CITY OF DOVER PLANNING COMMISSION
October 15, 2012

The Regular Meeting of the City of Dover Planning Commission was held on Monday, October 15, 2012 at 7:00 PM with Chairman Welsh presiding. Members present were Mr. Shomo, Mr. Tolbert, Mr. Holt, Mr. Ambruso, Colonel Welsh, Mrs. Still, Mr. Holden and Mr. Baldwin.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mrs. Melson-Williams, and Ms. Metsch. Also present were Mr. David Braun, Mr. Nick Alessandro, Mr. Tailap Luk, Mrs. Lisa Rinnier, and Mr. Keith Kooker. Also speaking from the public was Mr. William McKee, Pastor Theodore Henderson, and Mr. Gregg Moore.

Colonel Welsh stated that he has the pleasure of introducing the newest Planning Commission member observing from the audience, Dr. Bobby Jones. She will begin participate in meetings in November.

APPROVAL OF AGENDA

Mr. Ambruso moved to approve the agenda as submitted, seconded by Mr. Tolbert and the motion was unanimously carried 8-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF SEPTEMBER 17, 2012

Mr. Shomo moved to approve the regular Planning Commission meeting minutes of September 17, 2012, seconded by Mr. Holt and the motion was unanimously carried 8-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that last week there was an Audio Web Conference titled "Planning Mistakes; Accessing, Learning and Adapting" held on October 10, 2012 at 4:00 PM in the Kent County Administrative Complex Building, Room 220. Mrs. Melson-Williams and Ms. Cornwell attended; however, there were no Planning Commission members in attendance.

Mrs. Townshend further stated that she would note that on January 16, 2013 there will be a "Zoning for Small Business" Audio Web Conference with the City of Dover hosting it at the new Dover Library. Staff will be reaching out to the business community, specifically the Downtown business community to receive local participation as well as Planning Commission members.

Mrs. Townshend stated that the next regular Planning Commission Meeting is scheduled for Monday, November 19, 2012 at 7:00 PM in the City Hall Council Chambers. The next Quarterly Workshop for the Planning Commission is scheduled for November 20, 2012 in the City Hall Conference Room. This is Thanksgiving week and she would like to ask if the Commission members would like to push the Quarterly Workshop to January or keep it on the holiday week.

Colonel Welsh stated that he would poll the Planning Commission members at a later time and report back to Mrs. Townshend at a later date.

Mrs. Townshend provided an update on the regular City Council meeting of September 24, 2012; the Utility Committee; the regular City Council, the Legislative, Finance and Administration

Committee, and the Parks, Recreation and Community Enhancement Committee meetings of October 8, 2012.

NEW BUSINESS

Resolution honoring Francis Nichols for his service as a Planning Commission member

Resolution

Whereas, Francis C. Nichols *became a member of the City of Dover Planning Commission on May 28, 2002 and has served with diligence and distinction in this capacity as an advocate for sound land use planning in the public interest and has shared his knowledge and experience in the areas of utility services and stormwater management; and,*

Whereas, Francis C. Nichols *has also served on the Utility Committee of City Council beginning on May 22, 2000 through May 28, 2002 prior to his appointment to the Planning Commission; and,*

Whereas, Francis C. Nichols *has played a role in ensuring fundamental fairness and careful forethought in the planning and development of the Capital City through his service on the Planning Commission; and,*

Whereas, Francis C. Nichols *has influenced the pattern and appearance of development in Dover through his contributions to the City's Comprehensive Plans including the 2003 Comprehensive Plan Update and the 2008 Comprehensive Plan; and his participation in the development of numerous amendments to the City of Dover Zoning Ordinance including* the *AEOZ, TND, SWPOZ, and ROS zones; and,*

Whereas, Francis C. Nichols *completed his service on the City of Dover Planning Commission on September 17, 2012.*

Now Therefore Be It Resolved That*, the City of Dover Planning Commission does hereby express its sincere appreciation to* ***Francis C. Nichols*** *for his faithful and exemplary service to the Citizens of the City of Dover as an active member of the City of Dover Planning Commission, and extends its very best wishes to* ***Francis C. Nichols*** *for a bright and prosperous future.*

Colonel Welsh stated that he has worked with Mr. Nichols for ten (10) years on the Planning Commission and he has brought a lot of value to the Planning Commission. His knowledge of Public Works and the City of Dover as a former employee added measurably to our effectiveness and we will miss him a lot.

