

CITY OF DOVER PLANNING COMMISSION
JULY 17, 2017

The Regular Meeting of the City of Dover Planning Commission was held on Monday, July 17, 2017 at 7:00 PM at the Dover Police Department, Public Assemble Room with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Ms. Edwards, Mr. Holt, Mrs. Welsh, Ms. Maucher and Mr. Tolbert. Mr. Baldwin & Dr. Jones were absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Jason Lyon, Mrs. Tracey Harvey, Mr. Julian Swierczek and Mrs. Kristen Mullaney. Also present were Mr. Tolano Anderson, Mr. Gary Dodge, Mr. Doug Liberman, Mr. Dave Kuklish, Mr. Wilfred Martin, Mr. Paul Hebert Jr., Mr. Greg Scott, Mr. Bobby Tudor, Mr. Alex Schmidt, Mr. Scott Rathfon, Mr. Mike Riemann and Mr. Bill Krapf. Speaking from the public were Ms. April Hall and Mr. Scott Rathfon.

APPROVAL OF AGENDA

Mrs. Welsh moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Baldwin and Dr. Jones absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 19, 2017

Mrs. Welsh moved to approve the Planning Commission Meeting minutes of June 19, 2017, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Baldwin and Dr. Jones absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the Annual Meeting of the Planning Commission is typically held at the July meeting including the election of the Chairman and Vice Chairman; however, that will be scheduled for a future meeting upon completion of the appointment process for Commission members. This is the time of year where three of the Commission members are due for appointment of those specific positions.

Mrs. Melson-Williams stated that the Planning Commission Quarterly Workshop that was to be held on Wednesday, July 19, 2017 will be rescheduled for a future meeting. They may look to have that in August when they can be back at their regular meeting facilities.

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, August 21, 2017 at 7:00pm in the City Council Chambers.

Mrs. Melson-Williams provided an update on the regular City Council and various Committee meetings held on June 26, 2017. At that meeting, Council did appoint several members to the Commission. Starting new three year terms to expire in June 2020 would be Dr. Bobby Jones, the At-large appointment and Ms. Deborah Edwards who represents the 1st District.

Mrs. Melson-Williams stated that they had to relocate meeting rooms for the month of July due to some activities for electronic improvements in the various City Hall Meeting Rooms and

Council Chambers so that's why tonight's meeting is being held in the Police Station's Public Assembly Room. The other news from the Planning Office is that they have a new staff Planner that has joined them. She is pleased to introduce Mr. Julian Swierczek; he is a recent graduate of the University of Liverpool in England and this is week two on the job in Dover. He is learning about how everything works and this is the first meeting that he gets to attend.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval: None
- 2) Development Applications
 - A. S-17-15 Dover Station at 655 West North Street – Continuation of Review of a Site Development Plan application 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. 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. *Waiver Requested: Reduction of Loading Spaces, Partial Elimination of Opaque Barrier (Fence Component) and Alternative Format of Opaque Barrier. This property was the subject of Site Development Plan Application S-07-37 for a similar development, granted Final Approval in May 2008; construction was not commenced and the plan subsequently expired. This property is also associated with Site Development Plan Application S-06-40, granted Final Approval in July 2007, for development of the adjacent property at 645 West North Street.*
 - i) *The Planning Commission conducted a Public Hearing and began consideration of S-17-15 at the June 19, 2017 meeting and deferred action pending submission of additional information.*

Representatives: Mr. Tolano Anderson, Faithwork, LLC; Mr. Gary Dodge of Curley, Dodge, Funk & Street; Mr. Doug Liberman, Larson Engineering Group, Inc.

Mrs. Melson-Williams stated that at the last Planning Commission meeting, application S-17-15 was deferred. The public hearing was conducted on this application and she will give a brief overview of what they heard at the last meeting and then the applicants have some additional information that they provided to the Commission that they would also like to speak to this evening.

This is Dover Station at 655 West North Street. It is a Site Development Plan application that proposes the construction of two buildings. The first being a 20,000 SF two story office building and then a second building of 6,000 SF which has been identified as a group home facility; however, it meets the definition of an "emergency shelter" which is "a facility providing

temporary housing to homeless or transient persons in a dormitory style setting.” That facility may also provide social services such as counseling and vocational training. There are three waivers that the applicant is seeking. The first is a reduction in the number of loading spaces, the second is the partial elimination of the opaque barrier fence component for certain areas of the project site and then an alternative format to the opaque barrier in that it would place the fence and the landscaping in a different order than typically presented in Code. The Commission heard this application at last month’s meeting. There were a number of questions related to access between this project site and the adjoining parcel that is the home of the Kidz Ink day care facility which was developed previously. This property is a Brownfield site and there was also questions about the access to the site. There was a proposal for a connection to the North Street Corridor; however, comments from DelDOT indicated that that entrance would be closed requiring the site to take access from Clarence Street. There were a number of questions about the site entrance and then the usage of Clarence Street to reach the property itself. The applicant did provide, after last month’s meeting, some additional information that was provided to the Planning Commission. That includes a summary letter of information and a revised Site Plan that is shown here this evening which made some adjustments to the parking lot area and its circulation. It clearly shows the closure of the access to North Street and rearranges some of the parking on the site where there was a question at last month’s meeting. Additionally, the applicant provided a cover page summary and a copy of the easement agreement that exists between what is Lot 1 and Lot 2 meaning the subject parcel and the existing day care building parcel. They also provided copies of the Final Subdivision Plat for Dover Station that dates from 2006. The Planning Commissioners this evening received a copy of what was the original Site Development Plan for the day care facility and the approved Record Plan related to this Dover Station project that’s dated from 2008.

Mr. Liberman questioned if everyone was happy with the discussion on the waivers for the loading space and the opaque barrier from last time. Responding to Mr. Liberman, Mrs. Melson-Williams stated that she is not sure that there was much question about those items from last month’s meeting.

Mr. Liberman stated that the primary driver for coming back to the Commission was the access to the site. They had a meeting with DelDOT the following Tuesday after the Planning Commission meeting. With the access onto West North Street, DelDOT is now requiring that to be eliminated. They offered to try to make changes to that entrance as either a rights-in/rights-out or just an entrance only. They did not get any type of positive feedback from them (DelDOT) as to maintain any type of access off of West North Street in the current location of that entrance; they consider it too close to what was happening at Clarence Street. With the original plan approval, that required us to close the entrance on North Street and now the signal at Clarence Street has been installed so access for the site would have to come through the property that extends over to Clarence Street.

