I'm Bruce Littleton, a resident of the City of Dover, living at 1063 S. Bradford Street.

I would like to thank the City Council for the opportunity to address you concerning a matter on South Bradford Street, just north of Wyoming Avenue. These several blocks, particularly the area between Gooden Avenue and Wyoming Avenue, considers itself to be a nice quiet residential neighborhood with a healthy mix of senior citizens and families with young children. While there are several medical offices within this area, they are few in number and are relatively unobtrusive. They have managed to blend in with minimal impact on the neighborhood. The neighborhood has a long history of opposing any further intrusions by additional professional offices. City Council has listened.

In April of 1995, a request by Dr Halpern to re-zone his property on S. Governor's Avenue from RGO and R-8 to C-PO was approved. The neighborhood, in the spirit of cooperation, agreed to not fight the re-zoning provided that there would be adequate screening provided around the expanded parking lot that was to encroach onto parcel F, the parcel Halpern owns with frontage on S. Bradford Street (copy attached). Furthermore, there would be no access to S. Bradford Street permitted, now or in the future. This was captured in the minutes of the Public Meeting and the in letter from the City to Dr. Halpern informing him of the approved zoning.

Why are we here now? Without any input from the neighborhood, the City has signed, what appears to be a binding agreement with Dr. Halpern allowing a driveway to be built from his parking lot providing access onto Bradford Street. When the neighborhood asked how this could be, we were informed that due to the construction currently underway on Governor's Avenue, the City granted a temporary driveway to be built allowing Dr' Halpern's office direct access to S. Bradford Street to help ameliorate the impact of DelDOT's re-construction of S. Governor's Avenue. This temporary driveway was unrestricted in time, once approved, it could be built and remain until the end of construction, up to two years from now. The temporary driveway is complete.

We met this afternoon with representatives from the City, Scott Koenig, Ann Marie Townshend and Councilman Ruane to review what happened. Scott explained his rationale to grant a temporary curb cut, why he chose the specific driveway design used, and his definition of when construction would be complete as that is when the clock starts on the thirty days before the temporary driveway will need to be removed. We were also told that there would be no parking

allowed on the temporary driveway and that could be enforced by the city through contact with the owner. I personally agreed with Scott's definition of the end of construction as being when the project is substantially complete not when the last blade of grass grows and the last construction sign removed.

Our concerns:

- With all of the history, particularly with this property why did the City unilaterally enter into agreement with Dr. Halpern without any input from the neighborhood?
- Can the driveway be made truly temporary and not allowed for use by others by adding a gate at the parking lot end of the driveway that is only open during Dr. Halpern's hours of operation thereby ensuring that the driveway is not used by other cut-thru traffic?
- Can the City further control the temporary use of the driveway by having the gate remained closed except when Dr. Halpern has either lost access from Governor's Avenue to his parking lot or lost the use of parking spaces on Governor's Avenue in front of his property, due to construction?
- Can Scott Koenig's definition of the end of construction be actually written into the agreement or somehow captured so that the letter from the City to Dr. Halpern legally serves as the notice of construction completion and not subject to interpretation as the final removal of the last construction sign which typically occurs well beyond substantial completion? Having this in writing now not only puts Dr. Halpern on notice as to when construction ends, but also provides the neighborhood the equal understanding of the end of construction.
- Can the City Council take any action to put restrictions on who needs to be advised prior to granting temporary access or driveways particularly when the City files have record of significant objections? This would allow a neighborhood or concerned citizens to at least provide input to the City for their consideration as part of their negotiations.

PETITION TO AMEND ZONING DISTRICT
Public Hearing before the Dover City Council
August 11, 2008

Applicants/Owners:	Dover Auto Bay Road, LLC
Location:	1011 S. Bay Road (Route 113, northbound land, just north of the Route 1 overpass.)
Tax Parcel ID #:	ED05-086.00-01-01.00-000 ED05-077.00-01-26.01-000
Size:	1.96 +/- acres
Present Use:	Commercial – Auto Body Shop
Proposed Use:	Possible Hotel
Comprehensive Plan Designation:	Commercial
Present Zoning:	C-3 (Service Commercial) & IPM (Industrial Park Manufacturing) AEOZ (Airport Environs Overlay Zone) Noise Zone 'B'
Proposed Zoning:	C-4 (Highway Commercial) AEOZ (Airport Environs Overlay Zone) Noise Zone 'B'
Planning Commission Recommendation:	Following a public hearing before the Planning Commission on July 21, 2008, where no members of the public spoke in favor of or in opposition to the rezoning application, Planning Commission unanimously recommended in favor of the rezoning request.
File Number:	Z-08-10