Mr. Holt moved to adopt Resolution #2012-15 honoring Frances Nichols, seconded by Mr. Tolbert and the motion was unanimously carried 8-0.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

C-12-06 Dover First Christian School at 647 Wyoming Avenue – Continuation of the Review of a Conditional Use Site Plan to allow for the construction of a 4,000 SF school building and associated site improvements. The application also includes a Conditional Use to allow for the temporary use of the existing hall within the church as the school. The property is zoned R-8 (One Family Residence Zone). The property is located on the north side of Wyoming Avenue east of New Burton Road and west of Woodford Drive. The owner of record is Seventh Day Adventist Church. Address: 647 Wyoming Avenue. Tax Parcel: ED-05-76.20-01-78.00-000. Council District 2. *Waiver Requests: Elimination of Sidewalk along New Burton Road, Elimination of Sidewalk along Konschak Avenue, Elimination of Upright Curbing, Reduction in Parking. At the meeting of September 17, 2012, the Planning Commission referred the application to the Architectural Review Oversight Subcommittee and tabled the application until the October meeting. The Public Hearing was closed on September 17, 2012.*

Mr. Baldwin will abstain from this application as he was absent from last month's meeting.

Representatives: Mr. David C. Braun, Braun Engineering and Surveying; and Mr. Nicholas Alessandro, Diamond State Pole Buildings.

Mrs. Townshend stated that this application was reviewed by the Planning Commission at the September 17, 2012 meeting. There was a public hearing held at that time with a lot of discussion among the Planning Commission members regarding the architecture. The Planning Commission ultimately referred it to the Architectural Review Oversight Subcommittee who met on October 9, 2012 at 4:00 PM.

Mrs. Townshend further stated as an overview, this application is for a pre-school and kindergarten Conditional Use application with the property being zoned R-8 (One Family Residence Zone), for thirty-seven (37) students. There are a number of waivers that have been requested; partial elimination of the sidewalk along New Burton Road; partial elimination of the sidewalk along Konshack Avenue; combined parking spaces; and elimination of curbing. The combined parking spaces provision of the *Zoning Ordinance* allows you (the Commission) to consider the overlap of a church and school. In that at the peak of use, they will not be using the same spaces so rather than requiring the number of spaces for both, there would be enough spaces to accommodate the larger use. The applicant has proposed sixty-three (63) spaces.

Mrs. Townshend further stated that there was a public hearing held at the September meeting and that public hearing was closed. There have been a number of phone calls to our office as well as a number of correspondence that have come to our office. At this point, with the public hearing closed, that additional public testimony cannot be submitted for the record. Staff inquired to the City Solicitor what would need to happen if the Planning Commission did want to consider further public testimony. In order for that to happen, the Planning Commission would have to vote to re-open a public hearing and set a night for that public hearing with it to be advertised. We would not be able to hear public comment this evening because when the public agenda was posted, it did not include a public hearing and therefore, would be a FOIA violation to do that.

Ms. Cornwell stated that on your desks this evening is a memorandum that is the results of the Architectural Review Oversight Subcommittee meeting that was held on October 9, 2012. Also enclosed are two (2) separate pieces of architecture with one being what the applicant proposed for that meeting which is a combination of vinyl siding and brick. The second option is what the Subcommittee recommended which is an entirely brick building with the third item being the minutes from that meeting.

Ms. Cornwell further stated that the Architecture Review Oversight Subcommittee had a consensus that the new school building should match and be consistent with the existing church building. They also were concerned that the building eave height should match the existing church. The exterior of the building should be brick matching the color of the church and that they should have asphalt shingles for the roof and that the brick around the windows be set back. The Subcommittee also expressed their concerns for the placement of a playground in relationship to its location near New Burton Road and suggested rotating it slightly farther away from the road and away from being into the front yard setback.