One of the main questions from Kidz Ink (just adjoining them) is that they will have to use our property to get over to Clarence Street in the future. If they look at the old plans that were approved, our original plans match what was originally approved. It has some improvements that needed to be made to that plan which they have done with what the Commission is seeing. There is an existing 25-foot-wide cross access easement that was recorded with the Minor Subdivision

Plan when these two parcels were subdivided. It runs along the Kidz Ink parcel between the Dover Station property and also on the Kidz Ink property. What that easement basically does is it's for the benefit of Lot 1; that provides them with access to that area. One of the things that was a concern is that they would have cars backing onto that drive aisle and creating an unsafe situation with their deliveries and drop-offs and pick-ups for day care kids being at the front of the site. What they have done is flipped the parking. They have eliminated it off of that drive aisle and moved our parking to the west side of the building. That eliminates a lot of the points of conflict that they had with fifteen parking spaces along that drive aisle that would really only be able to use the Kidz Ink drive aisle and easement for that access. Now, they are kind of self-contained on our site as far as all of our drive aisles go and with all of our parking. There was an easement agreement between the two properties when Kidz Ink was originally developed and it stated that the Dover Station lot would grant access to the Kidz Ink lot. They kind of showed it and on their plan, they labeled it as easement area consistent with the existing cross access easement. The reason they showed it as "consistent with" is that the parties at that point had agreed that a cross access easement would be developed at that point but they didn't define an area for it. What they have done is shown the most direct route where people dropping kids off at day care are shown with this hatched area and directly on the Kidz Ink parcel, then they can use a drive aisle to come out and around. There is not a lot of zig zag like there was with the original plan.

One thing associated with that is they are adding stop bars, cross walks and stop signs throughout that route to control traffic through there so that people will actually stop, look and see where they are going. It will give them the potential to see somebody backing out of a parking space and react appropriately if they need to slow down.

One of the things with their DelDOT issue is their access onto Clarence Street. They had Mr. Jason Lyon from the City of Dover at the meeting also. One of the things that they discussed is that there would be no parking signs added to the east side of Clarence Street. That would open that drive up along Clarence Street so that traffic would not be as squeezed through there as if parking were allowed on both sides. That should address some of the concerns that they were hearing from the community on that issue.

Mr. Gary Dodge stated that he practices with a firm called Curley, Dodge, Funk & Street. When he first learned about what occurred last month he suggested that some additional study was made of this site. A FOIA Request was made and material was provided to his clients by the Planning Office. In addition to learning that there is a recorded subdivision at the Recorder of Deeds in Book 94 Page 82 which establishes that there was supposed to be a 25-foot easement that runs along the common property line between Lots 1 and 2. There were additional plans that were presented to the City that are in the City's file that dealt with the Site Development Plan of Lot 2 which is the location of the Dover Kidz Ink. At least two of those plans confirm that there was to be a 25-foot easement along that common barrier that would permit access to the original fifteen (parking) spaces that had been proposed on the original plan. There is ample evidence if you go back in the records for these properties to ascertain that that was the plan from the very beginning. If you look at the easement agreement which he believes was provides to the Commission in their materials, you will find on Page 2, Paragraph 2 of this document that the Clarence Street easement was discussed but then in the last paragraph on that page there was a

further discussion about an additional cross easement. If you read it carefully, you will find that the cross easement was to be on Lot 2 serving Lot 1 which is completed consistent with what these plans suggested. On that basis, they began to give some thought as to what was likely to happen with this challenge that there was not supposed to be an easement there. The end result was that the decision was made to take that off the table; to remove that from any area of debate and Mr. Liberman made the changes that they are speaking of. They don't believe it was necessary; they believe that they incurred unnecessary costs to accomplish this but it has been done. He doesn't think it's necessary to speak to the DelDOT issue because he thinks that it's fairly clear that the closure is inevitable as to the curb cut on North Street. He understands that there was a lot of testimony at the last hearing focusing on the use of our area and the children at the Kidz Ink site. If that was being used as a basis to argue that perhaps this plan should be rejected, the professionals in this room all know that this is a permitted use. As long as it meets Code and the conditions that this body may choose to impose that are reasonable, they pass. He is going to suggest to you that what was really happening last month and what's really happening this month is not quite what the Commission was led to believe. If you read this document and if you look at Paragraph 6 of this document, you will find that the expense to open the Clarence Street access and to pay for that location to the Kidz Ink site belongs to Kidz Ink. It is not Mr. Anderson's responsibility. That cost is going to be significant. A better way to challenge that is to try to prevent this from ever happening and therefore keep the North Street access open. He suggests to the Commission that this is what's really going on here. This plan is, from what he understands, Code compliant. They have attempted to address all of the reasonable concerns that have been raised. He understands that there are some community concerns and community concerns are always something to be considered. But at the end of the day, as long as that plan is compliant and the conditions are reasonable they are entitled to an approval.

Mr. Tolbert questioned if there were any questions or specific concerns regarding the overview of this application? Responding to Mr. Tolbert, Mr. Dodge stated that he is not proficient in what Mrs. Melson-Williams was sharing to answer that. He would defer that to Mr. Liberman or Mr. Anderson. His role is fairly specific here.

Mr. Liberman stated that the DAC Report was fine with them.

Mr. Anderson stated that he just wanted to point out that what Mr. Dodge just shared with the Commission was really what transpired last month. He is certainly sensitive to the community's concerns and they are looking to address them to the best of their abilities. The main thing is that there were issues that were raised that were not actually issues and it's very clear in the records. They went through the FOIA process through the City to get the documents to prove that the two plans approved by the City for Lot 2: Kidz Ink and for Lot 1: Dover Station were approved and that the actual easement is part of the document that was presented to the Commission. That easement document was signed by the owners and by the attorney that was present at the last meeting. He in fact notarized those documents. What's really happening here is that you have a very high cost to installing that road and that's not my cost. The only way to avoid that is to kill this project and that's what they were dealing with at last month's meeting. His final point is that he thinks the 20,000 SF and 6,000 SF buildings are going to be an enhancement in development for this area. It's going to create jobs and improve the area. This is a contaminated Brownfield site that is currently under mitigation at this point and they are getting very close to having that

completely resolved to begin construction. They simply ask for the Commission's approval for their plan. The application is presented with everything laid out on the table; there is nothing to hide. What they intend to do with both the emergency shelter and with the office building is up front and quite frankly they do have their concerns along with the community. They have met with DelDOT along with Mr. Jason Lyon. He thinks that they have answered all of the questions that were posed to them at the last meeting.

