CITY OF DOVER PLANNING COMMISSION
April 15, 2013

The Regular Meeting of the City of Dover Planning Commission was held on Monday, April 15, 2013 at 7:00 PM with Vice Chairman Tolbert presiding. Members present were Mr. Holden, Mr. Shomo, Mr. Holt, Mr. Baldwin, Dr. Jones and Ms. Still. Mr. Ambruso and Colonel Welsh were absent. (Mr. Ambruso arrived at 7:20pm)

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Ms. Cornwell, and Mrs. Mullaney. Also present were Mr. Gregory Moore, Mr. Jerry Peters and Mr. Tim Glass. Also speaking from the public were Mr. John Grady, Mr. Mukhtiar Singh, Mrs. Cindy Small and Mrs. Nonnie Cross.

APPROVAL OF AGENDA

Mr. Holt moved to approve the agenda as submitted, seconded by Ms. Still and the motion was unanimously carried 7-0 with Mr. Ambruso and Colonel Welsh absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MARCH 18, 2013

Mr. Holden moved to approve the Planning Commission minutes of March 18, 2013, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Ambruso and Colonel Welsh absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop will be held on Tuesday, May 21, 2013 at 4:00pm in the City Hall Conference Room.

Mrs. Townshend stated that the next Planning Commission meeting will be held on Monday, May 20, 2013 at 7:00PM in the City Hall Council Chambers.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on March 25, 2013 and April 8, 2013.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval:
   a) C-11-02 4-H After School Program at Capitol Green Community Center – Request for a second one year extension of the Planning Commission approval granted April 18, 2011 for a Conditional Use Plan to permit use of an after school program (Day Care Center) for grades K-6 within the existing community center at 416 Sussex Avenue. The property is zoned RG-1 (General Residence Zone). The property is located on the south side of Sussex Avenue east of River Road. The owner of record is Capitol Green Apartments, LLC. Property Address: 416 Sussex Avenue. Tax Parcel: ED05-077.10-02-08.00-000. Council District 4. *Previously, a one year extension was granted on April 16, 2012 by the Planning Commission.*

Representatives: None

Ms. Cornwell stated that the application is for a second one year extension. The Planning Commission originally granted approval for the use as an after school program which is classified as a day care center by the *Zoning Ordinance* in April 2011. The program would be located at the existing community center at 416 Sussex Avenue. The applicant is just requesting an additional one year extension.

Mr. Holt moved to approve a second one year extension of the Planning Commission approval granted on April 18, 2011 for C-11-02 4-H After School Program at Capitol Green Community Center, seconded by Ms. Still and the motion was unanimously carried 7-0 with Mr. Ambruso and Colonel Welsh absent.

NEW BUSINESS

NEW DEVELOPMENT APPLICATION

1) S-13-05 Lands of KGH Development Corporation at 625 South State Street – Public Hearing and Review of a Site Plan for the expansion of the existing parking lot for an additional 130 parking spaces located at 625 South State Street and 100 Scull Terrace. The property is zoned IO (Institutional and Office Zone) and a portion of the property is subject to the SWPOZ (Source Water Protection Overlay Zone) Tier 1 – Wellhead Protection Area and Tier 3 – Excellent Recharge Area. The property is located on the east side of South State Street in the block between South Street and Hope Street. The owners of record are KGH Development Corporation and Central DE Surgery Center. Addresses: 625 South State Street, 100 Scull Terrace and 150 Scull Terrace. Tax Parcel: ED-05-077.13-01-51.00-000. Council District 2. *Waiver Requested: Partial Elimination of Curbing and Consideration of Joint Parking Facilities*

Representatives: Mr. Gregory Moore, Becker Morgan Group; Mr. Jerry Peters, Bayhealth Medical Center

Mr. Holden recused himself from this application. His employer was the engineer of record on this project.

Mrs. Melson-Williams stated that this was a Site Plan for the Lands of KGH Development Corporation on the property addressed as 625 South State Street. Most people will recognize the property by the name of the Scull Mansion which was one of its owners in the 20th century. Scull Mansion property is located on the east side of South State Street across from the main hospital block. The zoning of the property is IO (Institutional and Office Zone) and a portion of the property is subject to the Tier 1 provisions of the SWPOZ (Source Water Protection Overlay Zone) for the City of Dover. However, the project activities are not located in that portion of the property. The existing property includes a number of buildings on the site. The one closest to South State Street, originally constructed as a house in the late 1800's, now serves as offices. Further back on the site is the Outpatient Surgery Center and then all the way to the rear is a day care center building. There are two other buildings on the northern area of the site also used for hospital related activities. The project proposal this evening is an expansion of parking located on this property. It includes the expansion of the existing parking

