilion elsewhere on the site or clear the trees. They are limited to what's on the plan before the Commission this evening.

Ms. Lois Dunning questioned if the pavilion was closer to Kenton Road? Responding to Ms. Lois Dunning, Mrs. Townshend stated that it was closer to Walker Road just off of the parking lot. It's a notch into the already developed area.

Ms. Lois Dunning further questioned how many parking spaces are there now? Responding to Ms. Lois Dunning, Mr. Cook stated that their existing parking total is one hundred twenty-five (125) and the proposed parking is one hundred twenty-four (124). That happens through striping one parking space to create five (5) handicap parking spaces where there are currently two (2). They are taking one (1) space and creating three (3) spaces.

Ms. Lois Dunning questioned if it was possible to request what activities are being planned for the usage of this area? Such as night time activities, after school activities, summer camps, etc.? Is this something that could be looked into further? Responding to Ms. Lois Dunning, Mrs. Townshend stated that in terms of the scope of the Planning Commission, the most that the Planning Commission could do is put limits on the hours of operation so that they are not having late night activities.

Ms. Rachel Dunning stated that this has been a problem in the past. They would have swim meets at the location until 10PM or later with their loud speaker system on. They could hear the sound system loud a clear. Their concerns are the wooded area that they back up to. They want it to stay wooded and they don't want more noise than there has already been.

Mr. Tolbert questioned is the noise they heard previously was prior to the YMCA taking over the building? Responding to Mr. Tolbert, Ms. Rachel Dunning stated yes, but the loud speaker system is still there. It has not been removed.

Ms. Lois Dunning questioned if there would be upgrades, more lights, more sounds or better sound systems? Responding to Ms. Lois Dunning, Mrs. Townshend stated that they can't add to the sound system under this application.

Ms. Rachel Dunning questioned if the sound system was legal in the area that it's zoned for? Responding to Ms. Rachel Dunning, Mrs. Townshend stated that technically under the noise ordinance, any time that you can hear something fifty (50) feet away from the premises, the police could be called and the owner could be in violation of the noise ordinance at any time of day.

Ms. Rachel Dunning stated that they can hear everything that is said on the loud speaker system.

Mr. Tolbert questioned how far away they were from the loud speaker system? Ms. Rachel Dunning stated that they are more than fifty (50) feet away.

Mrs. Townshend stated that she would suspect that they could work with the YMCA to adjust the sound on the PA system.

Ms. Rachel Dunning stated that they also wanted to make sure that none of the animals that live in the wooded area near this location were displaced and they don't want Kent Swim Club right up against their back yard.

Ms. Lois Dunning stated that her biggest concern was traffic. There is a lot of traffic in the area and adding to it with the roads not being widened and with the fire department; there are a lot of traffic patterns around this area. Responding to Ms. Lois Dunning, Mrs. Townshend stated that their trip generation is relatively small because it's really the same use.

Ms. Rachel Dunning stated that as Colonel Dix said, none of the neighbors knew anything about this until two (2) weeks ago.

Mr. Tolbert questioned if they received a notice regarding this application? Responding to Mr. Tolbert, Ms. Rachel Dunning stated yes, they received the notice less than two (2) weeks ago.

Mr. Tolbert further questioned if they knew who the notice came from? Responding to Mr. Tolbert, Ms. Rachel Dunning stated no, it was similar to Colonel Dix's notice from CDA Engineering. She was not even aware of the sign that was placed near the entrance on Kenton Road.

*Mr. Tolbert closed the public hearing.*

Mr. Holden questioned if the fee-in-lieu would guarantee that when DelDOT comes through at a later date that they would construct the sidewalk? Responding to Mr. Holden, Mrs. Townshend stated yes. When the Kenton Road study was done, the road itself and the need of sidewalks were both part of that study.

Mr. Cregar questioned the area that's marked proposed playground; do they need any more detail on what that would be? Responding to Mr. Cregar, Mrs. Townshend stated that she did not think so. The scope really is more about adding structures. They would need to make sure that they are properly distanced from property lines.

Mr. Cregar stated that when the zoning was changed to R-10 (One-Family Residence Zone) it really afforded the community more input into what might be there than before because there would be so many other uses in a RC (Recreational and Commercial Zone) that would be first permitted uses that might be contrary to what would be appropriate in that residential area.

Mrs. Townshend stated that Dover Downs was zoned RC (Recreational and Commercial Zone).

Mr. Cregar stated that zoned as R-10 (One-Family Residence Zone) with a Conditional Use public hearing, these people are here because they have been noticed. By changing the zoning it created more protection for the community. Responding to Mr. Cregar, Mrs. Townshend stated that was correct. From the standpoint of the size of the pavilion, that would not have brought the applicant to the Planning Commission.

Mr. Holt questioned what the floor of the pavilion would be constructed of? Responding to Mr. Holt, Ms. Thorp stated that at the moment it is supposed to be mulch. It's basically to give the campers somewhere to get out of the rain and the sun. It will be somewhere to hold activities in a more controlled space. It's basically a roof structure with pole beams supporting it.

Mr. Baldwin questioned the hours of operation? Responding to Mr. Baldwin, Mr. Kelly stated that activities would usually be held from 8AM to dusk. The existing lighting is not real conducive for safety. They don't want to have activities in the pool at night when you can't properly see the zones on the pool. They will shut down at a time when they feel it's safe to shut down. If there is going to be an activity in the evening, they will notice the community. They do want to be good neighbors and are willing to meet with the community to discuss what they are trying to do for the community and the kids. 8AM-8PM will be their primary goal for hours of operation.

Mr. Baldwin further questioned that as of right now they don't foresee any late evening events? Responding to Mr. Baldwin, Mr. Kelly stated no, from a safety aspect with some of the pools they have they close at 8PM. It's very difficult to run those types of activities in the evening.

Mr. Tolbert questioned if they know at what frequency they would be having these kinds of affairs? Responding to Mr. Tolbert, Mr. Kelly stated that if they do anything it would be once a week at the most and probably one or twice during the summer. It may entail a picnic that runs over into later in the evening. Once it gets dark they prefer children to go home at a time where they can still see the parking lot.