Mr. Holden stated that at the last hearing there was certainly no proof or something offered from either the applicant or the others that testified over the existence of the cross-access easement. He greatly appreciates that the information has been provided. It's certainly their job to make sure that public safety is met and that traffic is appropriate over the area and for the residents in particular. There was also ambiguity over the timing and what DelDOT was going to require related to the closure of the existing entrance onto North Street which has by a number of the people who testified for concerns of safety in the area. The Commission deferred this action so that they could get some more information. He appreciates their time and they have seemed to address that. He appreciates the timing of getting DelDOT and the City together. He did feel that it was appropriate for the Commission to push the decision based upon not having that information.

Is there concurrence that the easement has to exist to provide for access that this Site Plan is requesting? Is there concern or push back from Lot 2 or Kidz Ink that these documents as presented don't provide the cross-access easement? Responding to Mr. Holden, Mr. Anderson stated that as you can see by the plan that the concern with the cross access has been resolved because Mr. Liberman has re-engineered the site. All of the parking that required cross access is now eliminated. All of the parking is now on the left side of the building so we no longer need the cross-access easement although they can prove without a doubt that it actually exists. It's no longer a requirement and thereby not really an issue for them at this point. It was a considerable cost and they will deal with that later but the fact of the matter is that they wanted to eliminate that as a stumbling block.

Mr. Holden questioned if there has been correspondence with Kidz Ink of the cross-access easement as it exists? Responding to Mr. Holden, Mr. Anderson stated no but he is not sure what their position is. He did meet with the owner and advised him that they have re-engineered the site and that they were no longer going to need access to the fifteen spaces on the east side of the building and he seemed to be pleased with that.

Mr. Holden stated regarding the loading spaces and with the fact that you've got quite amount of square footage of office that traffic flow to Kidz Ink or Lot 2 is going to have to pass through these parking areas. How is loading going to be accomplished and not impede the flow of traffic in and out? Responding to Mr. Holden, Mr. Liberman stated that he thinks that they could use that empty drive aisle along the front of 655 West North Street for loading. They have room down there now. If you look at the site, there are basically two dead end parking bays for people that are using the building. Deliveries could come down and park along the front of 655 West North Street. There would still be a lane open if someone did chose to come around and then circle back up through the Kidz Ink side. In that situation, the truck would come down and then go out through that cross-access easement across from Kidz Ink.

Mr. Holden questioned if there was a notable hardship that you can't install the loading space? Responding to Mr. Holden, Mr. Liberman stated that there is potential that they could add it along the front if the Commission desires that they have a loading space along the front. Their only concern is that it would potentially not line up the drive aisles. They could eliminate the sidewalk along the front of the building which he doesn't think is necessary or desirable. If he has to provide additional space for a loading area, the drive aisles will not line up. He prefers to maintain the aisles lining up.

Mrs. Melson-Williams stated that this is a Site Plan application and there are three waivers that are requested: the reduction in loading spaces, the partial elimination of the opaque barrier fence component and the opaque barrier alternative format for specific areas. The Commission does have the DAC Report which includes the other recommendations from the Planning Staff and the other reporting agencies as well.

Mr. Holden moved to approve S-17-15 Dover Station at 655 West North Street inclusive of the partial elimination of the opaque barrier and the alternative format of opaque barrier; and to deny the reduction in loading space; and to include that the City Engineer confirm before Building Permits that the roadways are adequate in width and capacity for traffic as following a lot of the neighbor concerns; and that the City Solicitor ensure that the use is compliant with zoning, seconded by Mr. Holt and the motion was carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; due to Staff comments and due to changes of the plan that seem to bring it in line with the concerns that have been raised. Mr. Roach voting yes; he appreciates their efforts to try to alleviate the issues. Ms. Edwards voting yes; based on Staff recommendations and for all of the reasons previously stated. Mr. Holt voting yes; based on Staff comments and also the new changes to the plan. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; the Site Plan is in compliance with the zoning requirements and the concerns that were raised previously have been adequately addressed. Mr. Tolbert voting yes; the applicant has worked with us and we have worked with the applicant and they have shown a desire to revise their plan to adjust it in according to the Commission's concerns expressed at the last meeting.

NEW DEVELOPMENT APPLICATIONS

- 1) SB-17-02 Minor Subdivision Plan for Panera Bread Restaurant at 545 North DuPont Highway – Public Hearing and Review of a Minor Subdivision Plan application to permit the subdivision of an 0.86 acres (37,341 S.F.) lot from the 8.417-acre parcel. The new lot coincides with the pad site area of Capitol Commons that is under development as the Panera Bread Restaurant. The property is located on the east side of North DuPont Highway north of Townsend Boulevard. The property is zoned C-4 (Highway Commercial Zone) and subject to the SWPOZ (Source Water Protection Overlay Zone – Tier 3: Excellent Recharge Area). The owner of record is Dover, DE Retail LLC c/o TLM Realty Corp. Property Addresses: 515 North DuPont Highway and 545 North DuPont Highway. Tax Parcel: ED-05-068.09-01-34.00-000. Council District 3. *This application is associated with Site Plan S-16-02 Capital Commons that was granted conditional approval by the Planning Commission in February 2016 and Final Plan approval in May 2016 and with S-*

16-23 Panera Bread Restaurant that was granted conditional approval by the Planning Commission in November 2016 and Final Plan approval in April 2017.

Representatives: Mr. Dave Kuklish, Bohler Engineering

Mrs. Melson-Williams stated that this is a Minor Subdivision Plan. The Commission is familiar with the Panera Bread Restaurant site; it is under active construction. The Site Plan for development of that restaurant site was heard in late 2016 and achieved Final Site Plan approval. This application this evening is to create a stand-alone parcel for that restaurant site. It is currently part of the larger tract of land that is addressed as 515 North DuPont Highway which is where the old K-Mart building now known at the Burlington and Big Lots building is the primary tenant on the larger parcel. They are looking to divide out what would be the north pad site onto an individual tract of land just over 37,000 SF in area. In doing so, they have to confirm that the new lot being created as well as the residual continues to meet the various bulk standards of the C-4 (Highway Commercial Zone). Their proposal does achieve that, meeting the various requirements for lot width and depth. The placement of the building that is under construction continues to meet the front, side and rear setback provisions and other bulk standards of the C-4 (Highway Commercial Zone). Our Report also gives a brief summary of the parking requirements for the Panera site. A large number of them will be included on this parcel; however, with this project there are a number of easements between the proposed Panera lot and the residual lot that address things such as parking, utilities that may cross one parcel to get to the other as well as the access concern specifically. The Panera site does not implement any new access points. Those will continue to be the ones from Townsend Boulevard and the existing one from North DuPont Highway that just skirts the northern edge of the proposed Panera lot.