Ms. Cornwell further stated that the original application for the architecture was a metal sided building with a metal roof. The Architectural Oversight Review Subcommittee is recommending a brick building with asphalt shingles and brick around the windows to be set back and that the eave match the existing church.

Mr. Alessandro stated that when they were here for the September meeting it seemed to him and to his client that the consensus here was to have the building be more consistent with the residential neighborhood as we proposed the structure to have steel siding and steel roofing. At the Architectural Review Oversight Committee it was determined that a brick wainscoting, horizontal siding, and steel roof be proposed. We drew up the elevations showing the brick wainscoting and horizontal vinyl siding all to match color wise and be consistent with the existing neighborhood. When we went to the Architectural Review Oversight Subcommittee we were not there very long and they seemed very inflexible. Mrs. Still was the only one that seemed to want to listen to making some minor changes rather than just being closed minded stating that it has to look exactly like the church and that is that. He brought several samples in which they did not look at any of them. It was disappointing to have that meeting.

Mr. Alessandro further stated that at the Planning Commission meeting last month they made it seem like cost was not a concern. It was made clear at the Architectural Review Oversight Subcommittee that cost is not a concern; however, it has to be a concern. Moving the playground for child safety makes sense. One of the main reasons the church wants to build the school is for the safety of the children. They sit on a bus for an hour currently to go to school and these are local children that have a home local to the church. The church is not trying to build a Starbucks. They want to build a non-profit school to teach Christian education that has to have some bearing on the decision of what gets built. The church is not inflexible at all. They are willing to do whatever they can to get the structure built. They cannot afford, in the initial budget, to do the brick wainscoting and the vinyl siding; however, if that is what has to happen they will make it work. Doing brick and asphalt is adding forty percent to this project and the money is not there to do it. If the project is scrapped, that means there is no local school for these kids and they will have to get back on a bus for an hour and there will not be a sidewalk down New Burton Road.

Mr. Alessandro further stated that based on the last meeting and the church discussing it amongst themselves, doing a brick wainscoting to match the church, the vinyl siding consistent with the neighboring homes, and a metal roof is in the budget and is what they can make work. Anything more than that would be extremely difficult and most likely the project would be scrapped.

Colonel Welsh stated that the Architectural Review Oversight Committee has provided recommendations that are not binding. Tonight the Commission can either agree all in total with what they have recommended or we can modify it for what we as a Commission feel is correct.

Mr. Holden questioned in the Architectural Review Oversight Subcommittee minutes there was some discussion over eave heights and roof lines, have there been any changes? Responding to Mr. Holden, Mr. Alessandro stated that this was always consistent with the church, same eave height.

Mr. Holden further stated that you mentioned the playground as an issue has the location or the orientation of the playground been amended? Responding to Mr. Holden, Mr. Alessandro stated that the playground is perfectly legal and acceptable to the City to have it where it is. They voiced a concern that it is encroaching on the setback which again by law, it is allowed to do; however, if they saw fit to move it the church is not opposed to moving it by putting an angle on it and keeping it consistent with the setback.

Mr. Holden further questioned if it is the churches desire that if the brick wainscoting along the lower portion of the building is required, it would match the existing church brick? Responding to Mr. Holden, Mr. Alessandro stated that this was correct.

Colonel Welsh questioned the metal roof that you have shown with the brick wainscoting and the vinyl siding. Is the metal roof more or less expensive than the asphalt? Responding to Colonel Welsh, Mr. Alessandro stated that it was quite a bit less.

Colonel Welsh further questioned if there were any homes in the area that would have a metal roof? Responding to Colonel Welsh, Mr. Alessandro stated that they did not see any. Keep in mind that they can be real consistent with color even though the church has an asphalt roof it is a charcoal color and there is a charcoal color metal that would match colorwise.

Mr. Holden questioned as the buildings are laid out, why weren't they connected? Visually, it appears as a separate building as an addition versus an expansion of the church. The visual difference is to magnify that it is an additional building versus an expansion of the church. Was there a driver to not connect the buildings instead of enlarging the church? Responding to Mr. Holden, Mr. Alessandro stated that with the existing church, there is not really one side of the building that is conducive of putting an addition on and cost is a huge factor. It cost quite a bit more to attach the building then it does if it is stand alone. On the detached version of it, it would be easier on the parking as well. They would have to eliminate some of the parking if they tried to attach it to the existing church.

