

CITY OF DOVER PLANNING COMMISSION
JULY 15, 2019

The Regular Meeting of the City of Dover Planning Commission was held on Monday, July 15, 2019 at 6:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Adams (*arrived at 6:18pm*), Mr. Roach, Ms. Edwards, Mr. Holt, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert. Mr. Baldwin was absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek, Mr. Jason Lyon, Mrs. Tracey Harvey, Mr. Eddie Diaz and Mrs. Kristen Mullaney. Also present were Mr. Troy Adams, Bishop W. James Thomas, Mr. Harold Stafford, Mr. Charles Fletcher, Mr. Michael Sollazzo, Mr. Tolano Anderson, Mr. Kevin Minnich, Mr. Matt Spong, Ms. Sylvia Davis, Mr. K. James Taylor, Mrs. Theresa Berry, Ms. Lueaine Thaw, Mr. Lucsaint Joachim, Mr. Gary Coy and Ms. Dana Dunphy. Speaking from the public were Mr. Harold Stafford, Ms. Diane Murphy-Hill, Mr. Fred Borda, Mrs. Constance Borda, Mr. Eugene Ring and Mr. Collin Stevens.

APPROVAL OF AGENDA

Mr. Tolbert stated that he would like the motion of the agenda to include moving application C-19-06 Calvary Baptist Church of Dover at 2285 Forrest Avenue to number one of the New Applications.

Mr. Roach moved to approve the agenda with application C-19-06 in front of Old Business as the first item heard tonight, seconded by Dr. Jones and the motion was unanimously carried 7-0 with Mr. Adams and Mr. Baldwin absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 17, 2019

Mrs. Welsh moved to approve the Planning Commission Meeting minutes of June 17, 2019, seconded by Ms. Edwards and the motion was unanimously carried 7-0 with Mr. Adams and Mr. Baldwin absent.

COMMUNICATIONS & REPORTS

Mr. Hugg stated that the Annual Meeting of the Planning Commission that is typically held in July will be scheduled at a future meeting date at the completion of the appointment process for Commission members, including any possible new Commission members.

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, August 19, 2019 at 7:00pm in the City Council Chambers.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on June 24 and 25, 2019, July 1, 2019 and July 8 and 9, 2019.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Melson-Williams presented the audience information on policies and procedures for the meeting.

NEW APPLICATIONS

- 1) C-19-06 Calvary Baptist Church of Dover at 2285 Forrest Avenue – Public Hearing and Review of a Conditional Use Site Plan Application to permit the construction of a 40,026 +/- SF place of worship and associated site improvements at 2285 Forrest Avenue. The subject property is 75.51 acres +/- and is located on the south side Forrest Avenue west of Dover High Drive. The property is zoned R-10 (One Family Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The owner of record is Calvary Baptist Church of Dover Inc. Property Address: 2285 Forrest Avenue. Tax Parcel: ED-05-075.00-01-06.00-000. Council District 1. *Waiver Request: Partial Elimination of Upright Curbing; Reduction of Bicycle Parking Requirement; Partial Elimination of Sidewalk.*

Representatives: Mr. Troy Adams, Mountain Consulting; Bishop W. James Thomas, Calvary Baptist Church; Mr. Harold Stafford, Calvary Baptist Church; Mr. Charles Fletcher, Calvary Baptist Church; Mr. Michael Sollazzo, William Byler Jr. Architects

Mrs. Melson-Williams stated that this is application C-19-06. It is a Conditional Use Site Plan for Calvary Baptist Church. This is a property that is located on Forrest Avenue on the western side of the City. It in total is 75 acres of land. It is zoned R-10 (One Family Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The proposal before us tonight is a place of worship. It has a building area of 40,026 SF. There is a series of parking spaces that flank the building. The building is set back some distance from Forrest Avenue. With a church, parking is based on a seat count. The requirements for this building based on its seat count would require 235 parking spaces. They are actually in their plan, proving more than that. They are providing a total of 326 parking spaces which includes handicapped parking spaces and also a requirement for bicycle parking. This project because of it being in a residential zone is a Conditional Use. For a Conditional Use, the Planning Commission must look at its accessibility for emergency response, the harmony of its location in size and character, and other concerns with it being in a residential neighborhood area. The property is also subject to the COZ-1 (Corridor Overlay Zone). This occurs along the frontage of the property along Forrest Avenue. It is the first just over 500 feet into property that is subject to this COZ-1 (Corridor Overlay Zone). With that, there are some additional design considerations for the project. In this case, most of them pertain to landscaping type elements and some of the design of the parking lot. The building itself is not located in the COZ-1 (Corridor Overlay Zone) but it is making efforts to meet some of the requirements for buildings as if it were. They are only dealing with the northeast portion of the property. Access is from Route 8 only. There is a farm lane that comes in off of Artis Drive, but it is not intended to serve the church building. For traffic circulation, you can circulate entirely around the building and the parking lot areas. There are several waiver requests that the applicants have made. One is a reduction in the bicycle parking requirement. The second is the elimination of sidewalk for the frontage of the property west of the farm lane along Artis Drive citing wetland concerns and lack of other public sidewalks in that area. Staff has already granted approval to a partial elimination of curbing which is in some areas of the parking lot as well as drive aisles to facilitate stormwater management. With this review, Planning Staff had a number of comments. They are supportive of the waiver requests as mentioned. The curbing as already been approved by Planning Staff. They also recommend the reduction in the bicycle parking spaces from what would be a requirement of nineteen down to a requirement of six and the

waiver request for the elimination of sidewalk. They are creating a multi-use path along most of the frontage but the portion of the sidewalk on Artis Drive is where the waiver is sought. The DAC Report also includes information from the City's Public Works Office, the Fire Marshal's Office as well as DelDOT. They are working with DelDOT in regards to a Traffic Impact Study and have made some significant progress with that. Their entrance design will be subject to DelDOT review. There are also comments from the Kent Conservation District.

Mr. Troy Adams stated that based on what Mrs. Melson-Williams said, they agree. They have had conversations about all of these comments and he has no objections to anything that she has stated. They agree to adhere to the DAC Comments.

Mr. Tolbert opened a public hearing.

Mr. Harold Stafford – Calvary Baptist Church 2285 Forrest Avenue Dover, DE 19904

Mr. Stafford stated that he is not sure how many of you believe in divine intervention but the fact that Calvary Baptist Church was last on the agenda and then moved to first is divine intervention. He and his wife have been members of Calvary Baptist Church for about forty years. They have raised three of their children at this great church. They have raised three of their four grandchildren at this church and they are now pleased to have the honor of raising their two-year old great-grandchild at this church. They have a very vested and long-term interest in the outcome of operations today as they look to moving the church to another level. He would first like to thank the Planning Commission for putting their application on the agenda tonight. It's interesting how God works. Sometimes they look at it as we are last but not least so they would to thank the Commission for making that adjustment. He wants to salute all of the members of the Commission for all of the hard work that they do. They have some difficult tasks that they face day by day. For the record, in December 2006 Calvary's plan to build a new church at 2285 Forrest Avenue was approved by Kent County prior to the annexation of that land into the City of Dover. The Planning Office subsequently accepted approval of the Site Plan by Kent County after the 76 acres of land were annexed into the City. In September 2007, the Planning Office granted approval of the Site Plan and a Building Permit was also issued in 2007. Since Calvary Baptist Church did not take action to proceed with the construction of the new facility due to other prevailing circumstances, the Site Plan and Building Permit expired. Fast forward to today, they appear before the Commission tonight with plans for approval for Calvary Baptist Church to proceed with construction of their new facility. As you reflect on the content of the plans, he is sure that you have noticed that the footprint of the building is basically the same footprint that the City Planning Office approved in 2007. The only significant change is that the new design includes new orientation of the sanctuary which now faces north toward Forrest Avenue and the pulpit faces south. To say that we at Calvary Baptist Church are badly in need of space would be an understatement. At his last count, Calvary Baptist Church has over twenty auxiliaries operating, numerous ministers at their current Queen Street location, in addition to countless community outreach initiatives for which Calvary Baptist Church is traditionally known to conduct throughout the greater Dover community. They are literally bulging at the seams and experiencing a daily management challenge to logistically make it all work. Yesterday, they celebrated their 600th new member. During the last year, they have also had an approximate growth rate of about 20%. Not including about 100 additional members waiting in the pipeline waiting to complete requirements to become active members of Calvary Baptist Church. Their

new sanctuary will seat over 900 members and that time can't come soon enough as they are currently having two services to try to accommodate their members. Finally, they stand here tonight on the shoulders of legendary giants in their church, none other than Mr. Williams and Mrs. Iris Wilson and many others of that generation who have been anchors at their church on Queen Street. The late Apostle, Mr. Richard Avant who had the vision to move them at Calvary Baptist Church to higher ground. In November of this year, Calvary Baptist Church will celebrate its 135th anniversary. Mr. Wilson, who is now 91 years old, has served at Calvary Baptist Church for most of those 91 years and Apostle Avant served as Pastor for almost 35 years. Now the torch has been passed on to Bishop W. James Thomas as well as the present members of all of the members of this church who are standing in this room tonight. The torch has been passed on to all of us. The message that the Bishop had on Sunday was "We usually always think about being present. It is more than simply being present. It is finishing those tasks that have been assigned to our hands. How you start matters but how to finish is just as important." Tonight, they stand before the Commission because their intent is to strongly finish the project that their predecessors started to lead Calvary Baptist Church to higher ground. They at Calvary Baptist Church respectfully request the Commission's approval of their plans so that they can finish the task at hand which is to proceed with construction of their church at 2285 Forrest Avenue so that they can continue their mission to be soldiers in army for their Lord in Savior Jesus Christ.