lot between the mansion building and the Surgery Center and also the addition of a small parking lot south of the mansion building continuing around its west side and then creating a larger parking lot area to the north of that building. Overall, they are expanding the parking on the site by one hundred thirty (130) parking spaces. Typically, parking for a property in the IO (Institutional and Office Zone) is based on either a floor area calculation or a per employee calculation. In the case of a day care center,there is a special calculation based on both the number of attendants and the number of children they are serving. The property would require at least seventy seven (77) parking spaces and allowed up to ninety six (96) as part of the maximum limitations of parking prescribed in the City of Dover Code. Those numbers may be slightly on the low side as definitive amounts of square footage for these buildings are slightly unclear in the plans. With this project there is much more than the ninety six (96) parking spaces on the site when you take in to account the expansion that is proposed. The applicant is asking for consideration of what is called the joint parking facilities provisions of the *Zoning Ordinance.* Those joint parking facility provisions allow for parking spaces to be provided to serve two or more establishments whether they are located on the same lot or not and they can both use the facilities. In this case, the hospital is asking that the Planning Commission look at the entire Bayhealth Medical Center Campus and including this property when looking at that parking number for the site. Within the Development Advisory Committee Report, there is a summary table that outlines the existing parking facilities throughout the Bayhealth Medical Center Campus. This includes parking spaces that are found on the main hospital block, including the parking garage that has recently been constructed, the parking lots along South Street and the small parking lot off of Hope Street, as well as the parking facilities and hospital facilities that are located on the west side of South Governors Avenue. Collectively, they are looking at that for a parking approach for serving the hospital. For the total number of required parking spaces, we end up looking at a total employee count. The hospital has indicated that the total number of employees is just over two thousand (2000) employees. All of these parking areas including the expansion are less than the total number of employees so there is no issue of being over parked by the City of Dover Code.

Mrs. Melson-Williams further stated that some other elements of the project that need to be addressed by the applicant will include bicycle parking for the site. The applicant is asking for a waiver in the form of partial elimination of curbing. Typically all parking areas are required to have up-right curb. There are areas in their proposal where they are seeking relief from that requirement to allow for storm water management practices to function on the site. This project is unique due to the fact that it is served by an entrance drive that comes in off of South State Street. This is a shared entrance drive both to the Scull Mansion property and to the Holy Cross Church and School property. This shared entrance drive was done in the late 1980's and there is an existing easement between the two properties that allow for the shared entrance to occur. Both the hospital and the church utilize it and also share parking opportunities on the site. With this project, there is some concern about that entrance and its intersection with South State Street. The Department of Transportation has noted in their comments that a new entrance permit will be required and they are also recommending that a traffic study related to pedestrians be looked at for that entrance to see if improvements are necessary. The Planning Staff has provided their comments related to the plan elements, along with a series of recommendations. The Planning Staff are recommending approval of the elimination of the curbing for the parking. They are noting that there are some drainage issues on the site so the strategy for stormwater management will need to be carefully evaluated which is also reflected in the comments received by the Kent Conservation District who does the stormwater management review for the City of Dover. Planning Staff is recommending the implementation of a screening along this front parking lot area where it results in vehicles facing out towards South State Street. It is located well over one

hundred (100) feet back from South State Street but Staff is still recommending a low shrub hedge planting to help screen what would be parking in that area so that it is a better fit in a very residential approach to Downtown. In addition, Planning Staff is also concerned about the pedestrian access from the new parking lot area for those that will be utilizing this parking and then crossing South State Street to get to the main hospital facility. Therefore, Staff is recommending a very clear pedestrian sidewalk network from the parking area to South State Street. Currently, there are two (2) paths that lead in that direction. One is a very narrow concrete path and the other is a stone surface path. Planning Staff is recommending a better implementation and one that is more accessible. The other things that have been noted are light fixtures in the vicinity of mansion house should be more related to the character of that historic structure. The structure itself is listed on the National Register of Historical Places. This project will actually eliminate an out-building that is associated with the Mansion property and Staff is recommending that some documentation happen before demolition of that building.

Mr. Moore stated that this is a plan being presented to handle facility wide parking. Bayhealth is expanding quickly and adding employees at a very fast rate, which is demanding new parking. It is also based on a lot more in-patient parking throughout the day which is why this project is being presented. They do not object to any comments from DAC. One thing under the DelDOT recommendations asks for a study to be done for the crosswalk, which they agree to but there is already a crosswalk there and a parking facility and there is also communication between the main hospital and this property and has been for a number of years. The applicant would just like to precede to final construction drawings and make sure that they can do so as that study is being done.