Ms. Still questioned if the hygiene hut was supplemental bathroom space? Responding to Ms. Still, Mr. Kelly stated yes, they wanted it primarily to separate the bath houses from the pool and to prevent the children from having to walk on the pool deck. With the hygiene hut, the children can just use something with running water and sinks to wash. There are no showers.

Ms. Still further questioned if the showers were located in the pool house? Responding to Ms. Still, Mr. Kelly stated that the showers were in the pool house.

Ms. Still questioned if the direction of the one way traffic had been established? Responding to Ms. Still, Mrs. Townshend stated that the key is that the Walker Road access is exit only so they would look to the engineer to provide a circulation that takes that into account.

Ms. Thorp stated that they will add "Do Not Enter" signs at the Walker Road entrance so that people won't turn off of Walker Road into that site entrance. Access to the site will be off of Kenton Road and they plan to sign that properly as well.

Mr. Cregar questioned if the loud speaker was still utilized since the YMCA has taken over the property? Responding to Mr. Cregar, Mr. Kelly stated that they did not use the loud speaker over the past summer when they took over. That was the first summer in a long time that the neighbors did not hear the activity during swim meets. Their hope is to still run swim meets during the day and they will certainly test the equipment to make sure that the kids can hear it safely but also to make sure that they don't disturb their neighbors. They do use the speakers to announce the swimmers as they come up to the starting blocks and then a whistle is fired to start the race. It will be done during a couple hour period and done primarily late morning or early afternoon for these types of activities.

Mr. Tolbert stated that he appreciated the applicant appealing to the public and that he is willing to entertain their concerns and have a dialogue with the community.

*Mr. Holden moved to approve C-14-02 YMCA of Delaware Kent Swim Club at 825 Kenton Road to include all staff recommendations and DAC comments, seconded by Mr. Baldwin and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

5) S-14-08 Woodland Tree Clearing Plan of 560 Bay Road – Public Hearing and Site Development Plan Review to permit the clearing of approximately 7.45 acres ± of trees (woodland) on a 12.67 acre ± parcel. No buildings or paving are proposed. This is associated with the Woodland Tree Mitigation Plan at the Anne McClements Woodland Tract (Fork Branch Nature Preserve) previously approved by the Planning Commission on April 19, 2010 with Application S-10-03 South Dover Plaza. The Woodland Mitigation Plan was implemented and completed by October 2013. The property is zoned C-4 (Highway Commercial Zone). The property is located on the southwest side of Bay Road. The owner of record is S H E Holdings, LLC. Property Address: 560 Bay Road. Tax Parcel: ED-05-077.00-01-10.00-000. Council District 2.

**Representatives:** Mr. Mark Ziegler, McBride and Ziegler; Mr. Jim McCulley, Watershed Eco

Mrs. Dawn Melson-Williams stated that this application is for a proposed woodland tree clearing plan for the property located at 560 Bay Road. It is a property that is located on the west side of Bay Road. It's a property of almost 13 acres that is zoned C-4 (Highway Commercial Zone). It is here this evening because they are requesting to exceed the maximum tree clearing on the site and have also included the Woodland Mitigation Plan associated with that tree clearing. This property was the subject of a previous Site Development Master Plan application in 2010 for what was proposed

as a commercial redevelopment of the property; however, that plan known as the South Dover Plaza Project has expired. It was never finalized and no construction activity occurred on the site.

The project today is associated with doing woodland clearing on the subject site but does not include the development of the site any further. There would be no buildings or paving proposed by this plan specifically. They have identified what would be the stabilized construction entrance. There is an existing entrance off of Bay Road that links directly onto this property. They have submitted a written waiver request for the tree clearing plan. Currently the property holds 7.45 acres of woodlands and that was outlined in the Woodlands Delineation Report that the Planning Commission was provided copies of. Their proposal is to clear all of that. The City of Dover Code allows for up to 50% of the woodland on a property to be cleared; however, anything above that 50% has to require a waiver from the Planning Commission and is subject to mitigation for that tree clearing percentage. When that tree clearing is a woodland area it means the planting of new woodland areas. In this case since they are clearing 7.45 acres of land, the area above that 50% is an area of 3.725 acres of woodland. This means the mitigation for that is a new woodland area of 4.65 acres of woodland that must be created somewhere in the City.

With this project it's a little unusual in that there was previously a Woodland Mitigation Plan that was approved by the Planning Commission that involved the property located on the northern part of Kenton Road just south of the intersection with Denneys Road. It is actually part of the Anne McClements Woodland Tract which is part of Fork Branch Nature Preserve which is State owned property. There was a Forest Mitigation Plan that was developed in 2006 and later amended in 2009. That plan proposed the woodland area of a little over 5 acres to be created basically through the replanting of some scrub areas in areas of marginal trees on this State owned woodland tract. That project to actually do the mitigation planting has occurred and was implemented. It was completed in October 2013 and the documentation was included in the packet of the completion of that mitigation project. This is unusual in that the mitigation piece of this has actually already occurred. What did not occur previously was the clearing of this property on Bay Road.

The Planning Commission members received the DAC comments. As part of the review, the Planning Office, specifically the Code Enforcement Division, identified that the property owner of this subject site SHE Holdings, LLC had a number of violations and outstanding fines related to an adjacent property that they own. As of today it appears that the violations have been remedied; however, they are still working with the applicant regarding the outstanding fines. Staff has noted that under the provisions of the Clean Hands Ordinance for the City there is some prohibition about City actions and approvals related to delinquent properties. But we feel that the applicant is making progress in that situation enough to have the Commission members hear this application tonight. If necessary they can withhold any final plan approvals that they would require to actually implement the project if approved this evening.

The other agencies participating in the DAC process including the Public Works Office, DelDOT and the Kent Conservation District have provided comments. Specifically with the Kent Conservation District, they will need to work with that agency related to Sediment and Stormwater Management Planning because of this change in land use cover for this property from woodland to a cleared situation.

Mr. Ziegler stated that Mrs. Melson-Williams gave a very comprehensive summary of this project. It did receive a prior Master Site Plan approval in 2010. The plan ultimately expired in 2013 and because of the economy his client, SHE Holdings, LLC, doesn't want to put forth a plan at this time. With him tonight is Mr. Jim McCulley of Watershed Eco. Mr. McCulley assisted their firm with the off-site Tree Mitigation Plan and it was his understanding that DNREC wanted these trees planted or his client would lose the site. This is the reason they are here tonight. As far as the fines are concerned at 600 Bay Road, the weather had a lot of impact on his client being able to fix the problem. His client has assured him that the repairs to the garage will take place shortly.