Mr. Holden further questioned if there was a break point in the number of students or the size of the building? The piece that he struggles with is that it is a Conditional Use that is a change in use and is not an expansion of the church either visual or a footprint; it is an addition of a new building. Is there a threshold of which it is a viable project; however, could be an expansion of the church versus a separate building? Was that considered in the calculus of the preliminary design? Responding to Mr.

Holden, Mr. Alessandro stated that the Conditional Use is to occupy a piece of the church in the interim until the new structure is built which is considerably smaller than the new structure. They would not be able to house as many children in the conditional space. The church never discussed about putting an addition on the church; however, from the budgetary standpoint and from a location standpoint, that would not be easy to do.

Colonel Welsh stated that the Commission has three (3) choices. First, we can approve the recommendation of the Architectural Review Oversight Subcommittee which is why we established the Committee to begin with to provide their recommendation; second, we can approve what the applicant has submitted for their revised plan; or third, we can approve what they have submitted with revisions as we see necessary such as asphalt shingles versus the metal roof.

Mrs. Townshend stated that another option would be if you would want to schedule another public hearing which would be a separate meeting.

Colonel Welsh stated that we could defer the matter until the November Planning Commission meeting and allow public hearing so that we can get a much better idea of what the community is really looking for and if they are willing to accept the compromised position that the church has provided.

Mr. Ambruso stated that often times what we call progress turns out to be the exchange of one nuisance for another. He feels that we could avoid that by having a public hearing and by rescheduling the public hearing at our next regular Planning Commission meeting so that we could have a better sense and feel as to how the public feels with these changes.

Mr. Ambruso moved that a public hearing be set at the next regular Planning Commission meeting so that the Commission members could be privy to correspondence that may have been received along with the verbal input from people who are impacted the most in light of the changes, seconded by Mr. Tolbert. (See discussion on motion given below prior to vote). A vote was conducted with 6 aye votes and 1 nay vote (Mr. Holt) with Mr. Baldwin abstaining as he was not present at last month's meeting. The motion carried 6-1.

Colonel Welsh stated that he would agree with Mr. Ambruso and advised the applicants that it will delay you another month. He does not know what an impact that will be for you; however, he feels that it is critically important that we get something that is agreeable with the applicant and the neighbors that live in this surrounding area that are directly affected by what you do put up there.

Mr. Holt stated that he would agree with the Architectural Review Overview Subcommittee recommendations. If we have another public hearing, it will come right back to the Architectural Review Oversight Subcommittee and they are going to want what has already been done. We have the expert's opinion on what would look good for this neighborhood

Mrs. Still stated that from her perspective, she is more inclined to agree with Mr. Ambruso that it would be beneficial to get some further input as far as both new proposals that are on the table from the Architectural Review Oversight Subcommittee and the applicant. The Architectural Review Oversight Subcommittee did a good job relating the addition to the existing building; however, how that impacts the residents in the area that is something that we do not have any input on right now.

Mrs. Townshend stated that if the public hearing is opened, comments may be more than just the architecture and there could be other things that come forward. If you want it to be comments regarding only the architecture that would need to be made clear. The Conditional Use has not been decided in general.

Mr. Ambruso stated that he believes that is should be anything that the public would want to cover. He feels that people who are neighbors of this project should have a final say in what is being presented.

NEW DEVELOPMENT APPLICATIONS

AX-12-01 Lands of Taililou LLC at 110 and 136 Rustic Lane –Public Hearing and Recommendation to City Council on the Rezoning Request associated with the Annexation of two parcels of land totaling 1.68786 +/- acres located at 110 and 136 Rustic Lane. The property at 110 Rustic Lane consists of 1.118 +/- acres is currently zoned BG (General Business District). The property at 136 Rustic Lane consists of 0.56986 +/- acres is currently zoned RMH (Residential Manufactured Home District) in Kent County. The proposed zoning for both properties is C-2A (Limited Central Commercial Zone). The properties are located east of North DuPont Highway. The current annexation category according to Dover's *2008 Comprehensive Plan* is Category 1: High Priority Annexation Areas. The owner of record is Taililou LLC. Addresses: 110 and 136 Rustic Lane. Tax Parcels: ED-00-057.02-02-38.00-000 and ED-00-057-02-02-40.00-000.