The Planning Office identified a number of minor plan changes and they find that the proposed Minor Subdivision does meet the standards and objectives of the *Land Subdivision Regulations*. Other commenting agencies include the City's Electric Department and Public Works. The Fire Marshal's Office for the City has no objections to the Minor Subdivision. With DelDOT, they will have to update their Record Plan with that agency and there are no objections from the Kent Conservation District.

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

Mrs. Welsh moved to approve SB-17-02 Minor Subdivision Plan for Panera Bread Restaurant at 545 North DuPont Highway, seconded by Ms. Edwards and the motion carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; due to Staff comment and compliance with Code. Mr. Roach voting yes. Ms. Edwards voting yes. Mr. Holt voting yes; due to Staff comments and it meets the Code. Mrs. Welsh voting yes; the plan complies with the Subdivision Plan requirements. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; it is his understanding that Panera Bread is a popular restaurant.

- 2) C-17-02 Shell's Early Learning Center at 868 South State Street – Public Hearing and Review of a Conditional Use Site Plan to construct a 1,038 SF addition to an existing 2,598

SF Day Care Center. Other proposed improvements include demolition of an existing garage and construction of additional parking. The applicant proposes a Day Care Center that can accommodate 83 children. The property is zoned R-8 (One-Family Residence Zone) and is located on the west side of South State Street north of Wyoming Avenue. The owner of record is 868 State Street LLC. Property Address: 868 South State Street. Tax Parcel: ED-05-077.17-03-49.00-000. Council District 2. *Waiver Request: Elimination of Upright Curbing. This project requested variances from the Board of Adjustment to permit the maximum number of children in a Day Care Center in a residential zone to increase from 50 to 83, and to permit the maximum building coverage for a conditional use in a One-family Residential Zone to increase from 20% to 23.7%. The requested variances were approved on May 17, 2017.*

Representatives: Mr. Wilfred Martin, Owner; Mr. Paul Herbert Jr., Herbert Construction LLC

Mrs. Harvey stated that this is a Conditional Use Site Plan to construct a 1,038 SF addition to an existing 2,598 SF day care center. Other proposed improvements include demolition of an existing garage and construction of additional parking. The applicant is proposing a day care that can accommodate eighty-three children. The property is zoned R-8 (One-Family Residence Zone). The owner of record is 868 South State Street LLC.

The day care center project was granted two variances from the Board of Adjustment on May 17, 2017. These variances permit the maximum number of children in a day care center located in a residential zone to increase from fifty to eighty-three children; and the maximum building coverage for a Conditional Use in the R-8 (One-Family Residence Zone) to increase from 20% to 23.7%. The requesting variances were approved on May 17, 2017. The property was the subject of a Conditional Use application for a day care center with seventy children that was approved by the Planning Commission on September 17, 1990, The Play House Nursery. However, the Child Care Licensing approved the license capacity of fifty children for this establishment. Day care centers require one parking space for every ten children and one parking space per adult attendant. Based on the number of proposed children being eighty-three and the number of adult attendants being ten, a total of nineteen parking spaces are required. The Site Plan dated March 3, 2017 indicates that there are twenty-six parking spaces. There is one existing handicapped parking space and four existing parking spaces in front of the property off of South State Street. The plan shows a proposal for twenty-one parking spaces off of the rear of the property. A revised Parking Plan was submitted for the May 17, 2017 Board of Adjustment meeting indicating fifteen individual parking spaces off of the alley at the rear of the property and the five existing parking spaces located at the front of the property including one handicapped space. The applicant must clarify which parking design they intend to propose.

The *Zoning Ordinance*, Article 6, Section 3.6(b) requires upright curbing for all parking areas and access drives. The front parking area does not include curbing and the rear parking area does not propose curbing either. A written waiver request for the elimination of curbing in these new patron and parking areas was submitted to the Planning Office for consideration by Planning Commission. In accordance with Section 2.26 related to the drainage systems, Staff recommends

approval of the request to eliminate the curbing for the parking lot noting the existing conditions for a large portion of the lot. The overall number of children limited by the Variance granted was approved to allow up to eighty-three children; however, the building will have a maximum number of occupancy including staff and children that is governed by Building and Fire Code requirements and State Licensing provisions. Per the Code requirements for the National Fire Protection Agency, thirty-five square feet of usable space per child with the proposed additional building space would allow a total occupant load of eighty-seven including the children as noted in the Fire Marshal's comments. Other agency and department requirements related to parking for this project must be approved and updated in the Final Site Plan.

Mr. Martin stated that as far as he knows they have resolved everything with everybody except the parking. They are accepting the DelDOT provisions that they have agreed to with the twenty something parking spots. He would like to add one thing. The primary reason that he went into this thing is because of the need in that area. The lady in charge of this license brought some of her staff with her. She had a plan. They had four years and seven month average of turnover from four different clients. Now this is going to give her the opportunity to exercise some of her views of taking the people that are in this position, raising their pay to the point that it will in fact allow them to move up from a situation normally that would have them stalemate for life and he applauds her for that.

Mr. Herbert stated that he had a meeting with DelDOT and they came to the conclusion that the entryway off of South State Street is not safe. They are in the process of having Scott Engineering design a new layout. They are actually going to close off the entryway on South State Street and all of the parking is going to be at the rear of the building.

Mr. Tolbert questioned if they would have eighty-three children or will they have ninety-five? Responding to Mr. Tolbert, Mr. Martin stated that they have the building structured for ninety-five based on Child Care Licensing but the structure itself meant eighty-seven for the Fire Marshal. They are actually only going to have up to seventy-seven children in order to have parking for the children and staff.

Ms. Maucher questioned if all access would be off that alley in the back? Responding to Ms. Maucher, Mr. Martin stated yes.

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

Mrs. Melson-Williams stated that just to remind the Commissioners, this is a Conditional Use Site Plan. There is one waiver request and that is for the elimination of upright curbing as related to the parking areas. They have heard this evening that those parking areas would be located in the rear of the property closing off an existing parking lot that currently takes access from South State Street.

Mrs. Welsh moved to approve C-17-02 Shell's Early Learning Center at 868 South State Street as a Conditional Use facility with the approval of the waiver requested for the elimination of upright curbing and inclusive of all DAC comments, seconded by Mr. Holt.

Mr. Holden questioned if Mrs. Welsh would be willing to take an amendment that we place a one year review. He has some concerns over the additional parking and the parking alignment and that much traffic through the alley. If Staff is accepting of it then he is okay to move forward with the Conditional Use but he would like to have a one year review to confirm the City's concurrence with that alignment and that the Conditional Use is satisfactory.