Mr. Baldwin questioned if whatever decision was made tonight would be reflected on whether the fines and the violations were cleared prior to starting any work? Responding to Mr. Baldwin, Mrs. Townshend stated yes, they have been working with the applicant as recently as this afternoon to clear it up.

Mr. Holden stated that he thought he read in the report that there was a portion of the Tree Mitigation Plan that wasn't documented. He thinks it was associated with the poor quality portion of the forest that there was some documentation that needed to come in. There were several components to the Tree Mitigation Plan. There was planting of the new trees in the scrub areas and there was some work associated with the poor quality forest and he thought that he had read that staff was waiting on some documentation still. Responding to Mr. Holden, Mrs. Townshend stated that they did receive a Monitoring Report today.

Mr. Cregar stated that the tree mitigation has taken place on the other site. The clearing has not taken place but there are concerns about future development and the trees that will not be cleared at this time? Can they hold the applicant in their next development proposal to try to protect the trees that remain? Responding to Mr. Cregar, Mrs. Townshend stated that they are looking to clear the entire site.

Mr. Cregar questioned if based on the applicants report, they know that the bulk of those trees remaining are not worth saving? Responding to Mr. Cregar, Mr. McCulley stated that the trees that are actually on the site to be cleared are not forest species. There is exotic invasive species and planted species. That area was actually farmed until 1977 so any trees at this location have grown up since 1977. Whats there is Norway Maple, Catalpa, Black Locust and Black Cherry. None of which are really good forest species; two of them are exotic invasive. It's not a really high quality forest area or nice trees that are there already.

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

*Ms. Still moved to approve S-14-08 Woodland Tree Clearing Plan of 560 Bay Road including the waiver request to exceed to amount of woodland clearing, DAC comments and with the condition that all fines are cleared prior to any accomplishment of work, seconded by Mr. Holt and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

6) MI-14-02 Text Amendment: Revisions to Conditional Uses in RG-1/RG-2 – Public Hearing and Review for Recommendation to City Council on a Text Amendment to the *Zoning Ordinance*, Article 3 Section 2 General Residence Zones (RG-1 and RG-2) relating to conditional uses. The

proposed ordinance re-designates subsection (d) as subsection (e), and inserts a new subsection (d) that allows professional offices as a Conditional Use within the General Residence Zone on State Street and Governors Avenue between Water Street and Mary Street and on Route 8 subject to a series of restrictions. Ordinance #2014-05. *(Applicant Request and City Council Sponsors: Bonar, Hutchison, Lynn)*

**Representatives:** None

Mrs. Townshend stated that this was a proposed Text Amendment to the *Zoning Ordinance*, Article 3 Section 2 which is the General Residence Zones (RG-1 and RG-2). The Commission members will recall several months ago there was a Rezoning request brought forward to rezone a property on Division Street to RGO. Based on the public feedback that was received at that meeting, the applicant withdrew his Rezoning request and agreed to work with staff on Conditional Use language for the *Zoning Ordinance* that would allow a professional office under very strict criteria within the General Residence Zones (RG-1 and RG-2). This specific amendment has been sponsored by three members of City Council. What this would do is allow professional offices as a Conditional Use within the General Residence Zones (RG-1 and RG-2) on State Street and Governors Avenue between Mary Street and Water Street and on the entirety of Route 8. Staff has provided maps as attachments to the Report that shows specifically where this would apply to; the properties zoned RG-1 or RG-2 that are within that defined geographic area. This did go through the Parks Recreation and Community Enhancement Committee so the meeting minutes from that Committee are also provided. There was discussion of this proposal by members of the public at the open forum prior to the City Council meeting on March 24, 2014 which those comments are provided in the packet as well.

Mr. John Paradee and Mr. Rhett Ruggerio did work very closely with the neighbors who came forward at the prior Public Hearing to make sure that the language reflected that delicate balance. They want a strike between making the older Victorian homes more useable and getting more investment in those houses while also protecting the residential character of the neighborhood. The Ordinance before the Commission this evening encompasses that. It specifically states that the office operations shall be conducted in a manner as to maintain the residential character of the surrounding neighborhood; so it needs to look like a residence from the outside. There's a distancing requirement of two hundred fifty (250) feet so there couldn't be two locations within two hundred fifty (250) feet of each other. No display of goods or products visible from the street. No exterior affects such as noise, traffic, odor, dust and smoke or gas fumes. Those are things that are required for any home based business already in the *Zoning Ordinance*. There is a minimum of two (2) off-street parking spaces but a maximum of four (4) spaces. There is also the idea of screening the parking; limiting the number of employees to six (6) and limiting the hours of operation. These would be the starting point and then with any specific application the Planning Commission could, based on the public comment that is brought forward, apply conditions as appropriate. This strikes that balance of being sensitive to the residential character of the communities but also realizing that they are in transitional areas where they have historic homes that they want to make sure are preserved and sometimes professional offices have more means to do that.

Mr. Holt stated that he remembered when this came up before. He thinks that this will make their jobs easier because the applicant would already know what's expected of him. Responding to Mr. Holt, Mrs. Townshend stated that it definitely sets the bar pretty high at the starting point. If there

are other things that come up that the Commission needs to address, they could add additional requirements.

Mr. Holt stated that the applicant would come before them and already have this background and know what the requirements were. Responding to Mr. Holt, Mrs. Townshend stated yes, the applicant wouldn't make it before the Planning Commission if they didn't meet all of the requirements to begin with.

Mr. Cregar questioned where the number of six (6) employees came from during the research of the area? Responding to Mr. Cregar, Mrs. Townshend stated that it was a number that would allow someone to have a viable business without it becoming excessive. It seemed to be a comfortable number for both the applicants bringing it forward and the residents involved in the process.

