

CITY OF DOVER PLANNING COMMISSION
March 20, 2017

The Regular Meeting of the City of Dover Planning Commission was held on Monday, March 20, 2017 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Ms. Edwards, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert.

Staff members present were Mrs. Ann Marie Townshend, Mrs. Dawn Melson-Williams, Mr. Eddie Diaz, Mr. Jason Lyon and Mrs. Kristen Mullaney. Also present was Mr. Gregory Moore, Mr. Mike Cotton, Mr. Matthew Mitten, Mr. John Paradee, Ms. Wayneicka Johnson, Mr. Michael Graham & Mr. Joe Petrosky.

APPROVAL OF AGENDA

Mrs. Welsh moved to approve the agenda as submitted, seconded by Dr. Jones and the motion was unanimously carried 9-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 21, 2017

Mrs. Welsh moved to approve the Planning Commission Meeting minutes of February 21, 2017, seconded by Mr. Baldwin and the motion was unanimously carried 9-0.

APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF FEBRUARY 22, 2017

Dr. Jones moved to approve the Planning Commission Quarterly Workshop Meeting minutes of February 22, 2017, second by Mrs. Welsh and the motion was unanimously carried 9-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, April 17, 2017 at 7:00pm in the City Council Chambers.

Mrs. Townshend provided an update on the regular City Council and various Committee meetings held on February 27 & 28, 2017 and March 13, 2017.

Mrs. Townshend stated that there is training scheduled through the Institute of Public Administration on Friday, March 24, 2017. If any Commissioners are interested in attending contact the Planning Office.

Mrs. Townshend stated that on Wednesday, March 22, 2017 there is a Public Forum on the State's Historic Preservation Plan. That will be held at the Dover Public Library at 6:00PM.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval: None

2) Consideration of Waiver Request for Development Application:

a. S-17-03 Dover International Speedway Parking & Event Area Master Plan –

Consideration of Waiver Request for the Elimination of Sidewalks as associated with the Dover International Speedway Parking & Event Area Master Plan for events such as the Firefly Music Festival event. The Planning Commission on February 21, 2017 granted conditional approval of the Site Development Master Plan consisting of temporary and proposed permanent structures on the main festival grounds as well as existing and new parking and camping areas on various lands belonging to the Dover International Speedway. The twenty-four (24) properties are located on the east and west sides of Leipsic Road, the east and west sides of State Route 1, and the west side of Persimmon Tree Lane, and total 737.72 acres. The properties are zoned RC (Recreation and Commercial Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone: Tier 3 Excellent Recharge Area and Tier 2 Primary Wellhead Protection Area). The owner of record is Dover International Speedway, Inc. Property Addresses: 74 Pit Stop Lane, 599 Persimmon Tree Lane, 1229 Persimmon Tree Lane, and other addressed and unaddressed properties. Tax Parcels: LC-05-058.17-02-01.00-00001, LC-05-058.17-01-07.00-00001, ED-05-058.17-01-11.00-00001, LC-05-058.17-01-08.00-00001, ED-05-058.17-01-18.00-00001, LC-05-058.17-01-09.00-00001, ED-05-058.17-01-19.00-00001, ED-05-068.05-01-02.01-00001, LC-05-058.00-02-08.00-00001, ED-05-068.05-01-16.00-00001, LC-05-068.00-01-01.00-00001, LC-05-068.10-01-01.00-00001, LC-05-058.17-02-01.00-00001, LC-05-058.00-02-15.00-00001, LC-05-058.00-02-17.00-00001, LC-05-058.00-02-16.00-00001 (split between 3 properties), ED-05-057.00-01-32.01-00001, LC-05-058.00-01-10.00-00001, LC-05-058.17-01-06.00-00001, LC-05-058.17-01-07.00-00001, ED-05-058.17-01-05.00-00001, and ED-05-058.17-01-11.00-00001. Council District 3. *The Planning Commission deferred action on the Waiver Request for the Elimination of Sidewalks seeking additional information.*

Representatives: Mr. Gregory Moore, Becker Morgan Group

Mrs. Melson-Williams stated that this application was considered at the Planning Commission meeting in February. It encompasses several properties owned by the Speedway. At the last meeting, the Commission took action to grant conditional approval to the Site Development Master Plan which laid out a series of temporary and potentially permanent structures on the festival grounds. This included new and existing parking and camping areas. It focuses on the Speedway lands and the area of Leipsic Road and Persimmon Tree Lane. As part of the motion, the Commission addressed three waivers that were granted approval. Those were the reduction of the bicycle parking requirement that by accepting on a temporary basis that they will address it as a per event situation. The Commission also granted approval to eliminate the opaque barrier fence component from being implemented as implementation would likely require removal of woodland areas to achieve it. The third waiver that the Commission granted approval to was the alternative for the opaque barrier landscape component, allowing that the woodland areas be recognized and only needing the landscape component in certain instances. What the Commission did not take action on, because they were seeking additional information, was the waiver request related to the elimination of sidewalks. The Code requirement for applications appearing before the Planning Commission requires that the sidewalks be implemented along all public street frontages of the property. The applicant in this instance did seek a waiver. They submitted information citing how the event area functions during those event activities. Staff and its portion of the DAC Report had recommended

approval of the request to eliminate sidewalks along the street frontage noting that there is special event planning related to all transportation modes including pedestrians as they plan for events. The Planning Commission was seeking additional information regarding sidewalks and that special event planning. Mrs. Townshend will discuss what was received when we sought that information from DelDOT.