Representative: Mr. Tailap Luk, Property Owner.

Mrs. Townshend stated that as you may recall, the last annexation request that was heard about three (3) years ago. There was the determination that was made after the Planning Commission recommended against an Annexation that it was not within the pervue of the Planning Commission. The pervue of the Commission is to make a recommendation on zoning. With this in mind, Staff structured their report accordingly.

Mrs. Townshend further stated that the adjacent properties also owned by the same owner are zoned C-4 and are closer to the highway. The property request for annexation is located directly behind the Sonic Restaurant. There are three (3) pieces of property owned by the applicant that are currently in the City and zoned C-4 and then there are two (2) pieces of property 110 & 136 Rustic Lane that the applicant has requested annexation and zoning of C-2A.

Mrs. Townshend further stated that the purpose of the C-2A zoning is that it allows mixed use. Also, if you look at the location of these two (2) properties they are further back from the highway. The Highway Commercial Zone becomes a little less appropriate as you get out of the highway and transitioning into a residential neighborhood. Staff provided in the report an overview of the types of uses permitted in the C-2A zone. The applicant wants to do a mixed use which would include residential and first floor retail. The zoning requested is consistent with the Comprehensive Plan that is in a high priority annexation area. Comments were received from other agencies including under the advisory comments that there are some technical issues that the applicant will have to deal with in terms of getting sewer and water to the site. When there is a development application, they will have to deal with the Kent Conservation District and DelDOT requirements associated with that application.

Mr. Holt questioned with regards to the sewer/septic and your continued use of it will this be permanent or will they be made to tie into the City's? Responding to Mr. Holt, Mrs. Townshend stated that they can tie in; however, there is a lot of main that they will have to install to serve the property and they will work with the Public Works Department to design that.

Mr. Luk stated that he spoke with the owner of the Sonic Restaurant today and he will be working with him to get this done.

Mr. Holt further stated that it would be to your advantage to do this because with his experience being in real estate for a few years, he is aware of the problems that come up with septic systems and they are continuous.

Colonel Welsh opened a public hearing.

Mr. William McKee – 111 Rustic Lane – Stated that he is against this request. The house that he (the applicant) has at 136 Rustic Lane has five (5) families living in this house that is a single family home and it has a sewer problem. All of the people he has talked to in this area are against this request. He lives at the second home on the left as you come onto Rustic Lane behind the Wawa. The people who live in the first and third place also do not want it. He also owns the fourth lot on Rustic Lane behind the Wawa and the sewer in this area is not that great. This home that they live in has poor maintenance on it and has four to five weeks of papers laying out in the front yard.

Colonel Welsh closed the public hearing after seeing no one else wishing to speak.

Mr. Tolbert stated that this application is dealing with a petition to annex and zone exclusively at this point. Responding to Mr. Tolbert, Mrs. Townshend stated that this was correct. He was concerned that discussion was brought up about what is going on at that site and this application deals exclusively with annexing and zoning.

Mr. Tolbert moved to forward to City Council a recommendation of approval for AX-12-01 Lands of Taililou LLC located at 110 and 136 Rustic Lane to C-2A (Limited Central Commercial Zone), seconded by Mr. Holt and the motion was unanimously carried 8-0.

Mrs. Townshend questioned for clarification if the reasons for supporting the rezoning as requested are the reasons laid out in the Staff Report? Responding to Mrs. Townshend, Mr. Tolbert stated that yes they are.

S-12-18 Leander Lakes Apartments on Forrest Avenue – Public Hearing and Review of a Site Plan application to permit the construction of ten (10) apartment buildings totaling 240 units with the associated site improvements. The property is zoned RM-2 (Medium Density Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The subject area is located on the south side of Forrest Avenue, west of Dover High Drive and the land recognized as the new Dover High School. The owner of record is Leander Lakes, LLC. Property Address: Forrest Avenue. Tax Parcel: ED-05-075.00-01-05.01-000. *Council District 1. Waivers Requested: Use of alternative sidewalk materials (concrete to asphalt) along Route 8, partial elimination of curbing to allow for stormwater management, and elimination of rear emergency access requirements. A previous application S-09-13*

for this property was conditionally approved by the Planning Commission on August 17, 2009; the plan has expired. PLUS #2009-05-08.