Mr. Cregar stated that the reason he asked was because they are only allowing a maximum of four (4) off-street parking spaces; so they won't be able to park their own employees. Responding to Mr. Cregar, Mrs. Townshend stated that with some of the professional offices they have people that aren't there every day. There might be a total of six (6) employees but they won't be there all at the same time. Typically, these are areas where there is on-street parking as well as people within walking distance. The concern of the residents is that they don't end up with paved backyards to accommodate parking.

Mr. Cregar stated that he gets the Division Street properties but he is questioning the State Street and Governors Avenue properties. Responding to Mr. Cregar, Mrs. Townshend stated that in looking at the maps that are provided, on State Street south of Mary Street there is nothing magical about it. One of the people who spoke at the open forum had suggested that it be brought all the way up to Washington Street where the (RG-1) General Residence Zone starts to phase out. That could certainly be amended but the idea is that there is already a lot of (RGO) General Residence and Office Zone on State Street and there is a pretty mixed-use area with the college on both Governors Avenue and State Street. There is mixed-use area already so they are not in the heart of a residential community. For instance, if they went to Delaware Avenue they would be in a much more solidly residential community.

*Mr. Tolbert opened the public hearing.*

**Mr. Rhett Ruggerio – 109 East Division Street, Dover DE 19901**

Mr. Ruggerio stated that he owned 109 East Division Street. As Mrs. Townshend mentioned, they have been working with the residents in the neighborhood for the last 6-7 months to discuss some of their concerns and to ensure them that the property will be conducted in the manner that they would want to see it in. Back in September when he came before the Planning Commission for the Rezoning, they had asked for the application to be withdrawn so that they could meet with the neighbors which they did through a series of meetings and also email correspondences back and forth. He thanked Mrs. Townshend for working closely with them on this; she has sort of been the buffer between the two parties.

Mr. Cregar questioned how many employees he had for his operation? Responding to Mr. Cregar, Mrs. Ruggerio stated that he has three (3) including himself.

*Mr. Tolbert closed the public hearing.*

Ms. Still questioned the signage in the draft. Would the one sign still be subject further to sign regulations for the property itself as far as placement? Responding to Ms. Still, Mrs. Townshend stated yes, but it also couldn't exceed six (6) square feet.

Mr. Cregar stated that he would like for the Commission to consider reducing the number of employees to four (4) because of the maximum off-street parking to be set at four (4). He thinks that they should correspond. He thinks they should be able to park their own employees in that professional situation. He would recommend that the Commission amend this Ordinance to provide a maximum of four (4) employees so that they are able to be parked in the off-street situation.

Mr. Cregar questioned if when discussed prior, were there any concerns addressed about the State Street and Governors Avenue pieces of this as part of the area to allow for this? Responding to Mr. Cregar, Mrs. Townshend stated that if they look at the comments made at the open forum the people who spoke were residents and/or property owners on State Street. They didn't specifically oppose it or support it.

Mr. Cregar stated that the owners of the tea house on State Street live at their location too as well as the owners of the bed and breakfast. Responding to Mr. Cregar, Mrs. Townshend stated that in looking at and listening to their comments, it strikes her that there were at least some concerns but the larger concerns seemed to be with the apartments that already exist. The Code no longer allows that conversion. In the case of Tea for Two, some of the concerns that were brought up were related to parking. There have been times where there have been buses that have brought people to this location. She thinks with the appropriate controls there will be less of an issue. The distancing is important also because one of the big problems is if you lose a block you never get it back but if you intersperse it keeps that character.

Mr. Holden stated that he agrees with Mr. Cregar to reduce the number of employees to four (4). He thinks that they are setting themselves up for a bad situation by saying they can have six (6) employees but they can only park four (4). He wanted to applaud Mr. Ruggerio's efforts with the neighborhood and he thinks that Mr. Ruggerio has done a very good job. This is what should happen in these cases. Outside of those instances, he is concerned over the breath of the coverage of this on State Street and Governors Avenue and then all the way out Route 8 in both directions. A lot of those properties on Governors Avenue are tiny properties so it concerns him because it makes sense in one instance but he doesn't know that they've thought through it to see if it's going to make sense in these other areas. Responding to Mr. Holden, Mrs. Townshend stated that they are still limited to lot coverage. If the applicant can't provide their parking and can't get it done within their lot coverage then they won't get to that Conditional Use. On Governors Avenue in particular in addition to the already existing presence of the college, there are a lot of properties along Governors Avenue that are in various states of disrepair. Her thought was that this gives another option for someone to invest. On Governors Avenue in particular, staff has had a really hard time enforcing the student housing requirements. A lot of the properties on Governors Avenue were already used as student housing when the student housing requirements went into effect so staff hasn't been able to resolve that issue. On Governors Avenue, they already have an arterial street so there is already a certain expectation of traffic and there are properties where it could actually benefit the area to have somebody make that type of investment. From Mr. Ruggerio's perspective, Division Street was

what he was looking at. She looked at the arterial streets where there is already some transition State Street, Governors Avenue and Division Street are arterial streets under the sign regulations. Governors Avenue could be removed if it doesn't make sense.

Mr. Cregar questioned if this could be something that was looked at as Division Street only and then see what happens? He has concerns about how this moved out. Responding to Mr. Cregar, Mrs. Townshend stated that she has no objections to that.

Mr. Holden stated that one side of Governors Avenue has an alley; one side doesn't have an alley. This is the same on a portion of State Street so the question becomes how you get four (4) parking spaces into an area like this. Responding to Mr. Holden, Mrs. Townshend stated that if the applicant couldn't physically do it then they wouldn't get approval for the Conditional Use.

Mr. Holden questioned if there was a big driver for this zone in those areas? He understands the driver along Division Street and it makes a little more sense. Why grab these other areas as well? The issues along Governors Avenue with regard to student housing, he understands those but he doesn't know that this necessarily seems like a great carrot to entice better activity there. Responding to Mr. Holden, Mrs. Townshend stated that in terms of State Street this is area where there are a number of the older houses that have been on the market. She has gotten questions from time to time about having a professional office in this location so this was her rationale for including State Street. She was trying to think of it in a broader sense. If it gives the Commission more comfort to pull it back to Route 8, she would have no problem with that.