Mrs. Townshend stated that the Commissioners did receive separately from their packet, an email correspondence that came from Mr. Gene Donaldson at DelDOT. He is the person who is the lead on all of the traffic planning. It's a rather lengthy email but he kind of goes through some of the logistics and then goes through a series of bullets related to the efforts that they have in terms of planning and implementing safety measures for pedestrians. One of them is that they have designated drop-off areas. There is a shuttle service that is available and they will be expanding it to some degree. They have monthly planning meetings. The bridge over Route 1, Persimmon Tree Lane and Leipsic Road have a hard closure with the exception of local residents and their guests. Really there is not a lot of traffic on the road. Parking passes are issued to local residents and guests so that they can get through. Street lights have been utilized on Persimmon Tree Lane to improve safety. Based on those measures, Mr. Donaldson indicates that DelDOT would support the recommendation to approve the requested sidewalk waiver because of the measures that they have in place. Additionally just as a reminder, even if sidewalks were required there are large stretches of the property where Dover International Speedway does not own the frontage so if there were sidewalks to be constructed they would stop and start along the frontage of Persimmon Tree Lane. From our perspective, we have concerns about the stopping and starting and what that does for pedestrians. It kind of almost dumps them onto people's property rather than keeping them in public right-of-way. She knows that some of the discussion that was held last month involved some of the other concerns that neighbors had with regard to the crowds and fencing and things like that. She knows that the Speedway has reached out to the neighbors that spoke at the hearing and Mr. Moore is prepared to respond to some of those concerns. As it relates to the waiver, the biggest issue was DelDOT and now we have the response from them.

Mr. Holt stated that they had one gentleman question some of the problems that he was having with the people of Firefly getting on his property and doing things that were disgusting to his property. He was asking for some relief from that and he didn't know whether someone had a chance to meet with him and try to solve some of his problems. Responding to Mr. Holt, Mr. Moore stated that Dover International did reach out to Mr. Moran who testified at the last meeting. He had issues with people being on his property and out of control. His property is actually located in Kent County and there are people who would access the festival from that side of the property which is to the east. What Dover International is proposing and has met with Mr. Moran about is adding a full time officer from the State Police. He will be solely responsible to police that area from where the road closes all the way into the festival so that there will be someone there to watch for the issues that Mr. Moran brought up at the last meeting. They plan on running the shuttle from the east side into the event 24 hours a day. In the past, it hasn't been run 24 hours and when the event closes you get people walking back and forth trying to go back to where the road is open. Dover International Speedway and Red Frog are going to do a better job of advertising to the people who buy tickets that this shuttle is there. It was there last year but it was in its infancy. This shuttle is intended to take these people in a more controlled area, get them to the edge where they can walk out rather than just having them meander on private properties. Those two things they think address Mr. Moran's issues.

Mr. Tolbert questioned if Leipsic Road will be open to residents at all times? Responding to Mr. Tolbert, Mr. Moore stated residents who live in that area will be given passes so that they can pass the closures. He knows that they are able to pass coming up Persimmon Tree Lane to get into their homes as long as they have a pass and/or a license that shows the valid address.

Mr. Tolbert further questioned if this issue would just be during Firefly and not during NASCAR as well? Responding to Mr. Tolbert, Mr. Moore stated yes, the festival is different than NASCAR.

Mr. Tolbert questioned if the residents of the area would be able to move freely? Responding to Mr. Tolbert, Mr. Moore stated that they will have passes so that they can get through.

Ms. Maucher questioned if any part of the property is dedicated right-of-way in case there was ever an interest to install multi-modal pathways? Responding to Ms. Maucher, Mr. Moore stated that there has not been. The multi-modal pathway would be something similar to a sidewalk. The other thing that Mr. Moran and the other person who testified last time do not want to see are sidewalks because they are concerned that if they put sidewalks in it will bring the people closer to their homes and into the actual private properties where they terminate. Much of this the Speedway doesn't control and are private properties that separate themselves. Both of these people that testified last time are against that. He chatted with them at the last meeting and they were concerned that they would be required to put in sidewalk and they wanted to be clear that they didn't want to. They didn't think that it would actually benefit them even if Dover International Speedway did it.

Mr. Roach stated that as far as the passes that are going to be given to the residents, it's not going to be to the bridge. They would have to go to the back road to get out of the area. Responding to Mr. Roach, Mr. Moore stated yes, the back route is where the police are to let the residents through. The bridge becomes a pedestrian passageway and it's not even safe for a bike.

Mr. Roach stated that the email from Mr. Mark Lutz from DelDOT stated as far as the restrictions (as it pertains to the full road closures) that it's a three day per year event but Firefly is a four day event. He just wants to make sure that the things that were addressed in this email were actually for all four days. Responding to Mr. Roach, Mr. Moore stated that Mr. Donaldson is the person who coordinates the event with Dover International Speedway. Mr. Lutz is more of a statewide traffic guy and he doesn't know if he is really involved in Firefly so he would take Mr. Donaldson's remarks as the key.

Mr. Holden stated that the sidewalk waivers come up in front of the Commission quite often. He thinks that Dover International Speedway and Red Frog do an amazing job of running the events that they have there. He thinks that they do a very good job of dealing the foot traffic that gets generated from those events. Sidewalks along the frontage of properties in the Site Plan process really are there to benefit the development of the property and also to support to development of our community as a whole with safe passageways. The internal passageways that Red Frog and Dover International Speedway do a great job of don't necessarily help the residents that are walking in and out of the City of Dover. He knows that traveling that road you see a fair amount of people who are walking from the grocery store or to work or other that end up having to walk on the shoulder of the road. This is an interesting case in that some of those residents are City of Dover residents and some may not be. From the City's perspective, he is curious as to the original drivers for the sidewalk

requirement because in this case they have addressed if Dover International Speedway's event demands the sidewalks and the experts say no. But do the residents that walk up and down that street need a sidewalk? His concern is that they are ignoring one component of the use for a sidewalk system. Responding to Mr. Holden, Mrs. Townshend stated that part of the issue is that unlike most other applications that come before the Commission, the Site Plan for the Woodlands at Dover International Speedway is really for a temporary event area. The type of use is different and the idea is that for the most part there will be temporary structures but under this Master Plan it allows some flexibility to potentially do Administrative Site Plans in the future to put permanent stages or pavilion type structures in the event area. The other thing is that they would only be responsible for putting sidewalks along the frontage of the property that they own which would not be most of the area that is along Persimmon Tree Lane; it would be a very small portion of it. That is the side of Persimmon Tree Lane where there are not residences. A sidewalk on that side of Persimmon Tree Lane would not help the residents who live on the other side of the road in the apartments or in Wild Meadows or Persimmon Park Place because it would be opposite their developments. She thinks for a number of reasons it's not something that makes sense to go forward with this application.