The motion was amended to include a one year review of the Conditional Use and carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; due to the addition of the amendment and Staff support. Mr. Roach voting yes; he thinks that moving the parking to the back will definitely be an improvement because it's very difficult to access that property from State Street. Also he approves it with one year review but he knows that it would have to be anything but an improvement. Ms. Edwards voting yes; she agrees with Mr. Roach's statements. She visited the site yesterday and that parking off of State Street is much more unsafe than coming to the back of the building. Mr. Holt voting yes; he agrees with the motion and parking being in the rear. Mrs. Welsh voting yes; for all of the reasons stated in the motion. Ms. Maucher voting yes; particularly with the one year review. She is not sure that the alley going behind the property has the intent of traffic. Mr. Tolbert voting yes; he is in full agreement with Staff and the clarity of the motion that was made regarding the application.

- 3) S-17-18 Frito Lay Building at Tudor Business Park – Public Hearing and Review of a Site Development Plan application 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. Review of the Performance Standards Review Application associated with the Site Plan to determine if the proposed use will 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. *Waiver Request: Partial Elimination of Upright Curbing and Consideration of Performance Standards Review Application.*

Representatives: Mr. Gregory Scott, Scott Engineering; Mr. Bobby Tudor, Tudor Enterprises LLC;

Mrs. Harvey stated that this Site Plan application is to permit the construction of a 4,278 SF one story warehouse and office building to be an additional building within the Tudor Business Park. The property is zoned C-3 (Service Commercial Zone) located on the south side of Little Creek Road and served by Otis Drive. The project improves the existing parking lot and expands the parking lot on the south and west sides of the building. The parking requirement in the C-3 (Service Commercial Zone) is one parking space per 300 SF of floor area and one

parking space per employee. Based on the area of 4,278 SF for the total building, a minimum of fifteen parking spaces are required. The applicant is proposing to provide twenty parking spaces including one handicapped parking space. Eight parking spaces are in the front of the building with the remaining five car spaces and the seven truck parking spaces within a fenced area on the south side of the building. The pavement next to the existing paved areas is unstriped on the north and west sides of the proposed building. There is an existing sidewalk along the street frontage of South Little Creek Road in accordance with *Zoning Ordinance*, Article 5 Section 18. In addition, sidewalks connecting from the street frontage sidewalk are required but not currently shown on the plan. At the proposed new building, some sidewalk improvements appear to be providing ADA accessible around to the front entrance of the building from the front parking area. The *Zoning Ordinance* Article 6 Section 3.6(b) requires upright curbing for all parking area and access drives. Most of the existing paved and parking areas in the business park site are not curbed. A written waiver request for the elimination of curbing in the new paving and parking areas was submitted to the Planning Office for consideration by the Planning Commission. In accordance with subsection 2.26 related to drainage systems, Staff recommends approval for the request to eliminate the curbing for the parking lot noting that the existing conditions for a large portion of the lot.

Mrs. Melson-Williams stated that this project because of its location in the C-3 (Service Commercial Zone) is subject to the City's Performance Standards Review Process that's outlined in the *Zoning Ordinance* which is where the application must relate how it will not be producing a number of dangerous or objectionable elements. There is a separate Staff Report specific to this Performance Standards Review Process that was submitted to the Planning Commission to know whether the project complies with these series of standards that range from fire hazards, noise, smoke, odors, glare and things of that nature. The applicant did present kind of a narrative of how the building functions. It is a warehouse facility; it is not a production facility. It does have some associated office spaces so Staff is recommending that the Commission as part of their motion, confirm that the building's proposed use as a warehouse facility with those associated offices will conform to all of the applicable Performance Standards and that is referenced here. A number of those Performance Standards are further governed by either City or State regulations like related to fire protection. If it was a type of manufacturing facility, there are State regulations that would come into play. They are providing lighting on the site and utility services are subject to City review anyway. Staff is recommending that the Commission affirm that they have met and will continue to meet the Performance Standards necessary for this project. By reference, we include their submission in regards to those items and regulations. The Planning Commission was also provided the text of the *Zoning Ordinance* itself related to that Performance Standards Review Process. As part of the motion, the Commission will need to consider that as well.

Mr. Scott stated that they are fully aware of the DAC comments and have no problem meeting those comments. They do realize that DelDOT has determined that the existing entrances are substandard and they have to work with them on what improvement to make to bring them up to par. They are really not adding any traffic in as a result of this. This is a relocation of an existing Frito Lay that's currently within the business park and they are moving it to a different location and changing what their operations are based on the current business model.

Mr. Tolbert questioned if they were in complete agreement with Staff regarding the application as they just stated their overview? Responding to Mr. Tolbert, Mr. Scott stated yes.

Mr. Tolbert further questioned if they would continue to work with Staff? Responding to Mr. Tolbert, Mr. Scott stated yes.

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

Mr. Holden stated that Staff noted in the Report that it doesn't appear to be a sharing sidewalk connection with the street. Is the intent not to include that? If so, why not? Responding to Mr. Holden, Mr. Scott stated that it's proposed. They will extend the sidewalk in from the street (South Little Creek Road) and bring it back into the site to the location that they talked about at the DAC meeting.

Mr. Roach questioned if the applicant stated that they had moved from within the Industrial Park to a new location? Responding to Mr. Roach, Mr. Scott stated that the current Frito Lay building is in more of the southern end of the park right now and they are going to be moving to this new location.

Mrs. Melson-Williams stated that as a reminder to the Commissioners, this is a Site Development Plan. There is the one waiver requested for the elimination of upright curbing and also for the Commission's consideration is the Performance Standards Review Application.

Mr. Holden moved to approve S-17-18 Frito Lay Building at Tudor Business Park inclusive of the elimination of upright curbing and implying that the application and narrative provided meets the requirements of the Performance Standards Review Application process, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; due to Staff comments and the applicant's concurrence with DAC and Staff comments. Mr. Roach voting yes; he hopes that it makes it more convenient for the applicant to distribute Fritos because he loves them. Ms. Edwards voting yes; based on the reasons previously stated. Mr. Holt voting yes; he is just disappointed that there weren't any samples. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; for all of the reasons previously stated. Mr. Tolbert voting yes; the applicants have demonstrated a willingness to work with the Staff and he sees no reason for this application to not move forward.