Ms. Diane Murphy-Hill – 668 Artis Drive Dover, DE 19904

Ms. Murphy-Hill stated that they have been waiting since 2006; welcome to our neighborhood. They kept waiting and waiting. They saw the signs and then all of a sudden you are here. She has questions in regards to keeping the farmland in the back tilled because their ducks live there. She is happy to hear that they won't be using the farm lane off of Artis Drive. How are they going to help the church-goers get in and out on Artis Drive? It is horrendous on a Sunday. Will the City provide Police to let them in and out? That is a large amount of cars that are probably going to be coming out. Responding to Ms. Murphy-Hill, Mrs. Melson-Williams stated that the access onto Forrest Avenue is a State maintained road so the review and the design of that entrance is subject to DelDOT. They have required a Traffic Impact Study. That study will identify if there are road improvements that would be necessary for that entrance. That may include dedicated turn lanes going into the site. She doesn't know if the traffic generation is enough to trigger any kind of signalization at this point. That entrance is certainly under DelDOT review and if there are issues she is sure that there are a variety of approaches that can be taken if there is a peak hour needs for a certain day of the week.

Ms. Murphy-Hill stated that they heard that they are not going to put up the curbing because of runoff. For those of you who have been in that area, it floods a lot so she is happy to hear that you are not putting up curbs because it is just going to keep the water in your area. In looking at the plot plan, in the back there is a road going out to the existing road that is already there for the other church. Is that where the road is going to? Responding to Ms. Murphy-Hill, Mrs. Melson-Williams stated that if you are looking at the screen (displaying the plan) it looks like a road but it is not a road. It is a location of sanitary sewer lines that will connect to this church property.

Ms. Murphy-Hill questioned where the entrance is going to be? Responding to Ms. Murphy-Hill, Mrs. Melson-Williams stated that in the upper left corner of the screen is where the entrance is. It

comes directly into a parking lot area that is on the east side of the building.

Ms. Murphy-Hill stated that their main concern was if they were going to have issues getting in and out of Artis Drive but that looks perfect. They are very happy with all of the arrangements that they are hearing.

Mr. Tolbert questioned if she had been in contact with DelDOT regarding her concerns? Responding to Mr. Tolbert, Ms. Murphy-Hill stated no, because they noticed that they put those counter tapes out and they were thinking that they would hear something at this meeting.

Mr. Tolbert stated that if her concerns remain, he would suggest that she contact DelDOT to find out what they are doing.

Ms. Murphy-Hill questioned if the existing waterway would remain? Responding to Ms. Murphy-Hill, Mrs. Melson-Williams stated that there is a stream that crosses the property as well as ditch network. It is kind of zigzag that is across the screen. That is actually in an area that is wetlands and also partially wooded so they are not doing anything with that area at all.

Ms. Murphy-Hill questioned if the services for the church were set times? Responding to Ms. Murphy-Hill, Bishop Thomas stated that currently their services are at 8:00AM and 10:30AM but when they move to the new location they will probably combine both of those services into one service so it will be an early morning service but they have not determined a time for that yet.

Ms. Murphy-Hill stated that the pulpit will be facing south. Most of them on Artis Drive are south so they will be listening for you.

Mr. Tolbert closed the public hearing.

Ms. Edwards moved to approve C-19-06 Calvary Baptist Church of Dover at 2285 Forrest Avenue as submitted to include all three waiver requests, seconded by Dr. Jones and the motion was carried 8-0 by roll call vote. Ms. Edwards voting yes; she believes that it is going to be a great addition to the community, there is community support and they obviously need to space to grow. She is excited for the church. Mr. Holt voting yes; he too sees that there is good community support for the church. Dr. Jones voting yes; she is so excited that Calvary is getting ready to build. Mrs. Welsh voting yes; it is a very well thought out plan and it looks like it will be a good addition in that area. Ms. Maucher voting yes; based on previous comments and it's a good addition to the community. Mr. Adams voting yes; and he wishes the church the best of luck. Mr. Roach voting yes; he hopes that you all move on quickly because there is a neighboring church that would like some of their parking spots back. Mr. Tolbert voting yes; from the rendering that they have the church will be a beautiful building and it is going to go near or right beside another beautiful building, the Dover High School and it is going to do a lot for that area.

OLD BUSINESS

1) Request for Extensions of Planning Commission Approval:

- a. S-17-18 Frito Lay Building at Tudor Business Park – A Request for a One-Year Extension of the Planning Commission approval granted July 17, 2017 for a Site Development Plan, its Performance Standards Review Application, and an associated waiver to eliminate upright curbing to permit construction of a 4,278 S.F. one-story warehouse/office building and associated site improvements. This is to be an additional building within the Tudor Business Park. The proposed use was found to conform to the applicable performance standards as outlined in *Zoning Ordinance*, Article 5 §8 Performance Standards. The property is zoned C-3 (Service Commercial Zone). The property is located on the south side of South Little Creek Road and is served by Otis Drive. The owner of record is Tudor Enterprises, LLC. Property Address: multiple addresses in Tudor Business Park on South Little Creek Road. Tax Parcel: ED-05-077.12-01-02.00-000. Council District 2.

Representative: None

Mrs. Melson-Williams stated that this is a request from S-17-18 Frito Lay Building for a one-year extension of the Planning Commission approval. The Planning Commission granted approval to this Site Plan on July 17, 2017 as well as its Performance Standards Review Application and associated waivers. It was a project to construct a one-story warehouse and office building. They received a letter of request from the project engineer seeking a one-year extension. She is happy to report that they are fairly close to getting full approvals from all agencies if they have not done that in the last week; however, they will not be in full construction by the end of July hence their request for a one-year extension.

Mr. Holt moved to approve S-17-18 Frito Lay Building at Tudor Business Park for a one-year extension, seconded by Mrs. Welsh and the motion was carried 8-0 by voice vote.

- b. S-17-20 Bay Road Commercial at 560 and 600 Bay Road – A Request for a One-Year Extension of the Planning Commission approval granted July 19, 2017 for a Site Development Plan and associated waiver to reduce the Arterial Street Buffer to permit construction of a 120,046 S.F. of commercial development on a 12.9366 acre+/- parcel currently named Bay Road Commercial. The development is proposed to include two restaurants of 4,200 S.F. and 6,400 S.F., a 70,646 S.F. grocery store, a 18,000 S.F. multi-tenant building segment and a 20,800 S.F. multi-tenant building segment. The property is zoned C-4 (Highway Commercial Zone). The property is located on the southwest side of Bay Road. The previous owner of record was S H E Holdings, LLC c/o Mike Longwill and the current owner now is Bayroadcap, LLC. Property Addresses: 560 Bay Road and 600 Bay Road. Tax Parcels: ED-05-077.00-01-09.00-000 and ED-05-077.00-01-10.00-000. Council District 2.

Representatives: None

Mrs. Melson-Williams stated that this is a request for a one-year extension. This is a project known as Bay Road Commercial. It was reviewed by the Planning Commission in July 2017 and it was for a series of commercial development at 560 and 600 Bay Road. Several retail buildings were proposed with the project. She can tell you that they have been working diligently on their final plan approvals and the Final Plans are sitting in her office; they arrived last week. She

believes that they are wrapping up all of the agency approvals that they need. Likewise, they will not be under permit by the end of July, so they are seeking a one-year extension. They did provide us with a letter and gave some outlined information about their project status.

Mrs. Welsh moved to approve S-17-20 Bay Road Commercial at 560 and 600 Bay Road for a one-year extension, seconded by Ms. Edwards and the motion was carried 8-0 by voice vote.