(Mr. Ambruso arrived at the meeting.)

Mr. Tolbert opened a public hearing.

Mr. John Grady – 6 N Bradford St Dover DE 19904

Mr. Grady stated that he was an attorney representing Holy Cross Church, which is the party next door to Scull Mansion. Holy Cross Church has an easement on all of these parking places. They have not been involved in this process at all. However, they have some concerns with the proposed project. The first concern is the entrance way from South State Street. As you come in off of South State Street, there is parking along the entrance way. This is a very busy place at 8:00am with school buses coming in and now there will be even more cars coming in from Kent General Hospital. It is a very narrow entrance, approximately forty (40) feet across and there are cars parked on both sides of this entrance. As he reads the zoning requirements, it states that parking lots should be at least one hundred (100) feet from the street and there are people parking within fifty (50) feet of the street. Holy Cross is requesting that there should not be any parking there at all at the entrance way. There are also approximately ten (10) parking spaces which are part of the driveway as you enter from the street which creates a couple of hazards. First, there is a hazard for buses coming in during the morning hours. There is not enough space for buses to go by with a car parked within this entrance way. Secondly, members of Holy Cross Church park there during the weekends and create a dangerous set-up as they try crossing that entrance way. You will not find parking along a driveway anywhere in Dover that has this much traffic coming and going.

Mr. Grady further stated that Holy Cross Church was not on this petition for the zoning request and he wonders if they should have been on it since they have an equal right to all of these parking spaces.

Holy Cross Church was not consulted about this project. The second issue is that there has been an acknowledgement tonight that Holy Cross Church does have rights to this parking and it has been a major battle with Kent General acknowledging these rights. At the present time, there are signs up stating that parking is for the Surgery Center only. There are also signs up saying for Kent General only. He has personally written to Bayhealth Medical Center over the last three (3) years about this problem and it has not been addressed. There has been some acknowledgement but the signs are still up. If this project is going to be approved, then one of the conditions should be that there is a written acknowledgement that Holy Cross Church has a right to park in these parking spaces. The major concerns are the weekends; however, they have no intentions on giving up their easement rights. The joint parking request would be legitimate because Holy Cross Church uses this parking area as well. His concerns are that Holy Cross Church is not even an applicant on this petition and they are parking users and owners of those lots. There is also a serious safety issue on the entrance way off of South State Street. He feels that the most logical thing to do is to eliminate that parking on the driveway, it is not safe and the area is not wide enough. If Bayhealth Medical Center plans to put signs up for parking it should acknowledge that Holy Cross Church also has a right to the parking as well.

Mr. Tolbert closed the public hearing after seeing no one else wishing to speak.

Mr. Ambruso questioned if there was anything that Kent General and Mr. Grady could work out at this time? Responding to Mr. Ambruso, Mr. Tolbert stated that as he understood it there has been no communication between the applicant and Holy Cross Church and perhaps this should occur.

Mr. Peters stated that there has been communication on it and he reserves comment on that communication.

Mr. Moore stated that they have the agreement between the two parties and they are going to comply with that. They think that the added parking will help both parties and they fully intend to comply with the agreement between Holy Cross Church and Bayhealth Medical Center. They have agreed to add sidewalks that will help better connect the two properties.

Mr. Tolbert questioned if the agreement addresses the concerns that were just expressed by Mr. Grady? Responding to Mr. Tolbert, Mr. Moore stated that Mr. Grady referenced that Holy Cross owns and therefore should be a party to the application. As a signator and as the landowner, that is really Bayhealth Medical Center's responsibility so that's the reason why Holy Cross is not a signator. But they will fully comply with the agreement that's recorded and provide Holy Cross access through the property and to the parking; that's part of the agreement and they have no dispute with that.

Mr. Ambruso moved to deny the request S-13-05 Lands of KGH Development Corporation at 625 South State Street until something in writing between both entities is provided, seconded by Dr. Jones.

Mr. Baldwin questioned what additional information the Planning Commission was asking for? Responding to Mr. Baldwin, Mr. Tolbert stated that he personally thought that it was addressed very well by Mr. Moore.

Mr. Ambruso further stated that Mr. Grady's clients feel as though it is not in their best interest and that they have had very little input in this process. He thinks that both parties are very large entities in

the community who are basically married to each other. He really thinks that there should be a meeting of the minds.
Mr. Tolbert stated that there should be an understanding between all of the parties and it seems like that was non-existent by what Mr. Grady said. Mr. Grady had stated that he had not been in contact with the applicant but Mr. Moore said that they have been in contact. It seems like there is miscommunication somewhere.