Mr. Moore stated that on behalf of Dover International Speedway they would agree. They are not purposing structures and buildings on the frontage that would necessitate walking to them; they are trying to accommodate the festival for a couple days of year. There is over 8,000 LF of sidewalk that could be affected here which is a tremendous amount and the Speedway believes that it's a public safety issue to actually expand the roadways and move the people those people out into the resident's front yards. This is not the typical submission and he can tell you that Red Frog's ability to put in structures is going to be based on their success at each festival and at this current time other than a few roads for safety and working with the Fire Marshal, there aren't structures that they plan to build. A lot of that is budget driven and if there is success then there could be buildings but there may not be. Their issue would be that they may not build anything under this plan if the festival isn't successful.

Mr. Moore stated that he agrees with everything that Staff has said and he agrees as does Dover International Speedway with what DelDOT is saying about no sidewalk.

Ms. Maucher moved to approve S-17-03 Dover International Speedway Parking & Event Area Master Plan to include the waiver of the sidewalk requirements, seconded by Mr. Holt and the motion was unanimously carried.

NEW DEVELOPMENT APPLICATIONS

- 1) S-17-02 Mitten Industrial Park at 141 Lafferty Lane (Revised 2/28/2017) – Public Hearing and Review of a Site Development Plan application to permit construction of a 9,600 S.F. building, an equipment processing & storage area, and associated site improvements. The 40.09 acre+/- subject site is located on the east side of Lafferty Lane north of the Kings Cliffe Manufactured Home Park. The property is zoned IPM (Industrial Park Manufacturing Zone) and MH (Manufactured Housing Zone) and is partly subject to the AEOZ (Airport Environs Overlay Zone: Accident Potential Zone I and Noise Zone A). The project is subject to *Performance Standards Review Application*. The owner of record is Matthew E. Mitten. Property Address: 141 Lafferty Lane. Tax Parcels: part of ED-05-077.00-01-26.00-000, ED-05-077.00-01-27.00-

000, and part of ED-05-086.00-01-08.00-000. Council District 2. *Waivers Requested: Elimination of Curbing, Elimination of Sidewalk, Elimination of Opaque Barrier-Fence Component, Recognition of Woodland as Part of Opaque Barrier-Landscape Component.*

Representatives: Mr. John Paradee, Baird, Mandalas & Brockstedt; Mr. Mike Cotten, Cotten Engineering Inc; Mr. Matthew Mitten, Mid-Atlantic Dismantlement Corp.

Mrs. Melson-Williams stated that this Site Plan S-17-02 is a Site Development Plan for a property that is located on what is the south side of Lafferty Lane. The entire parcel is one main parcel and there was a recent land swap transaction that has occurred with an adjacent property owner to clarify some property lines and make some neater shapes to two properties. The overall site area is just over 40 acres. The property is zoned IPM (Industrial Park Manufacturing Zone). There is a portion of the property that falls in the MH (Manufactured Housing Zone). This is an area that is near the Kings Cliffe Manufactured Home Park. Some of that area they recently worked with the adjacent property owner with the land transactions there. Parts of the property are also subject to the AEOZ (Airport Environs Overlay Zone: Accident Potential Zone I and Noise Zone A). The proposal here this evening is to construct a 9,600 SF office/warehouse/storage building and then also to identify an equipment processing and storage area on the plan itself. The project that is proposed would actually create a new entrance drive off of Lafferty Lane that would then wrap around to what is the building area. Continuing on that path would take you to the processing area. The processing area is kind of in the center of this plan.

As mentioned, there was a recent Minor Lot Line Adjustment Plan which they were still working to complete some deed work related to the land records on that transaction. This site has been the subject of a number of plans dating back to at least 2008 that appeared before this body and some that never made it this far. Tonight, they are starting as a new application.

This property, because it is located in the IPM (Industrial Park Manufacturing Zone) is subject to the Performance Standards Review Process. The applicant had to provide submission materials related to the Performance Standards Review items. There are several documents that they submitted in that regard. There is a separate Staff Review Report for the Performance Standards Review Application and that process involves the Planning Commission considering whether the intended activities on the property comply with a series of Performance Standards related to dangerous and objectionable elements. There is a laundry list of what those objectionable elements are and they range from fire hazards, noise, smoke odors, glare, liquid and solid waste and traffic congestion. There are a number of criteria that the *Zoning Ordinance* establishes in Article 5 Section 8 in regards to each of those Standards. The applicant had to respond to each of those items and how their intended use would or would not impact in those areas. The Staff's Review Report recommends that the Commission affirm that the proposed use of the site based on the information that the applicant has provided to us at this point, would conform with those applicable Performance Standards. It is noted that a number of these Performance Standards are governed by regulations and policies that the City has as well as at the State level. There may be a series of permits or State regulations that they would have to comply with for any of their use activities on the site.

Continuing with the DAC Report, the proposed architecture of the building is a metal building with a pitched roof. It would be occupied by both offices and warehouse uses. There are a number of site considerations that come into play with this property. There are extensive areas of woodlands as

well as wetlands on the property. The *Zoning Ordinance* requires that wetland areas remain as natural open spaces and actually establishes regulations for setbacks from those wetland areas that the project will have to comply with.

The project is showing a series of parking spaces in the immediate vicinity of the building. Based on the size of the building, it is required to have twelve (12) spaces. The maximum that they can have is fifteen (15) parking spaces and the applicant is showing that maximum of fifteen (15) spaces. In addition, there are loading spaces and they will be required to have at least one bicycle parking space.