- c. S-17-15 Dover Station at 655 West North Street –A Request for a One-Year Extension of the Planning Commission approval with conditions granted July 19, 2017 for a Site Development Plan and associated waivers to permit construction of a 20,000 S.F. two-story office building and a 6,000 S.F. group home as well as associated site improvements. The waivers approved are related to a partial elimination of the Opaque Barrier Fence Component and alternative format of the Opaque Barrier. This project adds to the existing development at 645 West North Street and will share site access. The property is zoned IO (Institutional and Office Zone) and is located on the north side of West North Street, east of Clarence Street. The owner of record is Faithworks, LLC. Property Address: 655 West North Street. Tax Parcel: ED-05-076.12-04-08.00-000. Council District 4.

Representatives: Mr. Tolano Anderson, Faithwork, LLC

Mrs. Melson-Williams stated that this was a project all reviewed in July 2017 for a Site Development Plan. It proposed a two-story office building and another building to be used as an emergency shelter facility at that property. They submitted a request via email for a one-year extension. They have somewhat of a complicated site when it comes to stormwater management and environmental concerns at the property; and they have been working through those items. They are not quite as close on the final plan approval, so they have some work cut out for them.

Mr. Anderson stated that Mrs. Melson-Williams summarized everything quite adequately. It is a very complex site with a lot of issues to work through concerning the Brownfield and the State Department of Transportation as well as the Kent Conservation District. They are working through them, but they just need an extension to get this to the finish line.

Mr. Roach questioned how far they are in regards to the process before you start actually moving forward? Responding to Mr. Roach, Mr. Anderson stated that they are actually preparing their final submission to the Kent Conservation District and DelDOT. The engineers are actually in process now. They received some requests for modifications, and they have already started working through them. He would say within the next 30-60 days, those submissions will be made back to those agencies.

Mrs. Welsh moved to approve S-17-15 Dover Station at 655 West North Street for a one-year extension, seconded by Ms. Edwards and the motion was carried 8-0 by voice vote.

2) Development Applications (Continued Review):

- a. S-19-10 Parking Area of Dover Community Pharmacy at 1035 South Governors Avenue – Continued Review of a Site Development Plan Application for an additional 5,700 SF of

pavement in the existing parking lot area at the rear of the building containing Dover Community Pharmacy. The project creates a revised total of fourteen (14) total parking spaces for the site. The subject property is 0.35 +/- acres located on the east side of South Governors Avenue, south of Wyoming Avenue. The property is zoned C-1A (Limited Commercial Zone). The owner of record is AK Investments, LLC. Property Address: 1035 South Governors Avenue. Tax Parcel: ED-05-077.17-07-09.00-000. Council District 2. *It is noted that construction commenced prior to authorization or permits. Waiver Requests: Elimination of Curbing, Elimination of Fence Component of Opaque Barrier Requirement.*

- *The Planning Commission conducted a Public Hearing and began consideration of S-19-10 at the June 17, 2019 meeting and deferred action pending submission of additional information.*

Representatives: Mr. Kevin Minnich, Minnich Engineering; Mr. Matt Spong, Landscape Architectural Services, LLC

Mr. Diaz stated that this application is returning from last month. The applicants are seeking to gain approval of a parking area at the rear of the pharmacy which has already been constructed. Last month, the Commission requested that the applicant revise the Site Plan to show the removal of some pavement that was encroaching on the property to the north that is on the left hand side of the screen and also to address a possible landscaping conflict on the property on the south to the right which the neighbor who owns that property brought to the Commission's attention. The applicant did revise the Site Plan and the Landscape Plan to address both of those issues. Staff recommendation remains for approval of the project inclusive of the waiver request for the elimination of the Opaque Barrier which would have been needed on the south side of the property. The applicant is here for any questions about the specifics of the Landscape Plan that they submitted.

Mr. Minnich stated that they were here last month with the plan and they have met with the property owners to the south and revised the plan. He thinks that she is in accordance with what they have on the plan. They talked about some of the landscaping issues and how they could address her concerns and they did a good job revising the plan. As far as the property to the north, there was a question regarding the impervious area that was on the neighbor's property. They have addressed that by taking at least a one-foot strip off of the existing paving off of their property. He feels like they have addressed everything that the Planning Commission wanted and that the homeowners wanted from the north and south.

Mr. Tolbert questioned if they agree to continue working with Planning Staff? Responding to Mr. Tolbert, Mr. Minnich stated yes.

Mr. Spong stated that they submitted a letter by email last Friday as well as a copy of the letter to the Planning Commission explaining that because of additional sanitary sewer outlets and lines on the south property line they would have to have the tree density requirement just for the 5,700 SF of new parking lot paving which is really what the issue is here. The Revised Plan shows that. They also have a copy of a letter that was sent to Ms. Donna Hutchins last Friday and he summarized the discussion at the meeting with her, the owner and Mr. Kevin Minnich on July 9,

2019. She was concerned about water coming onto her property but with adding the precast concrete curbing, which is a requirement anyway around the planting, none of the water can go onto her property. There is a planting proposed in an island to meet the tree density requirement and also the buffer requirement against her existing fence. When the water hits that it will run around to the northeast and will not go on her property. They also saw a couple of rotted timbers which he has placed along the bottom of her fence. As an extra measure they offered to replace those in case the water ever got over the curb which he hopes that doesn't happen or we will be like Louisiana. They have the proposed Hollies that she was concerned about because she didn't really know what they were. They will stay compact, but they will also give the required buffer.

Ms. Edwards moved to approve S-19-10 Parking Area of Dover Community Pharmacy at 1035 South Governors Avenue, seconded by Mr. Holt.

Mrs. Melson-Williams questioned if the motion included the waivers that were part of this application? The waivers were for the elimination of the fence component of the Opaque Barrier and the elimination of curbing which is something that Staff can waive. Are you also recognizing the revised information that was provided tonight?

Ms. Edwards moved to approve S-19-10 Parking Area of Dover Community Pharmacy at 1035 South Governors Avenue to include the waivers for the elimination of the fence component of the Opaque Barrier and the elimination of curbing and the revised information that was provided at tonight's meeting, seconded by Mr. Holt and the motion was carried 8-0 by roll call vote with Mr. Baldwin absent. Ms. Edwards voting yes; they have worked with the neighbors on both sides of the property to address their concerns so she thinks that they have done everything that they can to accommodate those concerns. Mr. Holt voting yes; it looks like everybody is going to be satisfied with the way that everything is going to be handled with the property. Dr. Jones voting yes; it appears that there has been satisfactory communication about the issues at hand. Mrs. Welsh voting yes; everything seems to be addressed and they are taking care of the issues by correcting everything with the parking lot being constructed. Ms. Maucher voting yes; for reasons previously stated. Mr. Adams voting yes. Mr. Roach voting yes; thank you for working cooperatively with Staff. Mr. Tolbert voting yes.

- b. S-19-11 Lion of Judah Ministry Church at 951 White Oak Road – Continued Review of a Site Development Plan Application to permit construction of one-story 5,000 SF place of public assembly (church) building and associated site improvements. The subject property is 1.14 +/- acres. The property is zoned IO (Institutional and Office Zone). The property is located on the north side of White Oak Road and east of Halsey Road. The owner of record is L & S Davis Properties, Inc. Property Address: 951 White Oak Road. Tax Parcel: ED-05-068.14-05-85.00-000. Council District 3. This property was rezoned from CPO (Commercial and Professional Office Zone) to IO (Institutional and Office Zone) by City Council at their November 13, 2018 meeting (Z-18-02; Ordinance #2018-08). *Waiver Requests: Elimination of Fence Component of Opaque Barrier, Partial Elimination of Upright Curbing.*
- *The Planning Commission conducted a Public Hearing and began consideration of S-19-11 at the June 17, 2019 meeting and deferred action pending submission of additional information.*

Representatives: Mr. Troy Adams, Mountain Consulting; Ms. Sylvia Davis, L&S Davis Properties

Mr. Swierczek stated that this is a review of a Site Development Plan Application to permit construction of a one story 5,000 SF place of public assembly or church building and associated site improvements. The site is currently vacant. The Planning Commission review of this application was continued from the June meeting seeking additional information. Specifically, the Planning Commission was seeking further clarification as to the exact location of an existing chain-link fence located near the north property line. The applicant has submitted further plans dated July 5, 2019 identifying the location of said fence. As a reminder to the Commission members, the applicant has noted two waiver requests with their plans. The first is a waiver request from the *Zoning Ordinance*, Article 5, Section 7.21 for the fencing component of the Opaque Barrier requirements asking that they be permitted to only install a six-foot evergreen hedge along the north, east and west property lines that will be approximately eight feet in width. The second waiver request asked for by the applicant was from Article 6, Section 3.6B requiring that all permanent parking areas shall be enclosed with the upright concrete curbing. The applicant has stated that this waiver is needed to better facilitate stormwater management. Parking bumpers will be provided in the parking spaces adjacent to the building and parking will be provided along the exterior of the perimeter of the parking lot. Staff has recommended approval of both of the waiver requests. Any motion should address the waivers.