Mrs. Townshend questioned for a matter of clarity, if the Commissioner were looking to deny the application or to postpone action on the application until such time that the applicant and the representative of Holy Cross can resolve some issues? Responding to Mrs. Townshend, Mr. Ambruso stated that he would be willing to postpone the application.

Mrs. Townshend stated that the motion made by Mr. Ambruso would need to be amended.

Mr. Ambruso withdrew his original motion.

Mr. Ambruso motioned to postpone the hearing on S-13-05 Lands of KGH Development Corporation at 625 South State Street for thirty (30) days until both parties feel as though they have full knowledge as to the destiny of that property, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Holden recused and with Colonel Welsh absent.

2) S-13-06 US Gas at 461 North DuPont Highway – Public Hearing and Review of a Site Plan to allow for the addition of a fenced paved area consisting of 6,861 SF of impervious surface located at 461 North DuPont Highway. The property is the location of an existing automobile service station with fuel sales. The property is zoned C-4 (Highway Commercial Zone). The property is located on the southeast corner of North DuPont Highway and Townsend Boulevard. The owner of record is US Gas, LLC. Address: 461 North DuPont Highway. Tax Parcel: ED-05-068.13-01-55.00-000. Council District 3. *Waivers Requested: Reduction of Arterial Street Buffer and Partial Elimination of Curbing.*

Representatives: Mr. Tim Glass, Lane Engineering; Mr. Mukhtiar (Mike) Singh, owner of US Gas

Ms. Cornwell stated that this is a Site Plan application for the placement of 6,861 SF of additional impervious surface. Over 9,000 SF of imperious surface was installed without review and approval. A portion of that, approximately a little over 3,000 SF of the impervious surface will be removed as part of this application. The applicant is looking to leave 6,861 SF of impervious surface on the site. The property is zoned C-4 (Highway Commercial Zone). The use of the property is a motor vehicle service station with gas pumps. The use of the motor vehicle service station shall conform to the requirements of the *Zoning Ordinance* pertaining to the use and storage of the property.

Ms. Cornwell further stated that there are two waiver requests as part of this Site Plan. The first is for the elimination of curbing for the parking areas to allow for stormwater management and this includes those existing areas on the site that do not have curbing and the new impervious areas is also proposed to not have curbing. The second waiver request is for a reduction in the Arterial Street Buffer. As Route 13 is considered our principal arterial, a thirty (30) foot landscape buffer is required along that area. What the applicant is proposing is an area that ranges from fourteen (14) to twenty four (24) feet at the intersection and then there are other areas along the road frontage on North DuPont Highway that do not have Arterial Street Buffer. The buffer may increase based on comments from DelDOT.

Also in the C-4 (Highway Commercial Zone) zoning district there is requirement of a ten (10) foot landscape buffer. This is being provided within portion of that Arterial Street Buffer and it is being provided along Townsend Boulevard as well. The other agencies reviewing this application have provided their comments. This includes improvements to the stormwater management per the Kent Conservation District, entrance improvements by DelDOT and utility identification location by the City of Dover Public Works Department.

Mr. Glass stated that in addition to what Ms. Cornwell has reviewed, this site really presents an opportunity for the property to increase its image and also to provide some amenities on site that will help functionality and help aesthetics as well. The landscaping that is proposed, that does not exist now, will be an enhancement to the site. For the operation of the property as it exists today, there is a customer base that comes and goes with repairs and of course fuel sales, all of which will remain. The intent is to utilize some of the impervious area that has been placed behind the building, remove what is not necessary any longer and essentially provide a wooden fence around the enclosed area behind the building so that customer's cars can be placed in that secure area. This will be more out of sight from the street and on the front parking lot. It will allow better access and circulation through the property and also provide for security after hours until the customer comes to claim their vehicle back. As Ms. Cornwell had pointed out, there is a fairly large grass island that exists now on the corner of the property and we have proposed landscaping for that area, extending around to the back. The applicant is looking to put some evergreen type trees and shrubs there to mask the back side of the fenced area as it abuts the property to the rear. They are proposing to explore storm-water management opportunities on that piece of property and with the waiver request; they would ask the Planning Commission to waive the curbing requirement of that due to natural draining. The site has a natural fall to the back of the property already and much of the surrounding properties all drain to this corner on Mr. Singh's property. If they were to have curbing on that, they would not be able to get the water out of that parking lot area and into the grass area. As for the Arterial Street Buffer, he feels that they have planted what they can to the extent of what they have available on-site. Some additional dialogue will need to take place with DelDOT with regards to the existing widths of entrances, which could be cleaned up after we are through some of the review process. If this allowed more opportunity within that Arterial Street Buffer along the frontage, then they would be able to additionally landscape that area as well. They respectfully ask that the Planning Commission consider granting the waiver requests and approve the Site Plan as presented. He thinks it's going to be an enhancement to the community and they are looking forward to the completion.