*Mr. Cregar moved to recommend approval to City Council for MI-14-02 Text Amendment: Revisions to Conditional Uses in RG-1/RG-2 to include reducing the number of employees to four (4) and to change the boundaries to be Route 8 only, seconded by Ms. Still and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

7) MI-14-03 Text Amendment: Revisions to Uses in Shopping Center Development Zones – Public Hearing and Review for Recommendation to City Council on Text Amendments to the *Zoning Ordinance*, Article 3 Section 17 Shopping Center Development (SC-1, SC-2 and SC-3). The proposed ordinance adds light motor vehicle service as an accessory use in the SC-2 zone subject to conditions. The proposed ordinance would permit apartments and multi-family dwellings as part of a mixed-use development in the SC-3 zone. Ordinance #2014-06. *(Applicant Requests and City Council Sponsors: Bonar, Hare, Lynn)*

**Representatives:** None

Mrs. Townshend stated that this is a text amendment that so far has had an interesting journey to the Planning Commission. The applicant Mr. Paradee brought this amendment forward on behalf of an applicant. What he brought forward was related specifically to the (SC-3) Regional Shopping Center Zone. There are two properties in the City that are zoned (SC-3) Regional Shopping Center Zone and that is Blue Hen Mall and the Dover Mall. The amendment that was brought forward in that regard was to allow apartments as part of a mixed-use development. Mr. Barry Anstine who is the managing partner of Greentree Shopping Center had also approached her on a separate matter about making an amendment to the (SC-2) Community Shopping Center Zone. That amendment would be to add the addition in the permitted uses of light motor vehicle service with very strict

conditions to the (SC-2) Community Shopping Center Zone. Properties within that zone include Greentree Shopping Center, Gateway West, Bay Court Plaza, Edgehill Shopping Center, The Center at Dover, North Dover Shopping Center, Dover Mart, Home Depot, the former Berry Van Lines property, Delaware State University property at College Road and Route 13 on the south side just north of the Ag Museum, and Carroll's Corner.

When this went to the Parks, Recreation and Community Enhancement Committee on March 10, 2014 the emphasis was really the change brought forward by the applicant related to the (SC-3) Regional Shopping Center Zone. The packets contain the minutes from this meeting. They did have opposition from Mr. Dennis McGlynn of Dover Downs and Dover International Speedway to that specific amendment which was the addition of the residential use within the (SC-3) Regional Shopping Center Zone. Following that testimony, the Parks, Recreation and Community Enhancement Committee recommended in opposition to the ordinance. When it went forward from Committee to City Council, it went with an unfavorable recommendation. It was not on Consent Agenda since it did not receive a favorable recommendation and what is on the desk of the Commission members is a letter that Mr. Anstine sent her on behalf of Greentree Properties requesting to City Council that the (SC-2) Community Shopping Center Zone portion go forward and that they amend it to take out the (SC-3) Regional Shopping Center Zone component. When the amendment went through City Council and was discussed there was no action on the Committee's recommendation. It was a 4-4 vote and there needs to be five votes from Council to do anything. There was no recommendation by City Council and then the First Reading was done. There was an expectation on the part of staff that they were going to amend the Ordinance when they did the First Reading but they didn't. What is now in front of the Commission members is the amendment to the (SC-3) Regional Shopping Center Zone to allow the residential use and the amendment to the (SC-2) Community Shopping Center Zone to allow with tight conditions, light automotive use accessory to another permitted use within the (SC-2) Community Shopping Center Zone. Mr. Anstine's letter states that he was looking at an AAA Car Care Center that would be an accessory to the AAA Office. This use would currently not be permitted in the (SC-2) Community Shopping Center Zone.

*Mr. Tolbert opened a public hearing.*

**Mr. John Paradee – 11 N. State Street Dover DE 19901**

Mr. Paradee stated that he was an attorney with the law firm of Prickett, Jones and Elliott in Dover. He is here on behalf of Western Development Corporation which is one of the principal owners of the Dover Mall. He commended Mrs. Townshend for reciting the history. He thinks he can save all of them a lot of trouble because in their due diligence, one of the things they did was sit down with Dover Downs asking if they would have any objections to them making this Text Amendment in order to allow them the opportunity to pursue residential development (specifically apartments) behind the Dover Mall. Dover Downs was very clear that they were opposed to this happening; they were gracious enough to talk to him about several different alternatives but at the end of the day it was concluded that Dover Downs could not live with that Text Amendment. The applicant has withdrawn their request for residential development behind the Dover Mall. They do have a pending Subdivision application but at this point in time they are seeking only big box commercial retail. He respectfully submitted that the easiest thing to do since these two concepts were merged into one concept and are now adjoined at the hip is to unjoin them. He suggests that the Commission members amend the proposed Ordinance by striking the section that would have amended the (SC-3) Regional Shopping Center Zone district to allow residential development so that the balance of the Ordinance which is

only for the (SC-2) Community Shopping Center Zone district would remain intact and the Ordinance could move forward without them messing up Mr. Anstine's proposal.

*Mr. Tolbert closed the public hearing.*

Mr. Cregar questioned the Report talking about diligent oversight to make sure that they are not creating a problem. Responding to Mr. Cregar, Mrs. Townshend stated that the key things are that all work would have to happen inside the building. In other zones that allow vehicle service, only light work can happen outside of the building. Staff ends up fighting with people about whats light. The other piece is that they would not be allowed to store vehicles. They wouldn't be able to have a collection of vehicles accumulating in the parking lot. Staff would have the ability for enforcement because it would state in the Ordinance that vehicles cannot be stored on site. She made sure that the issues that staff is having with a number of automotive places in town would be addressed in order to have the controls to affectively enforce in the future.

Mr. Cregar questioned if they were talking about oil changes, etc.? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar further questioned if there were other regulations that come into play with this situation especially since it's an enclosed building? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar questioned if these would be part on the Fire Marshal's regulations? Responding to Mr. Cregar, Mrs. Townshend stated that there would be Building and Fire Codes that relate to automobile service.

Mr. Cregar stated that Jiffy Lube ends up being all inside but that's a general commercial operation. Responding to Mr. Cregar, Mrs. Townshend stated that's zoned (C-4) Highway Commercial which would allow any degree of automobile service. The other type of place that would have the same type of activity would be a Pep Boys, where you can pull in and get tires but there aren't vehicles in various states of disrepair.