There are several waivers that they are seeking with this submission. The first is the partial elimination of curbing. The Code requires that parking areas and the access drive have the upright curb. They are seeking relief from that citing the opportunities for stormwater management and draining related to waiving of the curbing. The second waiver that they are seeking is the elimination of sidewalks and this would be along the frontage of Lafferty Lane as well as any kind of sidewalk connection from the street frontage into the building. They have made a written waiver request for that. The other waiver request is related to the opaque barrier; specially the fence component and then the format of the landscape component. In this situation, because there are portions of the property that are adjacent to residential uses this opaque barrier requirement comes into play. They are seeking relief from the fence component to avoid the removal of trees that might be necessary in order to implement the fence. Related to the landscape barrier, they are asking that the Commission recognize that the existing woodland count towards compliance with that landscape component where the woodland area is present. For tree planting on the project, they are seeking to utilize a defined project area rather than the entire balance of the project site. That's been delineated on this plan for calculation. Basically, they do get credit for any woodland in those areas but still would be responsible for planting at least one hundred fifty-seven (157) trees on the project site.

Staff does give their recommendations on each of the waiver requests that the applicant is seeking. They recommend approval of the partial elimination of curbing where its removal can be proven to be associated with stormwater management activities. They do also support the elimination of sidewalks in this case because the area is so isolated from any existing sidewalk networks in the area. They are supportive of the elimination of the fence component of the opaque barrier noting that they would rather have the trees than them be cleared just to implement the fence. They also support the alternative format for the landscape component, recognizing the existing woodland. They do note that there may be additional design alternatives that would further lessen the impact on woodlands and ways to deal with stormwater management on the site and that they encourage the applicant to explore them because of the area's proximity to the Air Force Base. Planning Staff has noted as well as the Fire Marshal that the building size is currently just under the 10,000 SF size that would require sprinkling of the building automatically; the applicant is currently not looking to do that. They note that it is highly recommended and that some of the potential tenants that could be located in there may require sprinkling of the building anyway. There are advisory comments related to this property. It has an active code violation case that has been involved with a consent order by Chancery Court and Mrs. Townshend can answer any questions regarding that issue. The DAC Report continues with the comments from the City's other agencies including the Electric Department and Public Works Department, the Fire Marshal's Office, DelDOT, Kent Conservation District and the Dover/Kent County MPO.

Mr. Holt questioned if the sprinkling of the building was discussed since it is close to the 10,000 SF size. Responding to Mr. Holt, Mrs. Melson-Williams stated that it's been noted by Staff in the Report that it is potentially a concern. The 10,000 SF sprinkling size requirement is actually a City regulation. In some instances, the Fire Codes may require it anyway but until they have a definitive tenant space decision they can't answer that requirement. Certainly, they encourage it and a lot of times it's easier to plan and implement it now rather than later.

Dr. Jones questioned if a fence has already been constructed for the cemetery? Responding to Dr. Jones, Mrs. Melson-Williams stated that she was not on the right application. The cemetery is for the Secure Storage application.

Ms. Maucher questioned if the active code violation would impact this project? Responding to Ms. Maucher, Mrs. Townshend stated this allows them to move forward to move toward compliance. The consent order stipulated that if they didn't have Final Site Plan approval by January 1st they would begin cleaning up the site. The applicant now has until the end of this calendar year to clean up the site.

Ms. Maucher questioned what needed to be done? Responding to Ms. Maucher, Mrs. Townshend stated that there is a processing area that is on site that has not gotten any approvals so they need to clean that up.

Mr. Tolbert questioned if any positive action at this point that the Commission may make would be contingent upon this site being cleaned up as required? Responding to Mr. Tolbert, Mrs. Townshend stated yes.

Mr. Tolbert questioned if the height of the building was a concern? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that in the IPM (Industrial Park Manufacturing Zone) the height of the building is governed by the distance of the building from the property line. They are not anticipating that that's an issue because of how far the building is from the property lines from Lafferty Lane and from the property to the south and east. But it is something that will need to be identified as they move forward with any kind of review process with the Site Plan and ultimately with any kind of Building Permit application in order to confirm compliance.

Mr. Paradee stated that he would simply note that the plan does comply with all Code requirements including the Performance Standards which have been reviewed and Staff does recommend approval of all four waiver requests so they would respectfully request the Commission's favorable consideration on all of those points.

He would be remiss if he didn't offer his congratulations to our retiring City Planner. He thinks that everyone in the room would agree that she has been a real asset to the City of Dover. They will be sorry to see her go but wish her the best of luck. He would also like to commend her staff, in particular Mrs. Melson-Williams for her excellent work and patience on this particular project. It has been the subject of concern for a number of years and the Planning Staff has been very gracious in working with them to help bring us to this point which is a big step in getting the property into compliance.

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

Mr. Roach stated that he was also concerned about the sprinkler system just because of the square footage being so close to 10,000 SF. Do they have a possible tenant and an answer as to why you might not want to put it in now as opposed to waiting until later? Responding to Mr. Roach, Mr. Paradee stated that at the present time the applicant's intention is to occupy the building himself for his own business. The Commissioners have a letter in their packets dated March 7, 2017 from the applicant explaining exactly what his proposed use would be. Basically, it would be a small office and the bulk of the interior of the building would be used for warehousing. Given that use and the relatively minimal human activity that would occur in the building, they don't feel that would warrant a sprinkler. But as Mrs. Melson-Williams noted, if it turns out that some other tenant were to occupy the building that might have more intensive human activity such that sprinkler would be warranted then obviously they would have to do that at that time. It's a little chicken and egg because it's expensive to do. They don't want to make that commitment without knowing that they have a tenant that would warrant it.