Mr. Troy Adams stated that upon request of the Planning Office, they did resubmit this Property Boundary Exhibit to further express more clarity with the location of the fence. It is on the Lion of Judah property. In regards to the Opaque Barrier waiver, if he recalls he stated that he wanted to put a low lying evergreen bush along the west side of North Halsey Road just for visual purposes so that the building would not be blocked. He just wants to make sure that he is able to do that.

Mr. Holt moved to approve S-19-11 Lion of Judah Ministry Church at 951 White Oak Road with the waiver elimination of the fence component of the Opaque Barrier and the partial elimination of the upright curbing.

Mr. Roach questioned if the applicant had further communication with the young lady who had the issue with the fence? What are you going to do with the fence? Were there any issues concerning the tree line in conjunction with the fence? Responding to Mr. Roach, Mr. Troy Adams stated that he did speak to Ms. Marie Hudson. They spoke at least twice and he believes that their intention was not to build a fence. Their waiver still stands as it was previously written. In regards to the property itself, he has spoken to their surveyor so there has been communication.

Mr. Roach questioned if they planned on leaving the existing chain-link fence up? Responding to Mr. Roach, Mr. Troy Adams stated no he needs to take it down because it is in the way of his tree plantings. It doesn't meet any type of Opaque Barrier requirement anyway.

Mr. Holt moved to approve S-19-11 Lion of Judah Ministry Church at 951 White Oak Road with the waiver elimination of the fence component of the Opaque Barrier and the partial elimination

of the upright curbing, seconded by Ms. Maucher and the motion was carried 8-0 by roll call vote. Mr. Holt voting yes. Dr. Jones voting yes; with the full understanding that all of the issues that were raised at the previous meeting have been appropriately resolved. Mrs. Welsh voting yes; she concurs with Dr. Jones' comments. Ms. Maucher voting yes; based on Staff recommendations and the new information brought tonight. Mr. Nick Adams voting yes. Mr. Roach voting yes; with the understanding that the issue at hand in regards to the chain-link fence and the barrier is on the property of the owner of Lion of Judah so they can kind of do what they want. Ms. Edwards voting yes; based on reasons previously stated. Mr. Tolbert voting yes; because all of the issues have been addressed.

3) Development Applications – Revised:

- a. S-19-03 Retail Center at 747 N. DuPont Highway: Master Plan REVISED – Update on a Revised Site Development Master Plan to permit phased construction of a retail center now known as DuPont Plaza. The center is to consist of four buildings totaling 52,196 SF and is to be constructed in three phases. The buildings proposed include three multi-tenant structures of 12,036 SF (Bldg. A, Phase 1), 9,775 SF (Bldg. C, Phase 2) and 19,200 SF (Bldg. D, Phase 3) as well as a freestanding restaurant of 11,185 SF (Bldg. B, Phase 1). New information shows five (5) retail spaces and one (1) restaurant space in Building A. The property is zoned SC-2 (Community Shopping Center Zone) and subject to the SWPOZ (Source Water Protection Overlay Zone). The property is located on the east side of North DuPont Highway and south of Leipsic Road. The owner of record is Rojan 15 DD, LLC. Property Address: 747 North DuPont Highway. Tax Parcel: ED-05-068.05-01-15.01-000. The REVISED project no longer includes reconfiguration of the property lines and parking for the hotel located at 764 Dover Leipsic Road. This property owned by Delmarva Hotels LLC (Tax Parcel #ED-05-068.05-01-14.00-000) is no longer considered part of the application. Council District 3. PLUS #2018-02-02. *This site is subject to Minor Subdivision Application SB-18-01, approved by the Planning Commission on February 20, 2018 and granted a one-year extension on February 19, 2019. The Subdivision proposed dividing the existing parcel of 25.01 +/- acres into two parcels of 10.007 +/- acres and 15.004 +/- acres. This proposal deals exclusively with the 10.007 +/- acre parcel to the south. The Planning Commission granted approval of the Master Plan on March 18, 2019 subject to conditions.*

Representatives: Mr. K. James Taylor, PE; Duffield Associates

Mr. Diaz stated that this application is returning from March 2019. The applicant is seeking to develop 52,196 SF retail center on the site in four buildings. They revised their Site Plan because of the Comfort Inn & Suites which is on the property just to the left of the main property shown on the screen. Previously, they had proposed to connect that property into the shopping center with a couple of drive aisles but that property is no longer part of the application. Because of the revisions, Staff asked the applicant to bring an update to the Planning Commission to share the progress that has been made and to explain the design changes that have been made. They also wrote a memo containing Planning Staff's overview of the changes. They do have some new recommendations for the project that would be in addition to those previously heard and adopted at the March 2019 meeting. First is that the Planning Commission approve the architecture of Building A; that is the building closest to the street towards the bottom of the screen. That

architectural information was not provided at the March 2019 meeting so the Commission now has the chance to review and approve it. Staff also recommends that the Commission ask for additional evergreen trees in the Landscape Plan just to the rear of Building A. This would be for the purpose of screening the loading area side of the building that doesn't have quite the architectural articulation that the other three sides do. Finally, Staff is recommending that the Commission ask for additional future cross-access locations which could be accomplished with the recordation of a cross-access easement. This would be to substitute for the actual physical cross-access that is lost with the removal of the hotel property from the application.

Mr. Taylor stated that they have been working with the Planning Office as well as Mr. Diaz to go forward with this project. As Mr. Diaz mentioned, unfortunately an agreement couldn't be reached with the hotel. There were a lot of plans that they were going through for eight months of back and forth. They thought that they had gotten to a spot but it kind of fell through. Unfortunately, the hotel property had to be removed. As far as the Staff recommendations, they have no objection to the approval of the architecture of Building A. They have no problem with providing evergreen screening behind the rear of Building A to kind of provide a better visual. As far as the future cross access locations, they can show those on plans before they get final approval of the Site Development Master Plan.

Mr. Tolbert questioned if there will be enough parking on the site? Responding to Mr. Tolbert, Mr. Taylor stated yes, currently the parking requirements for the site based upon the known uses only require 241 spaces and they are providing 422 parking spaces.

Mrs. Melson-Williams stated that this was an update that was not significant enough where it would require a review of the plan in the same manner of the initial application. They did take the opportunity to bring the architecture for Building A back to the Commission. She believes that in the original approval it was noted that it needed to come before the Commission at a future date. With the removal of the hotel piece, that necessitated the two other recommendations that Staff outlined in the Memo regarding the evergreen screening and the cross-access opportunities to the adjoining properties.

Mr. Tolbert questioned if the applicant knew what restaurant would be coming to this location? Responding to Mr. Tolbert, Mr. Taylor stated that the restaurant in the center is planned to be a Golden Corral. He believes that they got approval from upper management on this Revised Plan. He knows that there is also a restaurant planned for Building A that would be a burger joint but that has not been authorized to say who that is yet.

Mrs. Melson-Williams stated that it would be appropriate to have a motion to recognize the update received on the Revised Plans and the acceptance of the Memo which included some Staff recommendations in regards to the project as well.

Mrs. Welsh moved to approve S-19-03 Retail Center at 747 N. DuPont Highway: Master Plan REVISED inclusive of the Staff recommendations for the approval of the architecture of Building A, the landscaping change for Building A to evergreen trees and the additional future cross access locations, seconded by Ms. Edwards and the motion was carried 8-0 by voice vote with Mr. Baldwin absent.