Mr. Cregar stated that he knows Mr. Anstine would not allow that type of business at his location but they need to look at the big picture. Responding to Mr. Cregar, Mrs. Townshend stated that her concern wasn't that something bad would take place in Greentree Shopping Center; it was that the ordinance would be written so that this wouldn't take place anywhere in the city.

Mrs. Townshend stated that in terms of a motion, if Commission members would like to do what Mr. Paradee has recommended they would be able to recommend approval of the Ordinance with an amendment to strike lines 7-18 which strikes everything related to the (SC-3) Regional Shopping Center Zone.

*Mr. Cregar moved to recommend approval to City Council for MI-14-03 Text Amendment: Revisions to Uses in Shopping Center Development Zones for the proposed ordinance to add light motor vehicle service as an accessory use in the (SC-2) Commercial Shopping Center Zone subject to conditions and with an amendment to strike lines 7-18 related to (SC-3) Regional Shopping Center Zone, seconded by Ms. Still and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

8) S-14-03 Watertower Place at 50 North DuPont Highway – Public Hearing and REVISED Site Development Plan Review (formerly named Tower Commons) to permit the demolition of existing office and industrial buildings and the construction of a shopping center consisting of a total of four restaurant and commercial retail buildings with the associates site improvements in Phase 1. Building 1 – Restaurant of 6,400 S.F., Building 2 – Restaurant/Retail of 9,600 S.F., Building 3 – Restaurant of 5,030 S.F. and Building 4 – Retail of 14,820 S.F. The overall property consists of 9.3 acres and is zoned SC-1 (Neighborhood Shopping Center Zone) and subject to the Source Water Protection Overlay Zone (SWPOZ). The property is bounded by North DuPont Highway, Division Street, Kings Highway and Maple Parkway. The owner of record is Playtex Manufacturing, Inc. and the equitable owner is TC Holdings, LLC. Property Addresses: 50 North DuPont Highway and 519 East Division Street. Tax Parcel: ED-05-077.06-01-02.00-000. Council District 2. *This application may require a Board of Adjustment application for a parking variance. Waivers Requested: Partial Elimination of Sidewalks on Kings Highway and Maple Parkway, Requirement to Reduce Imperious Area (Floodplain Requirement), Reduction of the Arterial Street Buffer.*

**Representatives:** Mr. Dev Sitaram, Karins and Associates; Mr. Charles Owensby, TC Holdings, LLC

Mrs. Townshend stated that this application is a Site Development Plan for what is known as the former Playtex property at the northwest corner of North DuPont Highway and East Division Street. It is 9.3 acres of land zoned SC-1 (Neighborhood Shopping Center Zone). A portion of the site is subject to the Source Water Protection Overlay Zone (SWPOZ). There are four (4) buildings proposed on the site; a total of 35,850 S.F. Two (2) of the buildings would be restaurant buildings, one (1) would be a retail building and one (1) would be two-story that would be a combination of restaurant and retail. There are one hundred eighty-nine (189) parking spaces required on this site. There is a maximum of two hundred thirty-seven (237) spaces permitted when you take the 25% over the minimum. There are two hundred thirty-four (234) parking spaces proposed. The parking calculation is based on the square footage for retail and the seat count for the restaurant uses. There are twenty (20) bicycle parking spaces proposed and they are distributed among the four (4) buildings. At this point there are three (3) access points proposed; one on Maple Parkway that would be full access, rights in/rights out off of North DuPont Highway and full access off of East Division Street. A small portion of the southwest portion of the site is within the Flood Hazard area. Within this area there is actually a reduction in the impervious cover. As for the internal circulation, the vehicle thru traffic is separated from the backing out traffic so that there are not conflicting movements in that regard. In the Landscape Plan there are one hundred thirty-six (136) trees required. There are one hundred forty-one (141) trees proposed. There is required landscaping along East Division Street because it is across the street from a residential use. The Landscape Plan shows that required screening.

There are three (3) waivers being requested. One is a reduction in the width of the arterial street buffer from thirty (30) feet to twenty (20) feet. There is a waiver request from the 15% reduction from the total impervious area due to the site being impacted by the 100 year flood plain. Only 5% of the site is within the flood plain. If the site has less than 33% in the flood plain, the Planning Commission can relax that 15% impervious cover reduction. In the area of the site that is impacted by the flood plain they are improving the conditions and reducing the impervious cover, they just aren't reducing it on the entirety of the site. They have also requested sidewalk waivers in two areas. One is on Kings Highway. In this area there is a grade issue that would make the sidewalk a technical difficulty. They are also requesting a sidewalk waiver on Maple Parkway where the second building would remain

until the future phase of development. In this case there isn't a technical infeasibility to putting the sidewalk in. The development of the site will relate to the majority of the property, there would be an existing building that would remain to be re-developed at a future point in time.

The other DAC agencies including DelDOT, Kent Conservation District, Public Works Department and the Fire Marshal's Office have reviewed the plans and submitted their comments. This project does require a Traffic Impact Study and she believes that the Traffic Impact Study has been recently submitted. There have also been very detailed discussions with DelDOT about the access to the site and they have been working on that issue throughout the entire planning of the site.

Mr. Sitaram stated that he is the engineer and project manager for this project. He recognized Mr. Charles Owensby, the equitable owner of this property and the developer for the site. Mrs. Townshend gave a very detailed review of the various waivers that are being requested as well as an overview of the site. The Mayor and City Council have designated this area as a re-development area. The limits of the re-development area are North DuPont Highway on the eastern side, Division Street on the southern side, Kings Highway on the west and basically where Kings Highway comes back and intersects North DuPont Highway across from White Oak Road. That triangle is designated as a re-development area for about three (3) years now. The site that is proposed for development is an existing manufacturing facility and is 9.3 acres and about 150,000 S.F. is the total existing square footage within the site. What is before the Commission tonight is just Phase 1. Phase 1 is about 7.3 acres. Phase 2 is one of the buildings which is about 55,000 S.F.; it is going to remain on about 2 acres of the remaining site. They are looking at uses for that phase; however, they don't have anything nailed down at this point in time. They will definitely come back to the Planning Commission once they have plans for Phase 2 but right now they are asking for is approval for Phase 1 of the site. It consists of four (4) buildings. Two of the buildings are retail, one is mixed use and two are exclusively restaurant uses. They have met all of the requirements of the code with the exception of the waivers that are being requested and staff has recommended the waivers except for one. Staff has recommended that the waiver for sidewalks along Maple Parkway be denied and they understand Staff's reasoning for it. The only reason they had requested the waiver of sidewalks on that portion of Maple Parkway, just the portion within Phase 2, was so that they could integrate it with whatever they do in Phase 2. But they do not have a problem with proposing that sidewalk now. They accept all of the other conditions and recommendations in the DAC Report and will obviously comply as they move forward with Final Site Plan and Construction Plan approval. The applicant is requesting a recommendation from the Planning Commission for this project to move forward with the conditions that are laid down by Staff and with the waiver requests being granted.