Mr. Holt moved to approve S-17-02 Mitten Industrial Park at 141 Lafferty Lane to include the waivers for the elimination of the opaque barrier fence component, the recognition of the woodlands as part of the opaque barrier landscape component and the elimination of curbing and the elimination of sidewalks. He also recommends that the building be considered to be sprinkled at a later time if the tenants or the need arises and to include the acceptance of the Performance Standard Review, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff support, testimony, compliance with the Code and meeting the Performance Standards Review. Mr. Roach voting yes; for the reasons previously stated. Ms. Edwards voting yes; for the reasons previously stated. Mr. Holt voting yes; as Staff has already approved everything down the line and it looks like it's a good plan. Mr. Baldwin voting yes; based on the Staff Report and meeting the Performance Standards. Dr. Jones voting yes; for reasons previously stated. Mrs. Welsh voting yes; for the reasons previously stated. Ms. Maucher voting yes; to bring the property violations into compliance. Mr. Tolbert voting yes; primarily because the applicant has expressed their willingness to work with Staff regarding this application. There have been problems in the past and they are willing to work with Staff and do everything that's required of them to be in compliance with the City's Ordinances.

- 2) C-17-01 The Little People's Daycare at 118 Roosevelt Avenue – Public Hearing and Review of a Conditional Use Site Plan application to permit a large family day care facility in an existing 1,080 S.F. building at 118 Roosevelt Avenue, to be known as The Little People's Day Care. The 0.33-acre subject site is located on the south side of Roosevelt Avenue east of South DuPont Highway. The property is zoned R-8 (One-Family Residence Zone). The owners of record are Waynenicka Johnson and Jessica D. Cooper. Property Address: 118 Roosevelt Avenue. Tax Parcel: ED05-077.18-02-840.00-000. Council District 2. *Waiver Requested: Elimination of Sidewalk*

Representatives: Ms. Waynenicka Johnson, Owner

Mrs. Harvey stated that the Conditional Use Site Plan is to permit a large family day care in an existing 1,080 SF single family home located at 118 Roosevelt Avenue to be known as The Little

People's Daycare. The property is zoned R-8 (One Family Residence Zone) and the owners of record are Ms. Waynenicka Johnson and Ms. Jessica Cooper. The project proposal for twelve (12) children at The Little People's Daycare would be classified as a large family day care home by the *Zoning Ordinance* as it provides care for more than six (6) children but less than thirteen (13) children. If the number of children increases to thirteen (13) or greater then it would be considered a day care center.

The plan shows an outdoor play area on the south end of the site at the rear of the existing building. Fencing for the play area is identified on the plan. Access into the playground area appears to be directly from the building. The plan shows a total of four (4) parking spaces. The number of required spaces shown on the plan is based on the requirements for day care facilities in Article 5 Section 14.33 which requires one space per ten (10) children plus one (1) space per adult attendant. Since this facility proposed for twelve (12) children and two adult attendants, the parking complies with this requirement.

On March 10, 2016, the Administrative Site Plan application S-16-09 Day Care of Waynenicka Johnson was approved by Planning Staff to permit a large family day care home as an occupied residence in an existing two story framed building located on the south side of Roosevelt Avenue. An inspection conducted by Child Care Licensing on December 15, 2016 and the City of Dover Fire Marshal's Office on December 27, 2016 indicated that the owner of the property did not reside at the residence. Under Article 5 Section 14.23 of the *Zoning Ordinance* states that if a large family day care home is not to be located in an occupied residence, then a Conditional Use Site Plan application shall be required in accordance with Article 10 Section 1 of the *Zoning Ordinance*.

Sidewalks are not present along the rest of the street frontage of Roosevelt Avenue. *Zoning Ordinance* Article 5 Section 18.1 requires sidewalks along the public street frontage of a property whenever the property involves the Planning Commission review of the development activity. The Planning Commission has the ability to modify or waive the sidewalk requirement under Article 5 Section 18.4. The applicant has submitted a waiver request for consideration by the Planning Commission to eliminate the required sidewalk. Staff recommends approval of this request to eliminate sidewalk at the property day care as there is no frontage sidewalk along the existing residential area frontage along Roosevelt Avenue.

Ms. Maucher questioned if a day care center would be permitted in this zone? Responding to Ms. Maucher, Mrs. Townshend stated yes, as a conditional use.

Ms. Maucher stated that right now it's a large family day care but if one more child is added it becomes a day care center in a different category. Responding to Ms. Maucher, Mrs. Townshend stated that it would but it would need to come back as another Conditional Use.

Ms. Waynenicka Johnson stated that she is satisfied with everything that has been stated and she will comply with whatever Staff requires.

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

Ms. Maucher moved to approve C-17-1 The Little People's Daycare at 118 Roosevelt Avenue,

including the elimination of the sidewalk requirements and the DAC comments, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments. Mr. Roach voting yes; for the reasons previously stated. Ms. Edwards voting yes; based on the fact that there are no existing sidewalks on Roosevelt Avenue. Mr. Holt voting yes; for the reasons previously stated. Mr. Baldwin voting yes; for the reasons previously stated and day cares are needed in the area. Dr. Jones voting yes; for the reasons previously stated and certainly quality child care is very much needed. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for the reasons previously stated and according to his understanding of the Ordinances you can open up a day care in any zoned area because of their importance. We do need quality day care centers.

- 3) S-17-05 Medcore Partners Physical Rehabilitation Hospital on McKee Road – Public Hearing and Review of a Site Development Plan application to permit construction of a 42,000 S.F. in-patient physical rehabilitation hospital and associated site improvements. The 4.07-acre subject site is located on the west side of McKee Road north of College Road. The property is zoned IO (Institutional and Office Zone) and subject to the COZ (Corridor Overlay Zone). The owners of record are George J. Kays and John J. Kays and the equitable owner is Medcore Partners c/o Michael Graham. Property is an unaddressed parcel on McKee Road. Tax Parcel: ED05-067.00-01-33.00-000. Council District 1. *Waivers Requested: Consideration of Superior Urban Design, Reduction of Parking Requirement, Reduction of Loading Spaces, and Partial Elimination of Curbing. This property is the subject of Rezoning Application Z-16-07, recommended for approval by the Planning Commission on December 19, 2016 and approved by City Council on January 9, 2017.*

Representatives: Mr. Gregory Moore, Becker Morgan Group; Mr. Michael Graham, Medcore Partners