NEW APPLICATIONS

- 1) S-19-13 Office Building at 223 and 225 West Division Street – Public Hearing and Review of a Site Development Plan and Lot Consolidation Plan Application to construct a three-story 7,671 SF office building together with associated site improvements. The subject properties to be combined total 5,120 feet and are located north side of West Division Street east of North New Street. The property is zoned C-1A (Limited Commercial Zone). The owner of record is NCALL, Inc. Property Addresses: 223 West Division Street and 225 West Division Street. Tax Parcels: ED-05-076.08-05-28.00-000 and ED-05-076.08-05-29.00-000. Council District 4. *Waiver Requests: Elimination of Upright Curbing, Consideration of Tree Mitigation Plan. Two variances were approved by the Board of Adjustment at their April 2019 meeting. The variances are from Zoning Ordinance, Article 4 §4.14 pertaining to the bulk standards of the C-1A zone: to allow an increase in the maximum permitted number of stories from two (2) to three (3), and to allow an increase in the maximum permitted building height from thirty (30) feet to thirty-four (34) feet (V-19-04).*

Representatives: Troy Adams, Mountain Consulting, Inc

Mr. Swierczek stated that this is both a review of a Site Development Plan and a Lot Consolidation Plan Application to construct a three-story 7,671 SF office building together with associated site improvements at 223 and 225 West Division Street. The properties are zoned C-1A (Limited Commercial Zone) and the previous structures have been demolished. The applicant had previously requested two variances on this property under V-19-04. Both variances were for the requirements of Article 4, Section 4.14 of the *Zoning Ordinance* pertaining to the bulk standards in the C-1A (Limited Commercial Zone). The first variance was seeking to allow the maximum number of stories in the C-1A (Limited Commercial Zone) to be permitted to be increased from two to three and the second variance was to permit the maximum height of the building in the C-1A (Limited Commercial Zone) to be increased from thirty feet to thirty-four feet. Both variances were approved. It is with these variances that the project is presented. The applicant has noted two waiver requests with their plans. The first is a waiver request from Article 6, Section 3.6b requiring upright curbing for all parking areas and access drives, stating that curbing will not benefit or enhance the conveyance of stormwater runoff. The applicant is instead asking that they be permitted to only install bollards as to ensure that vehicles remain a safe distance from the building. The second waiver asked for is a request for consideration of a Tree Mitigation Plan as permitted by Article 5, Section 16.91a which allows the Planning Commission to grant a waiver to mitigate the trees required to be planted to achieve the tree density requirements. This mitigation is requested because primarily the site leaves little to no space for tree planting. The concept of the Tree Mitigation Plan is to plant one tree each at both 18 and 28 North Kirkwood Street which are residential properties that NCALL owns. NCALL is constructing a new one family detached dwelling on each of these lots. Staff has recommended approval of both of these waiver requests. Just as a note, the members of the Planning Commission should act upon the requested waivers as part of any motion regarding this project application or as a separate motion as necessary.

Mr. Roach stated that the proposed parking spaces would be three spaces but it seems like from the rendering that there will be six spaces. He didn't know if there was a change in the plan; either the

number or the picture is off. Responding to Mr. Roach, Mr. Swierczek stated that the renderings that were proposed were drafted when the applicants went to the Board of Adjustment to ask for the variances. It was later in the more formal design process when they realized that they did not have quite enough room to accommodate the six spaces.

Mr. Adams stated that the summary that Mr. Swierczek stated was accurate. The last rendition that the architect shared with him shows four parking spaces now. He was able to move some of those structural columns to accommodate four spaces. Other than that, everything else is the same at this point and they agree to work with Planning Staff and agree with the DAC Comments.

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

Mr. Roach stated that it seems like a large building with only four parking spaces. Do they plan on utilizing street parking or do they have an idea of who might be occupying the tenant space? Responding to Mr. Roach, Mr. Adams stated that in regards to the parking, under this particular zoning, zero spaces are required. Street parking will be used anywhere that we can find it.

Ms. Maucher moved to approve S-19-13 Office Building at 223 and 225 West Division Street inclusive of the two waiver requests of the elimination of upright curbing and the consideration of the Tree Mitigation Plan, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote. Ms. Maucher voting yes; based on Staff comments and recommendations. Mr. Nick Adams voting yes. Mr. Roach voting yes; he thinks that it is a beautiful building that is going to add some more visual aesthetics to Division Street. Ms. Edwards voting yes; she agrees that the building is beautiful and will add to the Downtown Area. Mr. Holt voting yes; he approves the building. Dr. Jones voting yes; for the previously mentioned comments. Mrs. Welsh voting yes; it is a great building for that particular lot Downtown. Mr. Tolbert voting yes; the applicant is presenting a building that is going to do a lot for that area but there is also a tremendous service that will be provided by that building.

- 2) C-19-03 Lands of TDM, LLC: Student Home at 230 North Governors Avenue – Public Hearing and Review of a Conditional Use Plan Application to permit the conversion of an existing one-family residential dwelling into a Student Home for four (4) persons at 230 North Governors Avenue. The subject property consists of 3,458 SF and is located on the west side of North Governors Avenue, south of Mary Street. The property is zoned RG-1 (General Residence Zone). The owner of record is TDM, LLC. Property Address: 230 North Governors Avenue. Tax Parcel: ED-05-076.08-02-70.00-000. Council District 4.

Representatives: Theresa Berry, TDM, LLC

Mrs. Harvey stated that this Conditional Use Review is to permit the use of an existing one family residential dwelling into a Student Home for four persons. The property is zoned RG-1 (General Residence Zone). The property consists of 3,458 SF and is located on the west side of South Governors Avenue south of Mary Street. The owners of record are TDM, LLC. The property is addressed as 230 North Governors Avenue. The proposed use for student housing under the *Zoning Ordinance* provisions within the RG-1 (General Residence Zone) zoning district in Article 3, Section 2d may be permitted as a Conditional Use with approval by the Planning Commission. *Zoning*

Ordinance amendments adopted January 13, 2003 made Student Homes in the RG-1 (General Residence Zone) and RG-2 (General Residence Zone) zones subject to Conditional Use approvals and specific restrictions. Student homes are subject to the following siding and bulk criteria: No Student Home shall be located closer than 500 feet from any other Student Home. The maximum allowable occupancy shall be four persons or the occupancy limit is determined by the Building and Fire Codes adopted by the City of Dover; whichever is less. Two off-street parking spaces shall be provided per dwelling unit. A Student Home shall not be permitted to be established within any semi-detached dwelling, duplex dwelling, group dwelling or townhouse dwelling unit. Building or groups of buildings on the same lot with fifteen or more units on a lot shall not be subject to the Student Home regulations. Student Homes shall be licensed under Chapter 10 Housing Code, Chapter 22 Building and Building Regulations. Student Homes shall be subject to the provisions of Chapter 10 Housing Code, Chapter 22 Building and Building Regulations. This is the first student home to be considered under these Conditional Use provisions. While there may be other dwelling units housing students, they may have been established prior to 2003; therefore, are considered legal nonconforming properties. The parking regulations for student housing requires two off-street parking spaces. The site will utilize the two nine by eighteen existing parking spaces located on the site. The parking is located in the rear of the property off of the alley. Staff recommends approval of the Conditional Use for the conversion of an existing single-family home into a Student Home for a maximum of four persons. The *Zoning Ordinance* allows up to five unrelated people to occupy a dwelling unit in any other residential zone without a Conditional Use. There may be existing residential and student housing units in the RG-1 (General Residence Zone) that were established prior to 2003 before the amendment was adopted to require a Conditional Use in the RG-1 (General Residence Zone) for Student Homes. To deny a Conditional Use for a Student Home could single out a group or people in a zoning district that allows the use for other groups or persons within the zone. This property has been a rental unit as single family dwelling since October 2016 per our Rental Dwelling Permit licensing records. The new owner seeks to utilize it as a Student Home based on the proposed tenants.

Dr. Jones questioned if this proposed student housing is leased directly to individual students or will there be an agreement with the College? Responding to Dr. Jones, Mrs. Harvey stated that it is with individual students.

Mrs. Berry stated that their daughter is one of the occupants in the house and the other tenants will be paying them directly. The house that they bought is primarily for their daughter to live off-campus. She is majoring in special education at Wesley College. They live in Townsend but she loves this area just as much as we do and she plans to become a teacher here for the District. So, they bought this property as an investment property to help us right now for her to live in off-campus and with the long term goal of her ultimately living in the house.

Mr. Tolbert questioned where their daughter wants to teach? Responding to Mr. Tolbert, Mrs. Berry stated in Dover. Right now she is torn between elementary but they do a lot of volunteering with adults with disabilities so she is interested in the 18-21 programs as well.

Mr. Tolbert opened a public hearing.

Mr. Fred Borda – 235 North Governors Avenue Dover, DE 19904

Mr. Borda stated that he lives across the street and two houses over from the proposed property. They oppose this use of student housing. They have had incredible difficulty in the neighborhood around Wesley College with the students. They have not been good neighbors, especially on Friday and Saturday nights. During the week they are not too bad but it's incredible on the weekends. Back in 2005, the residence zoning RG-1 (General Residence Zone) and RG-2 (General Residence Zone) there was some conditional information given by the Zoning Department restricting the use of houses for students. The College can't fill the dormitories that they have. We do not need more housing for students in the neighborhood. He has information that they collected at the time that the changes were made to the *Zoning Ordinance*. They are four pages of Police reports in only five months time of loitering, fireworks, loud music, students being loud in the streets, turning over trash cans, and irregular parking by either being half on the sidewalks or a foot or two from the curbs. They are not so bad during the week but on the weekends they are murder. They oppose it and some of the neighbors also oppose it. One man is a guard at the prison and he was not able to come tonight. Another man works on the Base in a civilian capacity and he had to be out of town. Is it possible to have this application postponed?