They are aware of architectural requirements at this stage of the process. While they are working with tenants on the buildings and has identified the possible tenants that will go into these, the tenants have not made themselves public and they would like them to be further along in the process than they currently are before they announce that they are going on this site. At that point in time, the tenants will be willing to give the owner the architectural plans for these buildings. They recognize that they will have to come back before the Planning Commission with those architectural plans. They recognize that this is a gateway to Dover as Staff has indicated. His client will work with the tenants to make this a showcase for the City of Dover.

Mr. Tolbert questioned if the applicant agreed with the staff recommendations regarding the application? Responding to Mr. Tolbert, Mr. Sitaram stated yes.

Ms. Still questioned if the applicant was withdrawing the waiver request for the elimination of sidewalk along Maple Parkway? Responding to Ms. Still, Mr. Sitaram stated yes, they are withdrawing the waiver request for the elimination of sidewalk along Maple Parkway. There is technical difficulty with providing a sidewalk on the eastern side of Kings Highway; there is an embankment. Where the substation is, there is also a guardrail that goes right up to the edge of the roadway and prevents the construction of sidewalks.

Ms. Still further questioned if they were requesting a waiver on Kings Highway? Responding to Ms. Still, Mr. Sitaram stated yes, they are requesting a waiver on Kings Highway not on Maple Parkway and staff has recommended this waiver as well.

Ms. Holden questioned the support for the waiver for the sidewalk along Kings Highway? He recognizes that there are challenges there now with construction but if Phase 2 area is going to be developed or if there are people walking from the north or trying to get to the northern end of the development, it certainly seems like it would be nice if the City had sidewalk through the substation area that would connect through. One, he wants to know why staff supports it and two, he offers his own comment that maybe that portion of sidewalk be reexamined at Phase 2. He is a little more uncomfortable with waiving a requirement for sidewalk there all together. Responding to Mr. Holden, Mrs. Townshend stated for clarification that staff's position is to allow the waiver at this point. Phase 2 application would be a separate application; at that point she believes that it would be appropriate. It does pain her to recommend a sidewalk waiver especially in an area like this but since the applicant is not getting into that Phase 2 area yet, the technical issues are real. At the time that they are taking down that other building and making those site improvements, she thinks it's a realistic expectation to complete the sidewalk at that point.

Mr. Cregar questioned if the applicant understands that it's only a temporary waiver at this point? Responding to Mr. Cregar, Mr. Sitaram stated that they are okay with that and they will work with staff to look at that situation when they begin developing Phase 2.

Mr. Cregar questioned if the Traffic Impact Study was already submitted? Responding to Mr. Cregar, Mrs. Townshend stated that it was submitted to DelDOT last week.

Mr. Holt stated that his big concern was the traffic in that area. It's really congested in that area and he will have to take a hard look at that Traffic Impact Study. Responding to Mr. Holt, Mr. Sitaram stated that they have done a total analysis of this entire block; essentially the redevelopment area. They haven't analyzed the intersection at North DuPont Highway and Division Street; the signalized intersection and the concerns that DelDOT has. That is the reason why they have been meeting with DelDOT and with Mrs. Townshend with regard to access on Division Street. Initially, the recommendation was from DelDOT because of the eastbound traffic that is stopped at the traffic light on DuPont Highway that backs up along Division Street that is waiting for the light to turn green. DelDOT's concern was that they provide an access as far away from Route 13 as possible. Therefore they had explored an intersection across Bayard Avenue but then they would have to go through City property for that, through the substation basically. In those discussions they recognized that there was really no support for an access from across Bayard Avenue so that access was eliminated. They met with DelDOT again last week to review the access location and their concern is still the same. Their concern is how many ques are there going to be from that traffic light and this intersection going to

operate. Based on his company analysis it does operate. It operates at acceptable levels of service. DelDOT considers this as an acceptable level of service at Level D. The un-signalized intersection operates much better than a level of service D. However, the signalized intersection operates at a level of service D with or without them. They are going to have traffic and create some impact but the impact is not significant enough to degrade that intersection. That analysis has been submitted and they have a very good reputation with DelDOT as far as the Traffic Impact Studies that they perform and he is confident that they will agree with the analysis that was performed. It does take some time for the review process. DelDOT passes the Traffic Impact Study to a consultant for review and comments. He expects the consultants and DelDOT to agree with the analysis that was submitted.

Mr. Tolbert stated that their plan submitted stated that they were going to have three (3) restaurants and a drug store at this location. Have they identities that are going to come to these locations? Responding to Mr. Tolbert, Mr. Sitaram stated that this is the issue that they have. They are not able to identify the names of the entities that are going to occupy this location. When they are able to identify them, the architectural details will be provided.

Mr. Tolbert stated that he only raised that question because there are three restaurants together and he thinks that will be problematic. Responding to Mr. Tolbert, Mr. Sitaram stated that one of them is a two story, combination of a restaurant and retail.