This is an application to amend the zoning of the subject area of 1.96 acres from C-3 (Service Commercial Zone) and IPM (Industrial Park Manufacturing) to C-4 (Highway Commercial). The subject area would remain subject to the AEOZ (Airport Environs Overlay Zone). The subject area consists of two parcels and vacated areas of Old Lafferty Lane. The amendment is being requested by Dover Auto Bay Road, LLC.

Existing Property

The existing property, known as Dover Auto Body, operates as a motor vehicle service facility. The surrounding adjacent parcels (the subject of this application) share the same owner; however they are vacant. The site is within the AEOZ (Airport Environs Overlay Zone) Noise Zone 'B'. The future use of the subject area must comply with the Land Use Compatibility Table found in Article 3 §22.6. The proposed use of a future hotel is permitted by this overlay zone; however, additional noise reduction actions would be required of the development.

Surrounding Land Uses:

The subject parcels and the adjacent piece of land form a triangular area which is bordered on all sides by roadway. Route 1, its access ramps, and Route 113 surround the subject properties on all sides.

Comprehensive Plan:

The 2003 Update to the *Comprehensive Plan*, as amended in May 2005, September 2006, March 2007, and March 2008, depicts the subject area in question as Commercial land use. The C-3 zoned parcel is consistent with the Commercial land use designation; however, the IPM zoned parcel is not.

Request for C-4 (Highway Commercial Zoning)

The following description of the C-4 zoning district is provided from Article 3 §16 of the *Zoning Ordinance.*

16.1*Uses permitted.* No building or premises shall be used and no building shall be erected which is arranged, intended, or designed to be used, in whole or in part, for purposes except the following:

16.11 Uses permitted in the service commercial zone (see section 15).

16.12 In addition, the following may be permitted:

(a) Drive-in facilities designed primarily to provide goods and services to persons while they are in automobiles, including drive-in eating establishments.
(b) Motels and eating establishments.
(c) Outdoor recreational facilities.
(d) Auction establishments, and roadside vegetable markets.
(e) Theaters, clubhouses and places of worship.
(f) Establishments selling trailers, and memorial stones.
(g) Household moving firms and related storage facilities.
(h) Trucking terminals, including service, storage and repair.
(i) Building contractors, construction materials and related equipment storage, provided that storage areas shall be screened from public view.
(j) Offices and retail establishments.
(k) Bus terminals.
(l) Adult entertainment establishments, subject to the provisions stated in article 5, section 13.

16.13 The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in section 10.1 and to any specified requirements set forth below:

(a) Crematory, subject to the following requirements:

(i) The building lot line upon which a crematory is to be established shall be located at least 100 feet from any residential zone.

(ii) Where adjacent to residential zones. All landscape buffers shall be required. The buffer shall consist of a landscape screen no less than six and one half (6 1/2) feet high. All landscaping shall be properly maintained throughout the life of the use on lot.

(iii) Loading operations shall be conducted within a completely enclosed building. Location of loading doors shall be at the side or rear of the building.

(iv) The crematory shall comply with the Delaware Incinerator Regulations. A copy of the approved air pollution permit issued by the State of Delaware Department of Natural Resources and Environmental Control shall accompany the application for a certificate of occupancy.

Recommendation of the Planning Staff & Planning Commission:

Staff supports the rezoning request from C-3 (Service Commercial Zone) and IPM (Industrial Park Manufacturing) to C-4 (Highway Commercial). The subject area would remain subject to the AEOZ (Airport Environs Overlay Zone). The request is consistent with the Comprehensive Plan the long-term redevelopment of the area.

Staff recommendation was provided prior to the public hearing before the Planning Commission. Following a public hearing before the Planning Commission on July 21, 2008, where no members of the public spoke in favor of or in opposition to the rezoning application, Planning Commission unanimously recommended in favor of the rezoning request.