- 4) S-17-19 Bay Road Office Park Master Plan – Public Hearing and Review of a Site Development Master Plan to permit phased construction of Bay Road Office Park to consist of four buildings in four phases. The buildings proposed include 25,120 S.F. office building, a 17,500 S.F. office building, a 16,250 S.F. office building, and a 15,000 S.F. flex/warehouse building. The subject properties consist of a 5.00 acre +/- parcel and a 1.46 acre +/- parcel. The properties are zoned C-4 (Highway Commercial Zone). The property is located on the southwest side of Bay Road and south of Miller Drive with access from Cowgill Street and Martin Street. The owner of record is Bay Road One, LLC. Property Address: 550 Bay Road. Tax Parcels: ED-05-077.00-01-10.01-000 and ED-05-077.00-01-

11.00-000. Council District 2. *Waivers Requested: Elimination of Loading Spaces, Partial Elimination of Upright Curbing, and Reduction of Arterial Street Buffer. This project has also filed a variance request (V-17-12) with the Board of Adjustment as Phase 1 of the project will exceed the maximum allowable parking; however, the remaining phases and full build-out of the project does not. A second variance request is associated with the Elimination of the Opaque Barrier (Landscape Component).*

Representatives: Mr. Alex Schmidt, Century Engineering; Mr. Scott Rathfon, Century Engineering

Mrs. Melson-Williams stated that this Site Plan is for the Bay Road Office Park. This is a Site Development Master Plan meaning the Planning Commission is looking at an overall concept for development of the site. They have outlined a series of four phases to the project. Upon approval for the concept of the overall Master Plan then each phase will move through an Administrative Site Plan process to finalize the Site Plan specific to each phase. There are proposals for a total of three office buildings for the site and then the far western building would be a flex warehouse building and that would be the building that is closest to her on the screen. Overall, the project does include parking and landscaping as part of each of the phases. The project is the subject of a variance request related to the parking in Phase 1. As currently shown, the parking exceeds the maximum parking allowed in that phase. They are seeking review of that request by the Board of Adjustment later this week. Staff felt that they could keep the project moving forward here with the Planning Commission. There is also another variance request related to the elimination of the landscape requirement portion of the opaque barrier that the Board of Adjustment will also consider. As mentioned, this is a concept for development of a series of office buildings. The central office building in the middle is the one that is most known about. The proposal for the offices of Century Engineering are a permitted use in the C-4 (Highway Commercial Zone). The DAC Report does provide a phase by phase summary of parking and as noted the first phase does exceed the maximum parking requirement; however, that balances itself out once they get into the subsequent phases.

They do have a waiver request for the requirement for loading spaces; that would be a requirement to provide a loading space at each of the office buildings. They are seeking relief from that. The warehouse building itself is setup in a fashion that the whole west elevation of it turns into what is really a large loading area. This project will have to meet bicycle parking requirements. For sidewalks, they are showing a proposal for a shared use path of ten feet in width along the Bay Road frontage of the property with sidewalks leading into the site. They do have a second waiver request in order to partially eliminate upright curbing. There are select areas of the parking lots where it may be beneficial to eliminate curbing as related to stormwater management concepts that they are thinking about for that project site. The site is providing the required number of dumpsters for it.

The architecture for the Office Building 1 which is the one that is centered to the site is basically a brick building and is two story in nature. This is the architecture for that building only. There are several waiver requests related to the landscaping component. They are meeting the overall tree planting requirements for the site; however, they are seeking a reduction in the arterial street buffer. The arterial street buffer by Code is to be thirty feet in width and they are seeking to

reduce that to a total width of twelve feet that is along the Bay Road frontage. The other landscaping component is the opaque barrier and this is a buffer that is required when a property of non-residential uses is adjacent to residential uses. This occurs along the northern property lines, basically in the vicinity of the middle office building and the warehouse building. That opaque barrier has two components: a fence component and a landscape component. They are as noted previously seeking a variance in regards to the landscape component from what they feel is limited space to actually implement it. They are intending to provide the fence in those areas as required by the opaque barrier. The Planning Staff has provided a series of comments and beginning on Page 7 and they are additional items for consideration in order to meet the Code objectives. Staff is supportive of the elimination of the loading space requirement for the office buildings. They find that they typically do not necessitate the type of loading that would involve tractor trailers and the like. Staff is also supportive of the elimination of upright curbing as specifically related to any kind of drainage systems that they may be implementing as part of the project. In regards to the waiver request for the reduction of the arterial street buffer from thirty feet to something less than that, Staff is recommending a width of twenty feet to be implemented, whereas, the applicant has requested a width of twelve feet. Staff does note that there is some green space that exists within the right-of-way because of the right-of-way of Bay Road; however, Staff feels that there are a number of adjustments on the site that can be made to increase the green space that is physically there along Bay Road in order to implement some landscaping in those areas between what would be the shared use path and the start of the parking for the two easternmost buildings: Building 2 and Building 3. As part of the consideration, Staff is also recommending implementation of cross access opportunities whether that be for vehicles or pedestrians and that specifically would be a connection to the adjacent property to the south which is currently vacant but is also here tonight with its own application for development. Staff is also recommending a cross access connection between the flex warehouse parcel and the office building parcels. They do seek additional considerations for pedestrian connections with this site. This site is accessible from both Cowgill Street and Martin Street so they think that they need to look more carefully at sidewalk connections from those areas as well. They have noted about architecture and the location of any HVAC equipment.

The other agencies have provided their comments including the City's Electric and Public Works Offices and the Office of the Fire Marshal. The applicant has been working with DelDOT and they had no particular comments at this time but it will require obviously an Entrance Plan in order for them to develop this access point to Bay Road since that is a State maintained road. The MPO is also encouraging the cross-access both for vehicle and sidewalk opportunities with the site.

The Planning Commission is considering a Site Development Master Plan. There are three waivers which are the elimination of loading spaces, the partial elimination of upright curbing and then the reduction of arterial street buffer and with that the Commission will have to be very specific as to the width that would be allowed.

Mr. Tolbert questioned what the warehouse would be used for? Responding to Mr. Tolbert, Mr. Schmidt stated that they haven't decided yet because there hasn't been a tenant established for that yet. The initial thought was that it might be a plumbing supply warehouse or an electrical supply warehouse.

Mr. Tolbert further questioned if the warehouse would have any relation to the other office buildings? Responding to Mr. Tolbert, Mr. Schmidt stated no.

Mr. Holden stated that Staff had some recommendations on the actions that the Commission has to take. There were some advisory recommended actions and comments relative to the cross-access for pedestrians. Responding to Mr. Holden, Mr. Schmidt stated that they are evaluating them. They understand the concerns that the City has and that the MPO has and they are going to try to act on those in the way that is most feasible for them. There is some concern on their part as to whether these cross accesses will be used as access solely to the southern site if they were implemented. For the safety of the people who work here, they don't want this to become just a pass through to access the south site and avoid the light that's down at the entrance into that shopping center. As Mrs. Melson-Williams mentioned, they have a shared use path on the front of the site and they encourage pedestrians to use that method if they want to walk south of their site rather than walking through their site. Other than those, they are very amenable to the recommendations from the Planning Staff. The requirements were to meet all of the requirements and recommendations; they are working to determine which ones are feasible.