Mr. Owensbe stated that they are very excited about the site. A lot has gone on behind the scenes. They are probably a year into their analysis and planning to get them to this stage. As far as the particular uses, they feel they are far enough along with their understanding of the users and the types of tenants that they were going to seek to attract and that were in turn attracted to location. They have retail designated on the corner of Division Street and Route 13 and at the other corner of Maple Parkway and Route 13 they are showing another purely restaurant use. They are also showing a restaurant building next to the larger retail building by Division Street and Route 13. Again, they are in discussion with specific tenants. Those discussions are not far enough along to where the tenants view it as appropriate to make public at this point. But they are far enough along as to where they feel this is an accurate plan to show Council. As far as the other building, they see some restaurant use of that building but they have also seen demand for second story retail/professional office as well which is why they designated that building as two stories. What they see materializing are two purely casual dining restaurant users on the location, one being the building by Maple Parkway and the other being the building adjacent to the larger retail building. The other building they see a high likelihood of seeing some food use but it would be of a different nature to the others, more of a quick casual not something that would be necessarily a true large restaurant use. As far as architecture is concerned, they are aware as well as the tenants that it's a requirement that it be reviewed but again the tenants aren't at the stage where they are willing to have specific architecture shown. They also felt that it didn't make sense to kind of makeup architecture; they would rather approach staff with the accurate architecture at the appropriate time.

Mr. Holt stated that this site is a historic landmark for Dover. Playtex did a lot during World War II for our forces. Will a plaque or anything that put at the site? Responding to Mr. Holt, Mr. Owensby stated that they would certainly be open to anything that the City or the Planning Commission would deem appropriate. It would certainly have to be something from a corporate standpoint that they were comfortable with. They have certainly been a good corporate citizen of the area for many years not only at this site but at other sites in the City. Obviously, this is an environmentally sensitive site. There

a lot of concerns with what's there, what did they do, what's been going on. They actually made the decision up front to take this site through the DNREC Brownfield Program which really gave them the horsepower and latitude to poke and prod, to leave no stone unturned. They have supplied staff with what he terms the executive summary of the executive summary because the actual report that was produced was over 6,000 pages. The executive summary is over 100 pages. They provided a lay person summary because even some of the terminology was over his head. The good news is that the previous owners seemed to have been pretty good stewards to the site. There does not seem to be any environmental concerns that will prevent the redevelopment or that would be 'A' typical. This does drain towards the west and certainly if there were issues there they could have posed problems not only for the redevelopment but for the area in general. The Energizer Corporation was completely cooperative, gave complete card blanche access to the facility. There were multiple borings done within the building itself, actually down through the floor of the building. It was not just kind of peeking into from the outside, it was an invasive study; literally everything other than lifting the building up. Their consultants have a high level of confidence that there are no issues lurking underneath the building that they haven't been able to identify. Are there always surprises that could happen? Yes, but again that's part of what the Brownfield Program is meant to address as well. The previous owners seemed to be a very good corporate steward of this site from the standpoint of protecting the environmental both the site and surrounding areas. The minor issues on the site are actually migration from off-site issues. The Brownfield Report is in draft form and is being submitted to the Energizer Corporation for them to review but he expects that to take about a week or so. That final report should be going to DNREC within a couple of weeks and they expect within 2-3 months to bring the Brownfield process to a conclusion. That is for the entire site, it's not just for Phase 1. That analysis was conducted on the entire tax parcel so the report applies to the entire property. DNREC will review that and ultimately a plan for remedial action will be recommended which in the case will be very minimal. The access on Division Street is still a bit fluid because they are still working with DelDOT. Not that they opposed access on Division Street it's just finding the right place for it. DelDOT originally, immediately thought that the right fit was Bayard Avenue. There were concerns expressed by folks who had concerns about Bayard Avenue tying directly into City's property so that was taken off the table. What they are showing right now is one of the options that is probably the leading contender. Again there is a little bit of fluid nature of exactly where that access point is other than it being there or to the east. There's no option on the table right now that has any access closer to Bayard Avenue than what's currently shown. The other issue is that there are some pretty significant electric poles. Some of the access including the one shown would require relocation of one of those poles. They are reaching out to the City Electrical Department to understand the costs and inconvenience associated with that. Ultimately all of that information is going to feed into what hopefully will be a consensus between themselves as the developer, the City and DelDOT as to what is the right location for that access.

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

Mr. Holden questioned what was to become of the water tower? He saw that it was to stay and he saw the overall project title as Watertower Place. Is it intended to be a visual? Responding to Mr. Holden, Mr. Owensbe stated that they really do want this site to be a gateway project. It's a highly visible location; it's somewhere where they want to do a first class retail project. At the same time, character is important. They felt that the water tower was a natural way to preserve some of the character at the site. Ultimately where the access ends up on Division Street may dictate it. He doesn't see it

necessitating it coming down but they would like to preserve it. The only way they really want to preserve it is if it's an asset to the center as a historical landmark or reference to what was there but also if it was an asset to the community. It's something that would be presented as part of a Master Signage Plan. It would not be functional if it stays. There have been numerous examples across the country where those towers have been reused by municipalities as gateways into communities. It would be something that if retained would be completely redone, repainted and ultimately associated with the center that would require the maintenance to ensure that it would not ever fall into disrepair, the same way that there would be maintenance of the stormwater facility and other private amenities within the center. Yes, they would love to retain it; they think it could be an asset to the center.

Mr. Cregar questioned how to proceed with the plan since the entrance off of Division Street has not been established at this time? Responding to Mr. Cregar, Mrs. Townshend stated that she thinks if what is seen tonight is the approximate entrance; if something drastically changes the application will have to come back to the Planning Commission. If it's a little tweaking, this is typically done administratively. If there is something that changes the overall layout of the property, it would have to come back to the Commission.

*Ms. Still moved to recommend approval for S-14-03 Watertower Place at 50 North DuPont Highway including all DAC comments and all waivers with the stipulation that there is partial elimination of sidewalk at this point in time on Kings Highway.*

Mr. Holt questioned if this was going to be for Phase 1? Responding to Mr. Holt, Mrs. Townshend stated that it's implicit that everything is only related to Phase 1, the next phase is a whole new process.

*Ms. Still moved to recommend approval for S-14-03 Watertower Place at 50 North DuPont Highway including all DAC comments and all waivers with the stipulation that there is partial elimination of sidewalk at this point in time on Kings Highway, seconded by Mr. Holt and the motion was unanimously carried 6-0 with Dr. Jones, Mr. Ambruso and Colonel Welsh absent.*

**Meeting adjourned at 10:05 PM**

**Sincerely,**

**Kristen Mullaney**
**Secretary**