Dr. Jones questioned the timeframe of completion? Responding to Dr. Jones, Mrs. Townshend stated that because this was a code enforcement action, they would need to continue moving forward to comply. There will be some time to deal with some of the DNREC and Kent Conservation District, so Staff will continue to stay on top of those and monitor them but it is not an application that we can allow to expire if approved.

Mr. Holt questioned if the applicant was planning to have an underground storage type container for the stormwater or some kind of run-off? Responding to Mr. Holt, Mrs. Townshend stated that it is likely to be a small pond but she would defer to Mr. Glass for further comments. Mr. Glass stated that right now there is an existing stormdrain line that parallels with Townsend Boulevard. They would propose to tap into that. There would be a small excavation. Whether that excavation were utilized for a more green type of treatment meaning micro-bio retention or landscape infiltration with some degree of storage in there. Right now all of the drainage runs into that exact spot and lays there and does not

have a good way to get out. They would propose an outlet structure that would be tied into that existing stormdrain so that they could treat the water before it was discharged into the pipe.

Mr. Holt further stated that underground storage water retention options are also available. Responding to Mr. Holt, Mr. Glass stated that given the existing utility placement and the small nature of the site, he is not sure that would be a good opportunity for this particular site.

Mr. Holt questioned that if they had a stormwater retention pond, would there be some type of fencing around it? Responding to Mr. Holt, Mr. Glass stated that he thinks the details would still need to be worked out on that. He would prefer to do more of a green technology where the water is dissipated and absorbed by the plant stock that is in there so that there is no standing water.

Mr. Tolbert opened a public hearing.

Mrs. Cindy Small – Central Delaware Building, LLC 435 North DuPont Highway Dover DE 19901

Mrs. Small stated that she was the Vice President of the Board for the Central Delaware Building, LLC, located adjacent to this property facing it on the right hand side with a small roadway between Mr. Singh's property and their property. She is also the Executive Director of Kent County Tourism and they are a tenant in that building with the Chamber of Commerce. With her tonight is Heather Krueger, she is an Officer of the Kent County Tourism Board of Directors. One thing that she wanted to ask was have the Planning Commissioners been to the US Gas site? They are next door as the Visitors Center. This is the place where the City of Dover's new residents are coming often, along with new businesses to town, new Chamber of Commerce members or members of the community as well as people possibly looking to come to Dover as a place to live and visit. One of the things that they are concerned about is the aesthetics of our neighborhood. To the south of them is the church; they do a great job of keeping their property very nice, neat and clean. One thing that concerns her is that she had not heard about the fence plans until this evening and if you have ever driven down that alleyway between the two properties you would notice that there is a lot of traffic both going in and coming out. Cars use this alleyway as a shortcut to Townsend Boulevard or to get to the stores in the shopping center behind the gas station. If you come down that road at a fast speed and you are turning left toward the shopping center, a fence is definitely going to inhibit your view of any oncoming traffic. She does see this as a safety issue, if a fence is built and you cannot see around it. It is a very sharp, forty five (45) degree angle turn.

Mrs. Small further stated that as far as drainage, the parking lot of the shopping center is full of puddles any time after rain. They actually have a hard time keeping it paved because the rain constantly bubbles up and causes pot holes. The other thing that concerns her is just the safety. Someone was mugged in broad daylight right behind their building and the store located behind them was arm robbed. They have people leaving their building for meetings at all hours of the night and it is not very well lit in that area. They have had to remove all of their landscaping in the back of the building just to eliminate hiding places and a fence and cars behind US Gas may be an attraction for people looking to rob and steal and it's also a good place for people to hide. She thinks that any improvements to the property will be very welcome but she is just concerned about the safety. Also she noticed that Ms. Cornwell mentioned that the property is zoned as a gas station and a motor vehicle repair and use and storage. She is assuming that the reason that the fence is being put in is to store cars but how long are these cars going to be there? Until just recently, you could find cars that

had been parked on the site for months maybe even years. She does not think that the property should become a junk yard. She does not mean any disrespect to Mr. Singh, she knows that he is trying to make a living but you do have to keep in mind that it is the City of Dover and a lot of the first time visitors are coming to see them which means they have to pass by this property. She just wants to make sure that the Commissioners go and take a good look at it. She is sure that Mr. Singh would even give a tour and maybe show you what they are planning to do. If it truly is an improvement, we would be in favor of it. If it's just another place to park cars that are in bad disrepair, they would not be in favor.