Representatives: Mrs. Lisa Rinnier, Leander Lakes; and Mr. Keith Kooker, Landmark Engineering.

Ms. Cornwell stated that this application was previous reviewed and approved by the Planning Commission in 2009; however, construction never commenced so the Plan expired in August of 2012. During that time, there were two (2) Record Plans that were recorded. One was to allow for the subdivision from the original parcel of Destiny Christian Church to create this parcel for Leander Lakes. The second was to record right-of-way for Dover High Road. Leander Lakes and the Capital School District have a signed agreement dated February 24, 2011 that addressed the design responsibility and construction of roads and infrastructure that will serve both this property and the property next door which is the new Dover High School site.

Ms. Cornwell further stated that the application was reviewed through the States PLUS process in 2009 as the application exceeds 150 dwelling units. The review was determined to be adequate for this submission. The property is subject to the COZ-1 (Corridor Overlay Zone); however, the buildings and infrastructure are not impacted by that. They are providing the required landscaping requirements along Route 8. For this site, they are providing the required number of parking spaces, number of dumpster spaces, and bicycle spaces.

Ms. Cornwell further stated that there are three (3) waiver requests associated with this application. The first is for an alternative material choice for the sidewalk along Forrest Avenue. Their request is to allow for asphalt instead of concrete. The second waiver is for a partial elimination of curbing along portions of the parking lot to allow for stormwater management. The third waiver is a recommendation from the Planning Commission to City Council to allow for the elimination of rear alley access for the apartment buildings. The buildings will be sprinklered so they will have fire protection.

Ms. Cornwell further stated that access from the property should be coming off of Dover High Drive. There are two access points from that road and three internal roads that would go around the ten different buildings to provide access. The architecture of the buildings is a combination of siding and brick. Brick is the main architecture element at the entrances. They are using two different colors of vinyl siding along the rest of the building. They will have a pitched roof with asphalt shingles and the clubhouse is a one story building that will reflect the architecture of the rest of the other ten apartment buildings.

Ms. Cornwell further stated that an Active Recreation area is required for this project. Based on the number of units, 1.51 acres is required and they are providing 1.934 acres. The Active Recreation Area planned was reviewed by the Parks, Recreation, and Community Enhancement Committee at their October 8, 2012 meeting. The Committee recommended the approval of the Active Recreation Area that includes three (3) barbeque and picnic areas that have benches and grills. There is a dog park at the walking path around the stormwater management areas, a playground that has equipment for swing sets, see saws, and a clubhouse that includes a swimming pool.

Ms. Cornwell further stated that the Parks, Recreation, and Community Enhancement Committee recommended the Staff requirement that they provide a bicycle parking space at the playground not be required and that it be removed. Staff has also made a number of recommendations that the Planning Commission may consider as part of the application that includes providing a safe pedestrian access across Dover High Drive for kids to get to the new high school. Providing a cross access easement to the Dover Christian Church property. Providing more recycling opportunities on site.

Mrs. Rinnier provided an overview of the project through a Power Point presentation at this time.

Mr. Kooker stated that the Planning Staff recommended the denial of the sidewalk waiver for the material in front of the site. We are just trying to follow what is accepted by DelDOT and are cognizant in the fact that we need private funding to do this work. We are trying to provide what is required while trying to limit our costs as much as possible.

Mr. Kooker further stated that with regards to Item #4 under recommendations, it states that Staff recommends designing a safe pedestrian crossing. He would like to make sure that they are not agreeing to a bridge or tunnel. He would propose that this be changed to crosswalk. Responding to Mr. Kooker, Mrs. Townshend stated that she would add to this that whatever the crossing is, we concur that it would not be a bridge or a tunnel and that it would need to be reviewed and approved by DelDOT as this will be a DelDOT road.