Ms. Maucher asked for more information on the twenty-foot buffer as opposed to the twelve-foot arterial street buffer. Responding to Ms. Maucher, Mr. Schmidt stated that the initial thought behind asking for the waiver is that they have thirty feet from the edge of the roadway now to the front of the parking lot. Part of that is just because the right-of-way is very wide right there and it's actually wider than what is required. They went back after they received the report from the Planning Commission and reviewed what they could do. Their goal for the center of the site where they have that green space is to put the stormwater there. They feel comfortable that if a twenty-foot buffer is approved that they could still make everything else work on the site. They are willing to amend their request from a twelve-foot to a twenty-foot buffer.

Mr. Schmidt stated that there are a few things that he would like to say and he will keep it brief. There are three buildings here and only one building has a tenant identified so far. That's the approximately 25,000 SF office building that's in the center of the site. The tenant will be Century Engineering. That means that they don't walk away from this design once it's approved; they are there for thirty years or more. You'll notice on the building in the middle of the site that they have left some space open to the south. The intent of that is over the years they will be able to expand there. It has been thirty years this year since they started in Dover. They moved to an office now north of Scarborough Road so they are outside of Dover but they are really looking forward to moving back into the City and being here for hopefully a very long time.

He wanted to address some of the waivers. They talked a little bit about the buffer request. They are asking for a waiver on the curb and really there is only one or two locations on site and it's just to help the stormwater management. They will provide bumpers and wheel stops as required by Planning and Zoning. For the loading docks where they are now, they do not have loading docks or loading spaces. They have never had an issue with loading. Most of their deliveries are FedEx trucks and small office supply trucks. They feel with the office spaces there is not really any need for a loading area. The warehouse in the back will provide loading as required. They agree with the requirements of the Staff Report and they will work with Staff.

Mr. Tolbert opened a public hearing.

Ms. April Hall – 404 Cowgill Street Dover DE 19901

Ms. Hall stated that she is a resident in the area. The property is located on the southwest side of Bay Road and south of Miller Drive with access onto Cowgill Street and Martin Street. They have been residents there for twenty-one years and are raising eight children and now visitation of a grandson. The neighborhood is quiet and includes professionals and blue collared workers. What makes their neighborhood unique is that the drop-off and pick-up at the day care that's within the neighborhood. The children play in the yards and the street. Also, they reside in a dead-end and not too many people know about it aside from the day care. While they appreciate job opportunities and possible increases of home values, in talking with other residents on the street, they are against opening up their street to be used as an entrance way which will allow people to walk through their neighborhood. She also has concerns of a warehouse that does not have any intent to it.

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

Mr. Tolbert stated that the building has a flat roof and at one time the Commission was trying hard to do away with flat roofs. If anything can be done with that please work with Staff to do something to make that building more attractive.

Mr. Roach questioned if the only access to Building 4 will be from Cowgill Street? Responding to Mr. Roach, Mr. Schmidt stated yes. Some of the concerns that they have with that is that to provide a fire code compliant fire lane in the back of that building will be pretty difficult because they will have to weave through the parking areas of the other buildings to get back there. For fire access, the safest thing to do is have that access right onto Cowgill Street.

Mr. Holden moved to approve S-17-19 Bay Road Office Park Master Plan inclusive of the elimination of loading spaces for Phase 1 of the project. He would like the request to come back to Staff in the future phases depending on what uses go into those phases. He would like to also approve the waiver for the elimination of upright curbing and the reduction of the arterial street buffer to a twenty-foot width. He thinks that they cannot require cross access either pedestrian or road both due to the applicant's statement and the concern from the residents. It will most likely create cross throughs there that he doesn't think will be intended. And to also include the DAC comments, seconded by Mr. Holt.

Mrs. Melson-Williams questioned which properties would have no cross access? Responding to Mrs. Melson-Williams, Mr. Holden stated he was referring to all properties.

The motion was carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; for the reasons included in the motion. Mr. Roach voting yes; he appreciates that Century Engineering wants to stay in Dover. Ms. Edwards voting yes; based on the applicant's willingness to work with Staff recommendations and it will be nice to have that corridor improved. Mr. Holt voting yes; he thinks that it is going to be an asset to the area. Mrs. Welsh voting yes; she thinks that it will be a great improvement to that piece of land that's been vacant for quite some time. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting

yes; the application is quite nice. He would like to see something done to the rooftops of the buildings but it's not enough to stop the application. He knows that they will work cooperatively with Staff to deal with that issue.

- 5) S-17-20 Bay Road Commercial at 560 and 600 Bay Road – Public Hearing and Review of a Site Development Plan 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 owner of record is S H E Holdings, LLC c/o Mike Longwill and the equitable owner is Bayroadcap, LLC c/o Bill Krapf. 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. *Waiver Request: Reduction of Arterial Street Buffer. This application is associated with S-14-08 Woodland Tree Clearing Plan of 560 Bay Road granted conditional approval by the Planning Commission in April 2014 and Final Plan approval in April 2017. A previous application S-10-03 South Dover Plaza for development of the property has expired.*

Representatives: Mr. Mike Riemann, Becker Morgan Group; Mr. Bill Krapf, Bayroadcap LLC

Mrs. Melson-Williams stated that this is a Site Development Plan. It is the two properties that are 560 Bay Road and 600 Bay Road. This property in total is 12.93 acres of land. It may look familiar to some Planning Commission members because they have seen some previous applications for development proposals on this site. Currently, there is an approved Woodland Tree Clearing Plan to clear about 7.5 acres of trees on the site. That was approved in 2014 and got Final Plan Approval this Spring which authorizes them to cut down the trees but not disturb any stumps at this point. That Woodland Tree Clearing Plan is tied to a Woodland Tree Mitigation Plan that was approved and actually the mitigation has been implemented at the Fork Branch Nature Preserve in other parts of the City. Previously, there was a project called South Dover Plaza in 2010 for the development of the site. Tonight, they are looking at a proposal for commercial development on a C-4 (Highway Commercial Zone) piece of land. There are a series of buildings. The western most is a multi-tenant building that is anchored by a large grocery store. There is what they call the north multi-tenant building, again with a series of opportunities for multi-tenant spaces and then two restaurants in pad site locations. They do not know specific tenants at this point so a lot of the architecture is a schematic at this point in time and we will see more of that from the applicant as part of their presentation.