Mr. Tolbert questioned if she was located in the building at 435 North DuPont Highway? Responding to Mr. Tolbert, Mrs. Small stated yes.

Mr. Tolbert further questioned if it was the building where the Chamber of Commerce is located? Responding to Mr. Tolbert, Mrs. Small stated yes, the Chamber of Commerce is on the second floor with some other tenants and she is located on the first floor.

Mr. Tolbert questioned how long US Gas has been at this location? Responding to Mr. Tolbert, Mr. Singh stated that he has been at this location for ten (10) years.

Mr. Tolbert questioned Mrs. Small if US Gas was at this location when her operation came to that location? Responding to Mr. Tolbert, Mrs. Small stated that it was before her time. The Chamber of Commerce has been there for about nine (9) or ten (10) years but she is not positive on the timeframe.

Mr. Tolbert further questioned if lighting would help the situation that she had described? Responding to Mr. Tolbert, Mrs. Small stated that it probably would help and maybe if the fence did not go all the way to the property line in the back so that there was more of a clear visual way to see around that.

Mrs. Nonnie Cross – 216 Mannering Dr Dover DE 19901 (Property Owner of 720 Townsend Boulevard Dover DE 19901)

Mrs. Cross stated that she was the owner of 720 Townsend Boulevard. She is in total agreement with Mrs. Small. She would like to support her speech.

Mr. Tolbert closed the public hearing after seeing no one else wishing to speak.

Mr. Ambruso stated that he visits the tobacco shop behind US Gas every other day and he has often wondered why the City of Dover Inspections Department has not done something with the property in the first place. He agreed with Mrs. Small that the way that property is maintained is not kept in the spirit as most of the neighbors in that area try when it comes to their properties. He is afraid that tucked away behind the fence would be nothing more than a junk yard. He does not believe that they are zoned to be a holding facility. Responding to Mr. Ambruso, Mrs. Townshend stated that they are zoned C-4 (Highway Commercial Zone) which allows for automobile repair. The *Zoning Ordinance* states that motor vehicle service stations are subject to the following regulations: 1) Vehicle lifts or pits dismantled and disabled automobiles and all parts or supplies shall be located within a building enclosed on all sides. Planning Staff has talked to Mr. Singh about the code enforcement history on the property and he has indicated that he fully understands that he cannot even within the fenced area have vehicles in various states of disassembly. 2) All service or repair of motor vehicles other than minor servicing such as changing of tires or sale of gasoline or oil shall be conducted in a building

fully enclosed on all sides. Again, these are things that we have had issues with on this property in the past and we have had extensive discussion with Mr. Singh and he has ensured us that prohibited activities would not be taking place. We could set up regular inspections. For a period of time we could have our Inspectors do monthly inspections. If they are operating in the City, we are entitled to conduct an inspection so we could do regular inspections to ensure that it does not become a junk yard. But that was one of the concerns that the Planning Staff had and Mr. Singh has assured us that this will not be the case.

Mr. Tolbert questioned Mr. Singh's previous code violations, have they not been resolved at this point? Responding to Mr. Tolbert, Mrs. Townshend stated that the most recent violation that we are here to resolve is the issue of the addition of imperious cover without any approval. There have been code enforcement cases in the past for a variety of property code violations. There has been anything from weeds and overgrowth to the issues of abandoned or disabled vehicles on the property. Those have all been resolved. Unfortunately, when she looks back ten (10) years they would be resolved and then it would happen again; they would be resolved and it would happen again. Her understanding is that they have not had disabled vehicles on the site routinely and they have not had unregistered vehicles in recent history on the site. That is a practice that they are not doing anymore. Again this is what Planning Staff has been told by the applicant and she is sure that he could share the same with the Commissioners. She thinks that we have a responsibility knowing that there is a history, knowing that there is a discussion to be made by the Planning Commission to do routine inspections to make sure that that is not the case.

Mr. Tolbert further questioned if there were no open violations at this time? Responding to Mr. Tolbert, Mrs. Townshend stated that there are open violations. The principal one now is the impervious cover addition. There are no current cases for dissembled vehicles on the site. There are no current cases for tall grass or overgrowth. The only current open case is the addition of impervious cover. There are fines associated with that and he understands he will need to pay before he gets final plan approval.

Mr. Tolbert questioned if the open violations that he has now have no impact on this application before them now? Responding to Mr. Tolbert, Mrs. Townshend stated that it's the reason the applicant is here. The vehicles that were there in the past have been removed from the site. So currently, on the last inspection, there were no disabled vehicles on the site other than cars that were actively being repaired.