Mr. Kooker further stated that with regards to Item #8 under recommendations, they have no problem with the comment as far as there being access to the site for the Dover Christian Church. He realizes that Staff received a letter from the church regarding the application. He would like to make a point that we would much rather have access to the west of the Dover Christian Church as opposed to connecting on Dover High Drive. We realize that we will have to achieve approvals through DelDOT and if they tell us we have to do this, then we will have to do it. We feel that the way that the site is setup and the way that the apartments are laid out, they are overlooking a water facility as an aesthetic item and that if access were required to run along Dover High Drive, we feel that it would alter the pond shape and could alter the whole amenity of the this area and the way that things are laid out. They have offered to provide an access easement to run to the west of the Dover Christian Church and run over to the Destiny Christian Church entrance.

Mr. Kooker further stated that they are also asking for a sanitary sewer easement line to be brought to the property. We ask that due to cash considerations in that the way that the site is laid out now, the sewer on this particular property that would need to be extended to the parcel, would not be done until the very later stages of this project. We request that this not be required until the parcel was ready to be occupied in whatever they are proposing.

Mrs. Townshend stated that if there are specific Staff recommendations that you would like to pull out and address specifically, they need to be pulled out. When the motion is made, be clear that you are approving with the exception of those pulled out.

Colonel Welsh opened a public hearing.

Mrs. Townshend stated that she would enter two (2) pieces of correspondence into the record. One

is a letter from Pastor Theodore Henderson dated October 15, 2012 and is the letter referenced previously. They specifically asked three things that are important. "First, grant Conditional approval to allow our site access to either Dover High Drive or the neighboring private church entrance through the Leander Lakes Project. We prefer access to Dover High Drive; however, if Leander Lakes objects, we ask that they build the drive to our property line from the existing church entrance. Second, the Leander Lakes project designs and constructs their sewer system as a public system that allows for an additional public connection from our property through a new manhole that they install on our property line. Third, we request that these improvements be done by Leander Lakes and that an easement be granted to us."

Mrs. Townshend further stated that these are the three things and typically, the Planning Commission does not get involved with who pays for what.

Mrs. Townshend further stated another piece of correspondence was received dated October 10, 2012 from John H. Newcomer, Jr. of Morris James LLP who is the attorney on behalf of the Capital School District. They are confirming that the development as presented is consistent with the agreement that the two parties have and they have no objections to the development.

Pastor Theodore Henderson – Stated that he is absolutely, positively in favor of the Leander Lakes project as he feels that it is wonderful. He feels that it will do great things for our community. He was extremely impressed with the slides that he has seen this evening and feels that it is a beautiful development. We bought this property where you see it on the map that is a very white area where there are no trees where we want to put a church of approximately 7,000 to 9,000 square feet. We are working with Becker Morgan Group to help us design a church. The property we bought has been paid for in full and we gave about ten (10) feet of this property for DelDOT to extend the road and they paid us in kind for that. We want to be good neighbors to Leander Lakes and one of the ways that we can be good neighbors with Leander Lakes is to access the property and connections to the sewer. Money is a problem to us all and in addition to the easement we could help out if construction was a possibility to help us build that out. We feel that this project will work for all of our interests to both the school, Leander Lakes, and for our church. We are looking forward to being their neighbors because they are looking to put a lot of souls in those apartments and that is great recruitment for our church.

Mr. Gregg Moore, Becker Morgan Group, Inc. – Stated that we have not gotten plans to you yet; however, believe that they will come in for this church in either December or January. We have had a couple of meetings and DelDOT is telling us that they do not want us to access off of Forrest Avenue which is disconcerting to the church because when they brought the property that's where they thought they would be accessing and it would be a short drive. The second best choice is Dover High Drive and the only access point to that is through the Leander Lakes property. We would have to tuck the access way behind their stormwater pond to do that and feel that it would fit there. This is the best opportunity for the church in that you are not past the church when you are on Forrest Avenue. If we have to come off the current church's entrance, you would well be past the church. There is a considerable distance back to the property in question and a considerable cost and that is why we are asking primarily for the access to Dover High Drive. The other point is the sewer and in orchestrating the City Public Works Department and the Planning Department they did in fact provide sewer stubs to the property boundaries of each of the other adjacent properties which happen to be churches. We are asking for the same thing so that we do not have to go over

onto their parcel and undo construction as this is not something that the church would want to do.