Mr. Tolbert questioned if they had a community organization that he is speaking for? Responding to Mr. Tolbert, Mr. Borda stated no. He knows what their intention is but he is here speaking on behalf of himself and his wife. They live across the street and they don't want to see it happen.

Mr. Tolbert questioned why they didn't try to bring other neighbors to the meeting tonight? Responding to Mr. Tolbert, Mr. Borda stated that they did but they are on vacation.

Mr. Tolbert stated that he had students living next door to him and they were the quietest people that you have ever seen. They never made a peep and the house was full. There was about four or five people living in that house and never once did they make a sound.

Mrs. Berry stated that professionally she is an HR Manager. Her husband is a Supervisor with a construction company and her brother-in-law who also owns the home with us is a Delaware State Police Officer and he is the Adjutant General for the National Guard. She can assure you that this Student House will be like no other. All of the girls are high honor roll students. They have known them for a number of years. She would bet her personal home mortgage that you will not have one single complaint from them or their activities or their personal character. They specifically chose this house and its location because they have been here for several years looking at it because they like being in the residential area. Their girls do not like to go to parties. They do not go to activities. Their College coach will tell you this as well. They intentionally stayed away from those other areas where the student housing is currently existing for those purposes. They don't want and we don't want to be around that kind of rift raft. She can assure you that this is going to be like no other student housing that you have probably experienced.

Mr. Tolbert questioned if they were only going to have four students in this house? Responding to Mr. Tolbert, Mrs. Berry stated yes and one of them is their daughter.

Mr. Tolbert further questioned if they would operate the home just on their own and not in association with the school. Responding to Mr. Tolbert, Mrs. Berry stated that was correct. They happen to go to Wesley College and they have to list that on the application.

Mr. Tolbert questioned if they have any contact with the school with regard to overseeing that building or getting students? Responding to Mr. Tolbert, Mrs. Berry stated no; these girls are all of their daughter's friends and their daughter.

Mr. Borda stated that it might be as this lady says and they will be fine as long as they are there. When they leave, they are going to have different students coming in. Responding to Mr. Borda, Mrs. Berry stated not there.

Mr. Tolbert questioned that when you have problems in your community with students, has it been your habitat to get the Police involved? Responding to Mr. Tolbert, Mr. Borda stated yes.

Mr. Tolbert further questioned what their response has been so far? Responding to Mr. Tolbert, Mr. Borda stated that the problem is that if you have twelve teenage or early twenties kids at 1:30AM who are really drunk and knocking things over in the driveway. By the time that the Police arrive, they are already gone but they have awakened them. They didn't dream this up. He can leave the Police reports with the Commission and the photos. They get up on a Saturday morning and you find pizza boxes in your front lawn or cars that are parked up on the sidewalk. He accepts that this lady's daughter is perfect but sooner or later she will graduate and when she does, someone else will be living in there.

Mr. Tolbert questioned that when they call the Police do they also notify their Councilman and the Mayor who is over the Police Department? They should have a meeting with the Police Department and all of the neighbors. Responding to Mr. Tolbert, Mr. Borda stated that they did this and that is how they got the Ordinance changed to where you can only have one student house within 500 feet. That is what they had to go through at that current time but he is trying to void occurrences like that. The neighborhood doesn't need more student housing because they can't even fill the dormitories so what is the point.

Mr. Tolbert stated that he made the statement that he has not had that problem and not all students are disruptive and noisy. Some of them are and some of them aren't. As community people, they are going to have to stay on top of it and sometimes that gets to be a burden but that is what you must do. It is very important that you stay on top of the issues that are giving you concerns. Responding to Mr. Tolbert, Mr. Borda stated that is why he is here tonight. This is a way to stay on top of it. They request that the Commission does not approve this request.

Mr. Tolbert stated that the problem that he personally has with it is that he is only one person but you say that the whole community is opposed to it. They should be here also.

Mrs. Constance Borda – 235 North Governors Avenue Dover, DE 19904

Mrs. Borda stated that she has witnessed males urinating out of second floor windows at some of the rentals on our street. Maybe you might not want to do this as a permanent change. After your daughters are finished with the house, do not let it go on as a permanent Student House. Is there a way to limit the use for like four years? After these girls are gone, they will have the football house or the frat house. They need to go to sleep; they work. When the students are out they are raging; maybe not their girls.

Mr. Tolbert questioned if she had talked to the owner of this home? Responding to Mr. Tolbert, Mrs. Borda stated no, nobody ever came over to talk to them. They just got a notice on their door.

Mr. Tolbert stated that they can initiate the talk with them and let them know what your concerns are.

Mrs. Berry stated that she would be willing to give Mrs. Borda her cell phone number but the only request that she would make is that she call her 20 minutes before calling 911. Responding to Mrs. Berry, Mrs. Borda stated not if someone was getting beaten up outside.

Mrs. Berry stated that if Mrs. Borda had an issue with their house, she could call her cell phone and she guarantees her that it would be a one and done situation. She is not saying that her daughter is perfect because she is not. Responding to Mrs. Berry, Mrs. Borda stated that they are not on the street to make enemies but they have been so abused in the last fifteen years.

Mrs. Berry stated that she would have the same concerns because her daughter is living in this house.

Mr. Tolbert stated that the reason that he suggested that was because he did that with his neighbor who purchased the house beside him. They had a good conversation and he has never had one moment trouble with the students in that house.

Mrs. Borda stated that being blindsided like this, they have had five or six years of solitude in their neighborhood.

Mrs. Berry stated that they talked to the people who they bought the house from and they said that they didn't have any issues at the house. They were not going to buy a house that had issues in the community because this is where their daughter is planning to live long term. They would never put her anywhere where they would expect her to not feel comfortable.

Mrs. Borda stated that they still ask that this not become a permanent approval on this residence.

Mr. Tolbert closed the public hearing.

Dr. Jones stated that as a former college administrator in charge of student housing, when she asked the question initially she was wondering if there was a reason for not communicating with Wesley College to have this house listed as off-campus housing. With that, there would be some kind of protection or some kind of intervention with campus security and college rules and regulations as the individuals are concerned. As you have indicated, there are no problems now and you don't anticipate any but sometimes we don't anticipate. She has worked with a lot of college students and high school students. She thinks that she is a pretty good judge of character and they are good students but sometimes things happen. Did they ever give any consideration to have the benefit of having the connection with Wesley? She thinks that they would still have the opportunity to charge what they want to charge since it was indicated that it was an investment. She is wondering why there is no communication with the college because there would not be any need for State Troopers

or anyone else to come in if the student housing had some connection with the college. Responding to Dr. Jones, Mrs. Berry stated that this is the first time that they have ever bought a house. It was never thought of to do that. The field hockey coach for Wesley knows that this is what they are doing and she never mentioned anything about connecting with the college. The girls have not had a great experience in the dorms; its just like some of the issues that have been seen in the community. They are good students and they have jobs afterwards and play field hockey so their commitments outside of the academics are tremendous. Getting that fire alarm pulled at 1 or 2AM, some nights it is repetitive almost every hour and it is a public nuisance to them. They thought that having them in the house, they won't have those issues. They never thought to connect with the school because it never seemed logical because it is a personal investment.

Dr. Jones questioned if she heard that this was a first time for this kind of designation of Student Housing? Responding to Dr. Jones, Mrs. Harvey stated that prior to 2003 there were Student Homes in the RG-1 (General Residence Zone) and RG-2 (General Residence Zone). After those amendments were made, it is now a Conditional Use. There still may be some in the area now that are legal non-conforming.

Dr. Jones questioned if with a Conditional Use application, does that mean that at some point in time the Planning Commission can say that they would like to review the application again? Responding to Dr. Jones, Mrs. Harvey stated yes, the Commission can renew it every year. If there are issues that arise, this application can be reviewed again.