Mr. Tolbert further questioned if the applicant has a history of violating? Responding to Mr. Tolbert, Mrs. Townshend stated yes.

Mr. Holden questioned for his clarification, if this matter is in front of them for them to act upon the two waivers? Mrs. Townshend stated that it is for the waivers and for the Site Plan to allow the paving.

Mr. Holden further questioned the process of how the proposed fence will be reviewed by the City? Is there another level that will review where it is placed and whether it causes site issues for travel that was mentioned around the back alley? Responding to Mr. Holden, Mrs. Townshend stated that during the final stages of the Site Plan, Planning Staff would look at that and then a Building Permit would be submitted. She would say that since it is because it's part of the Site Plan, if there are specific issues

that you want addressed in that, she would suggest making that part of a motion.

Mr. Holden further questioned if in the City's eyes, there was issue with travel around the back of the parcel through what may or may not be a true alley? Responding to Mr. Holden, Mrs. Townshend stated that she has not been aware of issues. Again, it is really more of a cross access easement to get from the property where Kent Count Tourism and the Chamber of Commerce are located out to Townsend Boulevard. We have not looked at it the same way that we would look at a road.

Mr. Holden questioned the applicant on the past issues with vehicles that should not have been stored on the site and concerns over the appearance of the site and traffic. Are there considerations from the applicant's side to address these moving forward? We have heard that the City of Dover has had some correspondence with ensuring vehicles were not stored on-site improperly. There have been a number of issues raised. Is there a manner to address those? Has there been some thought to address that through this process for this project? Responding to Mr. Holden, Mr. Glass stated that there has and Mr. Singh can certainly acknowledge tonight that he has been in the office, they have had those conservations. Mr. Singh and he have been over the application and the reason they are here tonight is because of a prior violation that they are here to seek remedy for in a way. A good chunk of what has been placed in the past is going to have to be removed in order to turn a reasonable amount of that impervious space into a more usable, hidden, out-of-sight from the street, landscaped, enclosed space from a security standpoint. Just to address a few of the other comments that were mentioned a moment ago with regards to the security and lighting Mr. Singh has already installed cameras on the back of that building. His intention is to put their customer's vehicles in that enclosed secured spot. That entire gated, fenced area will be closed and locked. They have had some issues before with some vehicles being broken into and this is a sure fire way to be able to minimize that activity. There are three (3) lights that exist on the back portion of the parking lot behind Mr. Singh's property. He believes that they belong to Mrs. Cross and he does not know if they work or not but they are cobra head style lights and there are three (3) of them along that side. There are lighting fixtures there; whether or not they are operational he does not know. For the points about the drainage, there is a lot of drainage there. There are always puddles of water in that area and it probably is tearing up some of the asphalt parking lot of Mrs. Cross' property. The fact of the matter is, the water does not have anywhere to go right now and part of their solution would be to direct that water to a closed storm drain system so that it is not just sitting back there after it rains. With regards to any invisibility, he would suggest that they could look at that a little more as far as any vehicle visibility issues. That is a very narrow private easement area; it is not a public street and there is no easement benefit to Mr. Singh. That easement was created for access from North DuPont Highway to the buildings that are located in the back so it is a private property matter. If there are vehicles that are speeding through there, there might be other remedies that the private property owner may be able to consider such as a stop sign at the back of the fence line. If they can pull the fence back somewhat and still have a usable enclosed space, then he thinks that the applicant would be more than willing to discuss those details with Staff as they go through the process.

Mr. Holt stated that if they could get those lights on at night, it would eliminate a lot of the crime that is happening in that area.

Mr. Tolbert questioned if the lights work now? Responding to Mr. Tolbert, Mrs. Small stated that she thinks they do work.

Mr. Tolbert further questioned if the lights were adequate for the area? Responding to Mr. Tolbert, Mrs. Cross stated that the light located in the parking lot of 720 Townsend Boulevard is not facing the area behind US Gas Station.

Mr. Holden stated that he has some conflict here. He sees that Mr. Singh is coming forward to remedy the situation and also to improve the site so he applauds those efforts. He recognizes that there has been an ongoing history of issues at the site that was not a one-time occurrence so there is a bit of tug and pull here. But he sees Mr. Singh's effort to improve and that he is truly here to make some improvement. If the Planning Commission chooses to recommend the approval of the Site Plan and waivers, if they wanted to also include in the motion a contingency to address potential site issues with the fence and to improve lighting, who would then confirm that that was done? Responding to Mr. Holden, Mrs. Townshend stated that it would be done through the Site Plan process. Staff would look for that as they get to final Site Plan and then the site inspections would confirm it.