Mr. Diaz stated that this project is to construct a 42,000 SF physical rehabilitation hospital. The project is to be constructed on McKee Road just north of College Road. The parcel does not currently have an address but it's between 1216 McKee Road and 1282 McKee Road. The site is zoned IO (Institutional and Office Zone) and is also subject to the COZ (Corridor Overlay Zone). There are a number of site considerations that were looked at while reviewing this plan. First, the site entrance moved a couple of times at DelDOT's request so it's now as far north as possible on the site. The reason for doing that was to reduce traffic impacts on the intersection of McKee Road and College Road. The project does not however affect the intersection of McKee Road and Gemstone Boulevard which is the entrance to Emerald Pointe. Second, there is some uncertainty about the parking standard that should be applied to the project because they did not know at first the number of beds that were going to be in the hospital. After learning that there were going to be thirty-four (34) beds, they were able to apply the right parking standard which would be a requirement for one hundred forty (140) spaces as opposed to twelve (12) spaces based on the bed count. The third major thing that they looked at was the requirements of the COZ-1 (Corridor Overlay Zone). One was the requirement for cross access to neighboring properties if those properties are to be developed with similar compatible uses to the hospital. The other was the required maximum fifty (50) foot setback from the front property line for buildings along this portion of the COZ-1 (Corridor Overlay Zone). They are proposing a ninety (90) foot setback which they can only get if the project receives a designation of Superior Urban Design from the Planning Commission. As a reminder, properties in the COZ-1 (Corridor Overlay Zone) can get a designation

of Superior Urban Design if they meet certain criteria related to categories of multi-modal transportation, architecture, landscaping, public space and green technologies. The specific requirements of those categories are outlined in the policy document at the end of the packet. The Planning Commission should decide tonight whether the plan meets the criteria. There are a number of recommendations for the project related to the Superior Urban Design Designation as well as their waiver requests. Staff is recommending the Planning Commission grant the designation of Superior Urban Design based on the project meeting the criteria of landscaping and architecture. For landscaping, the project exhibits a robust group of trees, shrubbery and flowering plants as well as pervious paving and water features if those are appropriate for the stormwater management. For architecture, the building exhibits several characteristics which are seen as desirable. These include banding, coping, stone veneer and they also have a large canopy over the front entrance and small ones over the side entrances. It's an articulated building which is the sort of architecture that they would like to see. Staff recommends approval of the Superior Urban Design Designation based on the landscaping and the architecture.

Second, they are recommending approval of the applicant's waiver request for partial elimination of upright curbing specifically on the drive aisle that is between the building and the roadway. Between that drive aisle and McKee Road itself is where two of the major stormwater management areas are to be located. They are recommending waiving the upright curbing in this area to allow for sheet flow of stormwater from the drive aisle into those stormwater management areas. The second waiver request that they are asking for is a reduction in their required parking. As mentioned previously, the site would require one hundred forty (140) spaces and they are requesting that it be served by one hundred twenty (120) spaces. Staff is recommending approval of that waiver request based on the availability of bicycle and transit facilities along McKee Road as well as the applicant's accertion that one hundred twenty (120) parking spaces have been sufficient to serve similar facilities of this size that they have built in other cities. He believes that the applicant may be able to explain the similarity between the current facility and some of the previous ones tonight. The third waiver request is for loading spaces. The requirement based on the square footage of this building is for three (3) loading spaces and they are requesting that it be served by one loading space. Staff is recommending approval of this waiver request as well due to the relatively small size of the hospital and based on that it really shouldn't need more than one loading space. Again, previously facilities that they have done have shown that level of need. Again, the waivers that are requested are the elimination of upright curbing, the elimination of twenty (20) parking spaces from one hundred forty (140) to one hundred twenty (120) and the elimination of two (2) loading spaces from three (3) down to one.

Ms. Maucher questioned if the transit opportunity meant a bus stop on the property? Responding to Ms. Maucher, Mr. Diaz stated that there aren't plans to place a bus stop on the property but there is one nearby on the other side of College Road. The nearest one is in front of the Grace Presbyterian Church.

Mr. Tolbert questioned if at this point the Architectural Review Committee is required look at this building? Responding to Mr. Tolbert, Mrs. Townshend stated no, the Planning Commission can consider the architecture unless there are concerns in which case it could be delegated to the Architectural Review Sub-Committee.

Mr. Tolbert stated that his concern is that at one time the Commission was very concerned about

flat roofs and this building has a very flat roof.

Dr. Jones stated that there was some mention of minimizing the view for the property owners next door. Responding to Dr. Jones, Mr. Diaz stated that that is one thing that he might have addressed. You will see that to the west they are meeting the opaque barrier requirements of the property. That consists of an opaque fence that is six (6) feet high and made of vinyl as well as an evergreen screen. That will also be planted along the north property line. There's a drainage ditch on the southern property line that prevented its implementation there.

Dr. Jones questioned if there has been any reaction at all from the neighbors? Responding to Dr. Jones, Mrs. Townshend stated that they haven't heard anything in their Office since the Rezoning application. There was certainly discussion prior to and at the time of the Rezoning.

Mr. Roach questioned if there were going to be trees all across the side of the property on McKee Road and a fence? Responding to Mr. Roach, Mr. Diaz stated not on McKee Road. The fence is on the north and west property lines. The east property line along McKee Road has a large number of trees. Staff recommended that they reduce the number of trees along that property line but they do believe that the number of trees along the residential property line is appropriate.

Mr. Roach stated that it was a lot of trees. If you are looking to try to find this property, he can see a lot of people having to make U-turns because of not being able to see the entrance.

Ms. Maucher stated that the visibility coming out of the property is a concern also because it is a very busy road. Are there evergreen tree along the frontage? Responding to Ms. Maucher, Mr. Diaz stated that it is a mix of deciduous and evergreens. They recommended that the evergreens in particular be removed from that frontage except along the handicapped accessible parking spaces that are right in front of the building because there is a requirement that parking spaces be screened when they would be visible from across a roadway.