Mrs. Melson-Williams stated that the Ordinance also includes a procedure for a Conditional Use to be revoked with the terms of the Conditional Use are not being met. That is built into their Conditional Use process. In this case, if they don't renew their Rental Dwelling License in a timely manner or other things happens, they can bring the application back to the Commission for a hearing to revoke the Conditional Use. As Mrs. Harvey mentioned, the RG-1 (General Residence Zone) and RG-2 (General Residence Zone) over the years have been amended a number of times. It was in 2003 where this definition of a Student Home was first placed in their Ordinance. A Student Home is very specific in its definition which means that it is three or more students living together. If they weren't identified as students, it would be just like any other rental dwelling but with a Student Home there is a very specific definition. It does not mean that it is a fraternity house or a sorority house. It can only happen in a single-family detached structure and the maximum allowance is for four persons. A Student Home is either going to have three or four people in it. It doesn't raise to any occupancy level higher than that and it does require an off-street parking opportunity as well.

Mr. Adams questioned if the applicant had not identified the potential occupants of the home as students, would this not have come through this Conditional Use process? Responding to Mr. Adams, Mrs. Melson-Williams stated that it is very likely. The City does have a Rental Dwelling Permit Program for anyone renting a residential unit. That ranges from single family houses to apartments. In that permitting program, they are not required to identify who their tenants are. There may be others that the City does not know about and there certainly were ones that were in place at the time that the Ordinance was changed in 2003. At that time, they did have a short list of the ones that they expected to be student housing and there was some outreach to potential Student Houses at that point in time. It is really difficult to track because even with rental dwellings, your tenants can change fairly often.

Mrs. Berry stated that this process has cost them over \$800 just to get here today. It is not something that they take lightly. They did create an agreement with each girl and it is pretty strict. They can't even have a pet without approval from them. If they have a pet, it has to be something that they bring home for a weekend and then take back to their own homes. If they get certain kinds of violations, they have agreed that they are kicking them out. These girls are being instructed just how they have raised their daughter so they will be no tolerance.

Mr. Adams stated that he does have a concern as it relates to this dwelling. His concern relates to the guidance that they received from Planning Staff as it relates to the potential action that would be taken by the Planning Commission if they were to deny a Conditional Use for a home by singling out this home simply because it is for students. That weighs heavily on his mind so he wanted to make sure that he mentioned that because based on the conversation or the response that he got from Mrs. Melson-Williams. It appears to him that the only reason that this is before the Commission is because the applicant is going above and beyond to try to do this legally and conform in a way that we would hope all applicants would. In his eyes, he views that very favorably.

Ms. Edwards moved to approve C-19-03 Lands of TDM, LLC: Student Home at 230 North Governors Avenue as submitted, seconded by Mr. Holt and the motion was carried 8-0 by roll call vote. Ms. Edwards voting yes; based on the comments that Mr. Adams made. The applicant is going above and beyond to try to do things legally and correctly and she really appreciates all of their efforts that they have put forth to do this the right way. Mr. Holt voting yes; based on the comments made by Mr. Adams. Dr. Jones voting yes; she is in favor of approving the application especially with the last comments made. Mrs. Welsh voting yes; she thinks the applicant has taken great steps to prove that their intent is to comply with the regulations and as Mrs. Melson-Williams indicated there are procedures in place for if they don't comply with the Conditional Use for it to be revoked. Ms. Maucher voting yes; there are procedures to revoke the Conditional Use should problems arise in the future. Mr. Adams voting yes. Mr. Roach voting yes; he suggests that the applicant get with the concerned neighbor but also to allow your children to be college students and have a good time because that is a part of being in college. There is a difference between having fun and being a menace. Mr. Tolbert voting yes; he has concerns but he votes to approve because the Planning Commission does have the authority to review this application in the future.

- 3) C-19-04 Assemblée Chretienne International Ministry at 1209 Walker Road – Public Hearing and Review of a Conditional Use Plan Application to permit a place of worship in an existing 1,556 SF vacant building to the rear of 1203-1209 Walker Road. The portion of the property to be leased to the place of worship consists 1.9 acres and is in the northwest corner of the parcel. Parking is to be provided in an existing paved area in front of the building. The front of the parcel and the main building on the property is occupied by Dover Place, a senior assisted living facility. The property is zoned R-8 (General Residence Zone). The owner of record is Kent Lifecare, LLC. Property Address: 1203-1209 Walker Road. Tax Parcel: ED-05-067.18-01-76.00-000. Council District 4. *The property was previously developed as C-98-02 Capitol Place Assisted Living Community: Planned Neighborhood Design – Senior Citizen Housing Option.*

Representatives: Ms. Lueaine Thaw, A.C.I.M.; Mr. Lucsaint Joachim, A.C.I.M.

Mr. Diaz stated that this is a Conditional Use Application to establish a fifty-seat place of worship in an existing vacant building to the rear of 1203-1209 Walker Road. The building in question was last used as a radio station office. In fact, the tower was associated with the radio station is still on the property. The overall property is sixteen acres and the applicants are leasing a 1.9 acre portion of that property that is in the northwest portion of the property. The applicant intends to provide some parking in the existing parking area that is in the front of the building. They are required by Code to have a minimum of thirteen spaces based on the fifty-seat count. There are assuming the parking area for nine spaces so they also obtained permission from the property owner to share some of the parking that was originally established for Dover Place which is an assisted living facility at the front of the same parcel. Staff did have some recommendations suggested as conditions of approval for the Commission. These include striping the parking area in front of the vacant building so that it clearly shows where the parking spaces are located. It includes increasing the width of the drive aisle that leads from the site entrance on Walker Road to the building from seventeen feet to twenty feet. It includes laying a sidewalk to connect the building to the existing sidewalk network on the property. There is a sidewalk that loops around Dover Place that they can connect to and it includes bicycle parking in addition to vehicular parking. Staff would ask that the Planning Commission act on the Staff Recommendations as part of any motion that they make tonight.

Mr. Tolbert questioned if this property was an assisted living facility? Responding to Mr. Tolbert, Ms. Thaw stated that there is an existing assisted living facility there already and there is a vacant building that was formerly a radio station. That is the one that they want to put the church in.

Mr. Tolbert questioned if the radio tower would be removed? Responding to Mr. Tolbert, Ms. Thaw stated that the City is handling that.

Mr. Tolbert questioned how many people the building would hold? Responding to Mr. Tolbert, Ms. Thaw stated that it is going to hold about fifty people.

Mr. Diaz stated that the application lists fifty seats so that is how many people would be approved to occupy the building at the same time. That would be different from the building occupant load which would have to be determined by the Building Inspectors. As part of the Conditional Use approval, the Commission would be approving their request for fifty seats or you could request a lesser number than what was provided.

Mr. Tolbert questioned if the applicant intended on doing anything to the building? The building is rather drab looking. Responding to Mr. Tolbert, Ms. Thaw stated that they were going to clean up the inside of the building.

Mr. Tolbert questioned what they were going to do to the outside of the building? Responding to Mr. Tolbert, Ms. Thaw stated that they are going to take off the boards and things of that nature so it will be a beautiful thing once they get in there.

Mr. Tolbert stated that the picture that was provided to them is a sorry picture. Responding to Mr. Tolbert, Ms. Thaw stated that she understands that but they are surrounded by beautiful

buildings and they intend to join the community. They are not going to be an eyesore to the community.

Mr. Tolbert opened a public hearing.

Mr. Eugene Ring – 67 Bryant's Corner Road Hartly, De 19953

Mr. Ring stated that he is the Maintenance Director of Dover Place. He knows the building and he knows the problems that he had with the area in the back. He welcomes the church. It is a whole lot better than a radio station because he spent over \$10,000 trying to get the music out of his telephones. His concern is the parking and also coming into the entrance. A lot of their residents walk around the building at all times of the day. If fifty people are going to be in this building, it is going to be pretty crowded. It is his understanding that there is a row of pine trees that is the line between Dover Place and this property. Years ago he did a lot of checking into it and they said that it was listed as a condominium lease. He never could understand that or find out who the owner was because every time the grass got high, he got the letter from the City of Dover saying that if they didn't cut the grass they were going to get fined. The City of Dover and Kent County said that Genesis owned it at the time. When he sent the paperwork up to them, they said that they didn't own it. He thinks that it was the nursing home next to them because Genesis and the nursing home next to them was a combined unit and then Genesis bought that. His biggest concern was the parking because they can't have any of the parking done on their property. With eighty-two residents and about eighty staff members, the parking is going to be very limited. He would like to find out who the permission to use their parking came from. None of their corporate office people have talked to him. He does welcome the church.

Ms. Thaw stated that the church is going to have a church van and it is going to hold fifteen seats but right now, they are only going to have twenty-five people and there will be carpooling as well. They are not even going to fill up that because not everybody drives. She doesn't think that there is going to be a concern for parking. They are hoping and believing that they will grow one day and will be extending. Right now, this is what they have to deal with.