Dr. Jones stated that she has a concern about the cars that might be inside the fence. She questioned Mr. Singh if he had any idea the maximum number of cars being serviced that he might hold at a time? She stated that she was concerned about cars moving and not staying for a long period of time. Responding to Dr. Jones, Mr. Singh stated that the maximum time frame that cars would stay would be maybe fifteen (15) days.

Dr. Jones further stated that they were not talking about cars staying forever.

Mr. Tolbert questioned how many cars the area can hold at any given time? What is the maximum number that it can hold? Responding to Mr. Tolbert, Mr. Glass stated that he thinks it is seventeen (17) to twenty (20) maximum. They have designed it in such a way that there is enough room between, like a normal parking lot where you can pull the cars in against the fence or against the back part of the building and then still be able to drive in between in an access aisle. Without being able to quickly do the math in his head, going by memory the parking lot can hold seventeen (17) to twenty (20) at the most.

Mr. Tolbert further questioned if these were vehicles that are there to be repaired? Responding to Mr. Tolbert, Mr. Glass stated that a customer would bring their vehicle and be able to put that vehicle behind the building in the fence and at night time the gate would be locked.

Mr. Tolbert questioned that the vehicles are not just stored there for indefinite periods of time? Responding to Mr. Tolbert, Mr. Glass stated no, once the vehicles are brought into the shop to be worked on they could then be taken to behind the building for customer pick-up or to be stored in that lot behind the building.

Dr. Jones stated that like Mr. Holden, she can certainly appreciate the opportunity to improve that site. Not only has she passed the property but she has been in to the service station and she received some of the most courteous service that she has ever received. But at the same time, she thinks that the proposed plan to improve the site will certainly be an asset to that neighborhood because of the current appearance. She also feels that if the approval is granted that an oversight plan should be made certainly known to Mr. Singh without deviation.

Mr. Tolbert stated that the motion should contain the issues that we are discussing now.

Mr. Baldwin stated that he can appreciate the improvement that he has seen there. He asked the applicant if he was just repairing automobiles. Responding to Mr. Baldwin, Mr. Singh stated yes.

Mr. Baldwin further stated that in the past he has seen dismantled lawn tractors and things of that nature parked near the curbing. He wants to ensure that that's not going to happen anymore. He questioned the dump truck sitting on Townsend Boulevard; does it belong to Mr. Singh? He further stated that it has been there for at least two (2) years. Responding to Mr. Baldwin, Mr Singh stated that it belonged to a family member and he has tried to contact him about moving the dump truck and he has not received a response.

Mr. Baldwin further questioned if the dump truck was going to remain there? Responding to Mr. Baldwin, Mr. Singh stated that he was thinking about towing the dump truck.

Mr. Baldwin stated that the dump truck was an eye sore.

Mr. Tolbert stated that periodically there is commercial activity going on other than the automobile activity; sales person selling rugs on the corner. Responding to Mr. Tolbert, Mr. Singh stated yes there were sales people on his property.

Mrs. Townshend further stated that this activity was permitted.

Mr. Baldwin stated that he would like whoever decides to make the motion to include routine inspections to ensure that Code Enforcement is making sure that they do what say they are doing tonight.

Mr. Tolbert stated that the motion should also include the waivers and the other concerns that have been expressed along with the DAC comments. The lighting issue and the water problem need to also be ensured in the motion.

Mrs. Townshend stated that the DAC comments address the drainage because they have to comply with the Kent Conservation District requirements.

Mr. Baldwin moved to approve S-13-06 US Gas at 461 North DuPont Highway Site P1an for the impervious surface including the comments made tonight which are routine inspections to ensure that the property is being used correctly, the lighting improvements for the site and also the DAC comments, as well as the waiver request for the partial elimination of curbing and the waiver request for the reduction of Arterial Street Buffer, seconded by Mr. Holt.

Mr. Holden moved to amend the motion to include adjustments to the proposed fence and lighting to the satisfaction of the Planning Department and require monthly inspections for a period of twelve (12) months to ensure that the business is operating as Code requires, seconded by Mr. Holt and the motion to amend was unanimously carried 8-0 with Colonel Welsh absent.

Vote on original motion as amended carried 7-1 with Mr. Holden, Mr. Shomo, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still and Mr. Tolbert voting yes and with Mr. Ambruso voting against and Colonel Welsh absent.

Meeting adjourned at 8:15 PM

Sincerely,

Kristen Mullaney
Secretary