Ms. Maucher questioned if those parking spaces were near the entrance? Responding to Ms. Maucher, Mr. Diaz stated that those are not near the entrance.

Mr. Moore stated that this is a model that the applicants have used in a number of cities throughout the country which they reference in their parking waiver. Although they are asking for a relaxation of twenty (20) parking spaces, they do have the space and they have actually designed them in. They would be located at the back of the parking lot along the back of the fence. They are leaving them off because from the other projects that Medcore has done, they know they don't need that kind of parking. They understand the use, the number of beds and what type of traffic comes to the site. But the Code is such that if City staff recognizes that there is a problem, the applicant has designed them into to the plan. Staff would write them a letter and the applicant would install the spaces. It's really a temporary waiver; it's not permanent. They are agreeable to moving the landscaping off of the frontage. They have no issues with any of the other comments from Staff. They are screening with a fence and landscaping the residential neighbors. That is the Code requirement and they have committed that to the neighbors early on. They have had a public meeting with the neighbors where they invited them review their issues and concerns. He knows that there is a public hearing tonight but hopefully because of the communications that they have had the neighbors are satisfied with the project and its position and design.

Mr. Roach questioned what areas have had this type of facilities before? He knows that in Dover everybody drives in a small community and if there is someone in rehab there might be 2-3 family members coming to visit. But to kind of answer his question, it's a temporary waiver so if there is an issue the spaces would be added in and he is good with that. Responding to Mr. Roach, Mr. Graham stated that he is from Texas and three of the projects that he has done and underway are in Texas. Like here, everyone in Texas drives as well and drives a large car. An example project, in San Antonio they built a forty (40) bed hospital as opposed to this building being a thirty-four (34) bed hospital that had one hundred twenty (120) parking spaces in total. Another project with forty (40) beds they bumped up the parking spaces to one hundred thirty-two (132) parking spaces because it was a teaching hospital so students were coming in and out all the time. These are very low traffic type facilities. People are coming and staying for an average of two weeks so traffic generation is very slow. In Houston, Texas, the parking requirement for something like this is 2.2 parking spaces per bed. In Dallas, Texas, it's 2.5 parking spaces per bed. If it were 2.5 parking spaces per bed, here eighty-five (85) parking spaces would be required so they feel like they have plenty of parking that they are building and then they do have the extra space on the site to build if they ran out of space.

Mr. Baldwin questioned if this was strictly a physical therapy facility? Responding to Mr. Baldwin, Mr. Moore stated that it is for physical rehabilitation. People could come in with heart issues or they could have been in an accident and they are going to be in these beds and getting rehab over a week or so. That's why the traffic is low and that's why the parking count isn't an issue. All of the waivers are important to the fabric of the plan and Staff does support them. Being that this is a hospital, they have a more strict requirement for their fire lane requirement. They have access all of the way around the building and that pushes the building a bit off the street. The most important thing is the ability to have this building at the current setback and they need the fire lane in the front, the drop off and the canopy. They can't physically construct the building if they do not receive approval for the waiver.

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

Mr. Roach questioned if the front of the building was where the canopy is located? Responding to Mr. Roach, Mr. Moore stated yes.

Mr. Holden moved to approve S-17-05 Medcore Partners Physical Rehabilitation Hospital on McKee Road to include the waivers requested for partial elimination of curbing, reduction of loading spaces and reduction of parking spaces and to identify the submitted plan as compliant with Superior Urban Design, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; for the reasons previously stated, Staff support and that it's compliant with the Code. Mr. Roach voting yes; for the reasons previously stated and it's good that we have something like this added to our City because we don't currently. Ms. Edwards voting yes; based on the reasons previously stated. Mr. Holt voting yes; it meets all of the Staff requirements and also the Code. Mr. Baldwin voting yes; based on the reasons previously stated. Dr. Jones voting yes; for all of the reasons previously stated and it's a welcomed addition to our community. Mrs. Welsh voting yes; it's a very well designed facility and she feels that there is a very good need for it. Ms. Maucher voting yes; for reasons previously stated as well as the applicant's meeting with the

impacted property owners and it's needed. Mr. Tolbert voting yes; the services are needed here in Dover. A physical rehabilitation hospital is needed and will serve a purpose.

- 4) S-17-06 Secure Storage Revised Site Plan, Phases 2 & 3 – Public Hearing and Review of a Site Development Plan application to permit construction of Phases 2 & 3 of a mini-storage facility consisting of five (5) storage buildings, on a site already containing 14 storage buildings (Phase 1), for a total of 19 buildings. The new buildings total 94,500 S.F. Associated improvements including a boat and RV parking area and a second site entrance are also proposed. The project is subject to *Performance Standards Review Application*. The 18.68-acre subject site is located on the north side of Lafferty Lane, east of South Bay Road. The property is zoned IPM (Industrial Park Manufacturing Zone). The owner of record is Secure Storage LLC. Property address: 640 Lafferty Lane. Tax Parcel: ED05-077.00-01-25.00-000. Council District 2. *Waivers Requested: Elimination of Sidewalks and Partial Elimination of Curbing. This property is the subject of Site Development Plan Application S-02-23, granted conditional approval by the Planning Commission on August 19, 2002 and granted administrative approval for a revision on April 25, 2005. The portion of the plan known as Phase 1 and one building from Phase 2 were constructed but the rest of the plan lapsed.*

Representatives: Mr. Gregory Moore, Becker Morgan Group; Mr. Joe Petrosky, Secure Storage LLC