Colonel Welsh questioned that the applicant is assuming that DelDOT will not give them access off of Dover High Drive? Responding to Colonel Welsh, Mr. Moore stated that when we met with DelDOT they did not want us to access off of Forrest Avenue; however, would let them access off of Dover High Drive with it being back as far as possible. DelDOT sent us to this forum to talk to Leander Lakes on gaining access and is why we are here at this meeting.

Colonel Welsh closed the public hearing after seeing no one else wishing to speak.

Mr. Holt stated with regards to the planting of trees, he is a big fan of Crepe Myrtles as they add a lot of color especially if they mix them up. Responding to Mr. Holt, Mrs. Rinnier stated that she loves those and they have that mix at the Marley Manor community apartments they have built and also at her own home and completely agrees with you.

Mr. Baldwin questioned did he understand that you would rather not put the sewer stub line in until the end of your project and if that happened, wouldn't they have to come back and disturb your finished product? Responding to Mr. Baldwin, Mr. Kooker stated that they would not have to install the sewer until they were ready for it so if their project gets delayed by three to four years, Leander Lakes would not have to install it until they are ready for the line to be installed. The church project could happen in 2014 or 2017 and if it does work out to be much later, we would ask that Leander Lakes only be required to install the line until it is absolutely necessary to be installed.

Mrs. Townshend stated that this is going to be a decision made by the Public Works Department in terms of the timing because they are going to approve the Utility Plan and all of the utility installation.

Mr. Tolbert stated that he was a little confused regarding the parking. All of the parking is on the side of Dover High Drive because it looks like the parking that is laid out on the plan is somewhat distant from some of your buildings such as Building #3, #4 & #5. If you have handicap people in those buildings, they would have a good walk from the parking lot or from the apartments to the parking lot. Where will the handicap parking be located? Responding to Mr. Tolbert, Mrs. Rinnier stated that we try to get the parking as close as possible to the buildings especially the handicap provision. We try to have a buffer of grass for aesthetics of about twenty-five (25) feet and then the parking area.

Mr. Tolbert questioned how much parking they would be able to provide? Responding to Mr. Tolbert, Mr. Kooker stated that it meets the required City Code. We go over it; however, we do not go over 125% which is required.

Mr. Tolbert further questioned if the handicap parking would be in the same area as the parking? Responding to Mr. Tolbert, Mr. Kooker stated that all of the handicap parking would be ADA compliant. Also responding, Mrs. Townshend stated that there would be handicap parking associated with each building.

Colonel Welsh questioned if Leander Lakes concurs with the two (2) conditions that were given by the Dover Christian Church regarding access to their property and construction of the sewer

system? Responding to Colonel Welsh, Mrs. Rinnier stated that they agree with granting access through their property and any easement that would be needed for it.

Mr. Kooker stated that they concur with these conditions; however, have a little different thought then them. However, in general we agree to grant them access; how and where that goes about, we differ on.

Colonel Welsh further stated with the alternative material choice for sidewalk constructions; his recommendation would be that we not approve the waiver request for alternative material for the sidewalk and that it be a continuous concrete sidewalk from Dover High School across the property line.

Mr. Tolbert moved to approve S-12-18 Leander Lakes Apartments on Forrest Avenue as submitted on the condition that all of the DAC comments of record are adhered to and complied with along with all Staff recommendations. Approval of the waiver request for the elimination of the emergency rear access alley and partial elimination of curbing. The request for the alternative material choice for the sidewalk along Forrest Avenue be denied as concrete should be used as a continuous material, seconded by Mr. Ambruso and the motion was unanimously carried 8-0.

Colonel Welsh stated that the motion should include the two conditions as stated previously.

Mrs. Townshend stated for clarification first, the access to be granted is a Staff recommendation; however, Staff will need to work with DelDOT to determine how best to do that so locking in on one is probably not advisable at this time. The second is consistent with the Public Works comments so you would not necessary need a motion to add these conditions because they are both consistent.

Meeting Adjourned at 8:27 PM

Sincerely,

Diane Metsch
Secretary