Mr. Tolbert questioned where the church is located right now? Responding to Mr. Tolbert, Ms. Thaw stated that it is located on Forrest Avenue. They have a storefront right now.

Mr. Tolbert questioned what kind of attendance do they have right now? Responding to Mr. Tolbert, Ms. Thaw stated that they have about twenty-five to thirty people right now but they have children also.

Mr. Tolbert questioned if parking was a problem? Responding to Mr. Tolbert, Ms. Thaw stated no, parking is not a problem.

Mr. Tolbert questioned if they would have more room in the new location? Responding to Mr. Tolbert, Ms. Thaw stated yes.

Mr. Roach stated that Mr. Mike Stone, the President of MJ Stone sent the letter to the church giving them permission to be able to park on the property.

Mr. Collin Stevens – Onix Group

Mr. Stevens stated that he was here to represent Acadia Health Care located at 1225 Walker Road. Hopefully, he can address some parking concerns. It seems like the applicant has been given permission by Dover Place to park on their property. As you continue to grow, he has been given permission to say that they have no objections if they want to park at Acadia Health Care. They are happy to enter into a leasing agreement with the church. That is something that they are happy to talk to you about offline.

Mr. Tolbert closed the public hearing.

Ms. Maucher stated that the letter granting permission to use Dover Place's parking lot is signed by MJ Stone Inc. which indicates that they are the property owner but the application indicates Kent Lifecare, LLC as the owner. Responding to Ms. Maucher, Mr. Diaz stated that if you look at the property records, the owner of the property is given as Kent Lifecare, LLC. However, when the application was turned in the property owner contact listed there was given as Mike Stone. When they went to the applicants and told them that they would need more parking on the site, they suggested that they could get permission from the property owner to use the existing parking at Dover Place. This is the letter that they brought back to them which matched the name that was given as the contact on the application. Whether Mike Stone owns both Kent Lifecare, LLC and MJ Stone, Inc. he can't say but he does appear to be the property owner.

Mrs. Welsh moved to approve C-19-04 Assemblée Chretienne International Ministry at 1209 Walker Road, seconded by Dr. Jones.

Mr. Diaz stated that there are some Planning Commission suggestions of approval that were included. Those included the striping of the parking lot, widening the driveway from seventeen to twenty feet, the bicycle parking requirement and the sidewalk that would connect to the building. Please consider those when making a motion.

Mr. Roach questioned if there were any issues with the DAC requirements? Responding to Mr. Roach, Ms. Thaw stated no.

Mrs. Welsh moved to approve C-19-04 Assembly Chretienne International ministry at 1209 Walker Road to include the comments by Mr. Diaz (noting Staff Recommendations from DAC Report), seconded by Dr. Jones and the motion was carried 8-0 with Mr. Baldwin absent. Mrs. Welsh voting yes. Ms. Maucher voting yes, based on Staff recommendations and the agreement to incorporate their suggestions. Mr. Adams voting yes. Mr. Roach voting yes. Ms. Edwards voting yes, for comments previously stated and because their neighbors are willing to work with them for additional parking when they grow. Mr. Holt voting yes. Dr. Jones voting yes; it is a challenge to grow a faith community and she wishes them the best. Mr. Tolbert voting yes; he certainly hopes that the final building will be an attractive one.

- 4) C-19-05 Luther Village Parking Lot Expansion at Babb Drive – Public Hearing and Review of a Conditional Use Site Plan Application to permit the construction of an additional 10,609 +/- SF of paved parking area providing thirty-four (34) parking spaces for a total of ninety-nine (99) parking spaces in the Luther Village Phase III area. The subject property area

consists of 2.85 acres +/- and is located east of John Hunn Brown Road and northwest of Babb Drive as a portion of the Luther Village complex. The property is zoned RG-2 (General Residence Zone). The owner of record is Luther Village III of Dover. Property Address: 101 Babb Drive – Building 3. Tax Parcel: ED-05-077.06-02-90.03-000. Council District 2.

Waiver Request: Partial Elimination of Upright Curbing. Luther Village Planned Neighborhood Design – Senior Citizen Housing Option is to consist of 524 apartment units in a total of nine phases; it was previously established by applications C-02-02 and C-13-03. Luther Village Phases 1, 2, and 3 have been constructed (Applications S-03-07, S-7-10, and C-13-03).

Representatives: Mr. Gary Coy, Luther Village III; Ms. Dana Dunphy, Century Engineering

Mrs. Melson-Williams stated that this is a Conditional Use Site Plan. It is a Conditional Use because the project Luther Village is a conditional use for a Planned Neighborhood Design Senior Citizen Housing Option. If you are familiar with the property, this is just to the east of Target and Safeway and takes access off of Babb Drive. Once on the campus complex, there are three existing apartment buildings that are all interconnected. The most recent building was Phase 3 that consisted of forty-eight units in an apartment building and then it also has a Resident Activity Building that is part of it. Luther Village overall is a project that has nine phases. Maybe one day we will see all nine buildings but in the meantime they have run into some parking difficulties with their residents and guests so they are here this evening for a parking lot expansion. They are hoping to add just over 10,000 SF of a new paved parking area to be located between Buildings 1 and 3. It would be specifically signed to direct guests to park there. It does include an accessible sidewalk that would link it to the front entrance of Building 3 which is directly across the existing parking lot to the east. The new parking lot does include several handicapped parking spaces as well as regular spaces. The background report does include a lot of information about Luther Village and its ultimate expansion and Master Plans that have been reviewed. To highlight on parking with the PND Senior Housing Option, they actually received a parking reduction through the Alternative Design Standards for a PND. At that point, it looked at a parking rate based on the fact that it was a senior citizen housing facility and that most of the residents would have limited numbers of vehicles if not any vehicle at all. What they have found in the most recent building is that some of those people actually do have cars and the Resident Activity Room does allow for them to host events. It has transpired into a parking issue with residents versus the guests coming to the site. The Planning Office did provide comments. They have some information about their Landscape Plan included with this that they will be working to identify a development area to confirm that tree planting is appropriate in this location. They did have one waiver request and that is related to the elimination of curbing. Staff has granted the approval to eliminate curbing for stormwater management practices. There is an existing stormwater pond to the northwest of this parking area and they will have to prove to the Kent Conservation District that it can satisfy this additional pavement onsite. The other agencies have provided comments. This does not involve a building; it just involves a parking area to consist of thirty-four parking spaces. The project does displace three spaces in the existing parking lot for Building 3 so there is a total net gain of thirty-one parking spaces on the project site.

Mr. Coy stated that when they conceived the building of forty-five apartments, not everybody has a car. when you have an activity room that is kind of supporting three buildings all together, what they found is that all of the guests are coming in for a party or church. The residents go away and come

back to no parking because there is no assigned parking. When they have a wedding or a birthday party in the activity room with ninety people, you end up with parking on the grass along the edge of the road which is a hazard. This parking will alleviate that problem and provide some safety for mobility limited people in order to get to the building.

Mr. Tolbert questioned if they have had parking problems at any of their other sites? Responding to Mr. Tolbert, Mr. Coy stated no.

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

Mr. Holt moved to approve C-19-05 Luther Village Parking Lot Expansion at Babb Drive, seconded by Mrs. Welsh.

Mr. Roach questioned if they needed to include a waiver request for partial elimination of curbing? Responding to Mr. Roach, Mrs. Melson-Williams stated that they always list curbing but it is actually now the authority of the City Planner to do that. She knows that the Commission always includes it.

Mr. Holt moved to approve C-19-05 Luther Village Parking Lot Expansion at Babb Drive, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote. Mr. Holt voting yes. Dr. Jones voting yes. Mrs. Welsh voting yes; it's apparent that it is a greatly needed parking lot. Ms. Maucher voting yes; based on Staff recommendations. Mr. Adams voting yes. Mr. Roach voting yes. Ms. Edwards voting yes; it's obvious that the additional space is much needed. Mr. Tolbert voting yes.

NEW BUSINESS

- 1) Project for Dover's 2019 Comprehensive Plan
 - a. Update on Project Activities

Mrs. Melson-Williams stated that Staff is working on writing text chapters. They are inching closer to having a "Staff Draft" for everyone to read in the office and comment on. Beyond that, she is not sure of their timing since they are recovering from people being on vacation. It is anticipated by fall that they will certainly be into a Draft of the Comprehensive Plan that is released for public review and then the formal review process that will involve PLUS Review with the State as well as public hearings here with the Planning Commission and City Council.

Mr. Diaz stated that he has accepted alternative employment with Prince Georges County in Maryland. His last day with the City will be August 2nd.

Meeting adjourned at 8:35 PM.

Sincerely,

Kristen Mullaney
Secretary