Mrs. Melson-Williams stated that this is a Site Development Plan. The aerial shot being displayed shows that a portion of the project was actually built. That's the series of green roofs closest to the Route 1 Corridor. Tonight, we are focusing on Phases 2 and 3. Initially, the project was S-02-23 Secure Storage that was reviewed in August 2002 and then received Final Site Plan approval in May 2003. It commenced construction completing Phase 1 of the series of mini-storage buildings as well as the building that's closest to Lafferty Lane that contains the office space. This project, because the construction activity has ceased for a significant period of time, the full plan lapsed and now they are bringing back what was originally called Phases 2 and 3. The project has undergone some revisions since its initial filing. Originally, there was a more significant number of buildings that were going to be proposed in Phase 2 and 3. They were a variety of sizes ranging from 2,400 SF up to 9,000 SF; however, some of the changes to the Fire Regulations in these intervening years have caused them to make some revisions to the proposal for this project. As it is presented to the Commission this evening, Phases 2 and 3 will consist of a series of five (5) storage buildings. What they have done is consolidated a number of them and that's what's shown in the plan packet that has a mark-up. The proposed buildings will range in size from 13,500 SF to 22,500 SF. The IPM (Industrial Park Manufacturing Zone) has specific requirements from mini storage facilities that dictates how close to property lines they can be, what the parking requirements are and the like. Because it's in the IPM (Industrial Park Manufacturing Zone) they are looking at the Performance Standards Review Application as part of this. There is a separate report that was forwarded to the Commission. The applicant has responded to how the project may or may not be subject to the dangerous and objectionable elements that range from fire hazard, noise, vibrations, smoke, odors, etc. Staff is recommending that the Commission affirm that the proposed use of the property as this mini storage facility is of such that it typically does not produce these objectionable elements and would comply with those regulations whether they be City regulations or any kind of State regulations that regulate those items.

The Commission's plan submission has the mark-up that condenses what was a series of buildings

down to just five (5) buildings. The existing storage buildings on the site are a metal building that has a series of rollup doors that access each unit. It has a pitched metal roof and it's anticipated that that general format and style would continue in Phases 2 and 3. Parking for mini-storage facilities are based on the number of units that are provided and the Code sets up a method of calculating parallel spaces throughout the project site. The buildings are surrounded by paved area and their spacing in certain instances would allow for parallel parking in certain areas of the site. The site is also identifying a specific area for boat and RV parking which is allowed within mini-storage facilities. The office building has a series of spaces directly in front of it for those coming to make the initial request for a unit. Loading is a common practice near the unit so there is not a specific designated loading zone. Staff is recommending the addition of a bicycle parking space in the vicinity of the office in order to meet the intent of the bicycle parking requirements for the project. They do reserve spaces for dumpsters within the enclosed fenced compound area of the mini-storage facility.

With this project, there are two waivers that need consideration. One is the partial elimination of curbing and that is primarily related to the perimeter of the pavement for the site. Part of it has already been designed basically to function without the curbing for drainage purposes in those areas. The other waiver request is for the elimination of sidewalks. This property has a little bit of frontage in the vicinity of the office building that has frontage on Lafferty Lane which would be subject to that sidewalk requirement. Their plan includes extensive tree plantings predominantly located around the perimeter of the site, some of which was implemented in the initial phase but with the build-out of Phases 2 and 3 the full site will need to be in full compliance.

There is an unmarked cemetery that is located in the southwestern corner of the property. It was actually identified through some of the archaeological investigations that occurred prior to the construction of State Route 1. In its previous review of this plan, the applicant was made aware of those. There is no development proposed in that area and the fence actually protects or separates the location of the unmarked remains area that's been studied from the main area of the mini-storage facility.

Staff is supportive of both waiver requests on the curbing and the elimination of sidewalk. The comments from the other DAC participating agencies include the City's Electric Department and the Public Works Office. DelDOT and the Kent Conservation District have provided comments as well as the Fire Marshal's Office. It was through the Development Advisory Committee process that the applicant was alerted to the changes in the Fire Prevention Regulations and was able to work cooperatively with Staff in regards to some of those changes which would trigger sprinkling of buildings. They worked with Staff to get a design revision to better address that Code requirement that has come into play since 2002.

Mr. Moore stated that they are fine with Staff's comments. Mr. Petrosky has decided that he is actually going to build fewer buildings than what is shown here and sprinkle the larger buildings. That means that we will build the same type of building; they will be larger and they will be sprinkled per the Code. That was a plan that they presented Staff during the DAC meeting. There is an existing fence around the area that was questioned as the cemetery so that's already in place.

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

Mr. Holden moved to approve S-17-06 Secure Storage Revised Site Plan, Phases 2 & 3 as it is in compliance with the Performance Standards in the Code and to include the waiver for the elimination of sidewalks and the elimination of curbing, seconded by Mr. Maucher and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments and compliance with Code. Mr. Roach voting yes; for the reasons previously stated. Ms. Edwards voting yes; for the reasons previously stated. Mr. Holt voting yes; due to Staff comments. Mr. Baldwin voting yes; due to Staff comments. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; the project is a good one and you cannot ever have enough storage. Ms. Maucher voting yes; based on reasons previously stated as well as the applicant's modification of the design. Mr. Tolbert voting yes; for all of the reasons previously stated and he is particularly pleased with the applicant's willingness to work cooperatively with Staff.

Mr. Holt stated that since this was Mrs. Townshend's last meeting he would like to give her a round of applause for leading them in such a great manner and giving the Commission such great support over the years.

Mr. Tolbert stated that she has done a wonderful job and they are all going to miss her very much.

Mrs. Townshend stated that it has been an absolute honor and privilege to serve you as staff to the Planning Commission and to work with our outstanding Planning Staff as well. She is still going to live here and shop here so she will still see everyone. It has definitely been a wonderful eleven years.

Mr. Moore stated that he wanted to give her a standing ovation as well because you see her in the Planning forum with all of the projects and a lot of times there are issues. She is always helpful, accommodating, approachable and excellent in her job here. What you don't see that he sees as President of the Downtown Dover Partnership is the tremendous effort that she puts into the heart of Dover to try to make it a better place. He knows that takes a lot of time and effort and he wants to commend her for both of those things and tell her that we will sorely miss her.

NEW BUSINESS

Meeting adjourned at 8:34 PM.

Sincerely,

Kristen Mullaney
Secretary