The parking for the site is a little bit tricky to actually calculate because of some of the unknowns with tenant opportunities. Staff has done their best because there are parking requirements for retail and then restaurants are calculated typically on a seat count scenario. With restaurant tenants being unknown, the number of seats is unknown as well. Overall, they are providing a total of six hundred sixteen (616) parking spaces as shown on the plan. That is within the maximum parking limits that are established by Code. For loading, there are a number of loading spaces that are required for the project site with these various tenant buildings. The grocery store site location has a whole series of loading spaces at its rear and it's very likely that the north

tenant building also would have kind of a designated loading space area. In addition, the application at this point does identify loading areas specifically on one side of each of the restaurant pads as well. There is a bicycle parking requirement and they started to show a series of bike racks near each of the buildings on the project site.

The entrance to this property is somewhat unique. They are proposing a right in/right out directly to Bay Road that happens just to the south of the first restaurant building that you would come to if you are coming from Dover to the site. However, the main entrance to the property will be through the signalized intersection of Bay Road and the entrance drive that currently leads into Bay Court Plaza and to also several other properties to the west. The applicant provided some information about the ability to utilize that entrance area. It is not located on their property and they hope to tap into it at three specific points to access their site. The project does require a minimum of sidewalks along the street frontage of the site. It is Staff's understanding that a shared use path again would be implemented for this area because of other linkages that exist in the area for multi-use or shared use paths as well.

The project does present a series of color renderings that give us a sense and taste of the retail buildings for the project site. There is some basic information that shows the multi-tenant opportunities and the top one including the face of what would be the grocery store. The other rendering shows the other building with tower like elements and some differences in the wall heights along the series. Another rendering shows the parking lot areas and shows landscaping proposals. Tree planting for the project will include a requirement for one hundred eighty-eight (188) trees on the site. They are showing plantings that will exceed that. A lot of the plantings are within parking lot islands or along the periphery of the development along the property lines, in some cases related to screening of the rears of buildings.

There is a waiver request related to this project for the reduction of the arterial street buffer along Bay Road. There is a requirement in the Code for a width of thirty feet and the applicant has submitted a request seeking a reduction of that in both of those points of area where their site actually fronts on Bay Road. With Planning's comments and recommendations for additional considerations, they are recommending approval of the reduction in the arterial street buffer to a minimum of twenty feet for the project site, again noting that there is some green space that ends up within the right-of-way because of the situation along Bay Road. There is an opportunity already on the site that would allow for that green space to exist between the street and the parking near the restaurant sites. They are providing a series of landscape elements in those areas. Staff also recommended cross access connections with a property to the north as an opportunity. They do note that the site access from the existing entrance drive to Bay Court Plaza needs to be carefully evaluated in terms of traffic circulation as this potentially is another high traffic generator taking access from that drive and there are certainly a number of points of access that exist along that already. If there is any opportunity to improve the traffic movement through that entire entranceway, they are certainly encouraging the applicant to pursue that. Internally, they do note that there may be some minor improvements to pedestrian facilities and they certainly recommend implementation of the multi-use/shared use path along Bay Road in lieu of just a regular sidewalk.

The project does have comments from the City's Electric Department and the Department of

Public Works. The Office of the Fire Marshal has a number of comments, some of which will be very specific to tenant spaces that are selected there. This project has had some interaction with DelDOT already in regards to its site access and implementation items there. The Kent Conservation District will be looking at any stormwater management plans for the project site. The MPO is supportive of making use of a multi-use path along the Bay Road frontage and again notes potential opportunities for cross access. This is a Site Development Plan with the one waiver request for the reduction of the arterial street buffer. She would note that this project did go through the PLUS review process and Staff has copies of the comments that were issued by the various State agencies and we have also received the applicant's response to those comments which indicates that there are a number of things that they will continue to be working with those State agencies on.

Mr. Tolbert questioned if the finished product will look like the renderings shown tonight? Responding to Mr. Tolbert, Mr. Riemann stated yes.

Mr. Roach stated that he saw Shop Rite on one the renderings. Is that locked in? Responding to Mr. Roach, Mr. Krapf stated that they do not have a signed lease. They have a signed letter of intent and Shop Rite's corporate has approved the project. They are intended to be a tenant.

Mr. Tolbert stated that they will have two restaurants. Do they know what restaurants will be there? Responding to Mr. Tolbert, Mr. Krapf stated that there will be at least two restaurants. There may be restaurants within the strip centers as well but the front two will be restaurant pad sites.

Mr. Holden questioned if the City Water/Wastewater Handbook require sewer to be extended to the property lines? Here is would be to the north and then to the existing parcel surrounded by this project. Responding to Mr. Holden, Mr. Lyon stated no it does not. They do have a stipulation to have water main loops when feasible but not sewer.

Mr. Holden further questioned if the project that the Commission just heard to the north, did the Master Plan provide sewer layouts for consideration? Responding to Mr. Holden, Mr. Lyon stated yes on Miller Drive and Cowgill Street. They loop their water mains as well.

Mr. Riemann stated that he wanted to hit on some of the highlights. As Mrs. Melson-Williams stated the property is zoned C-4 (Highway Commercial Zone) so it is appropriate for this use. There are about thirteen acres and there are some woods on the property. There was a Tree Mitigation Plan that was approved and actually the off-site trees have already been planted. They are located at the Fork Branch Nature Preserve in Dover. This has already been completed which gives them the ability to clear the trees on the site so that they can make use of it. The site was also subject to a prior application which expired on 2013 for a large shopping center as a Master Plan. He doesn't think that it ever went all the way through to approval. He thinks that it just came to the Planning Commission as a preliminary and never went to final but that was about 140,00 SF at the time. This site is about 120,000 SF so it's slightly less than the previous application. As you can see on the plan, there is the larger anchor tenant which is the larger box in the middle; that's the grocery store as intended for Shop Rite. They have two restaurant pads out front who are intended uses for those pads and then they have some in-line retail adjacent to

the grocery tenant which would be retail and they hope some restaurants. There are some opportunities for some outdoor seating that's shown on the rendering. They have great site circulation by use of an existing entranceway which is to a major light with lots of auxiliary lanes to the site which is a benefit. Their truck circulation for deliveries is intended to use that third access point in the rear to circle with the site. Screening all of loading, trash and the back of house stuff is behind all of the buildings so that these things are not seen from the street. They meet the Code with parking, both minimum and maximum. To Mrs. Melson-Williams' reference about parking, they are anticipating that some of the retail in-line space would consist of restaurant space and that has an effect on the parking calculations; they have documented that in their plan submission. They have no objection to the ten-foot multi-use path across the front. They had a pre-application meeting already with DelDOT and of course they are part of the DAC. They have requested the ten-foot multi-use path as well and they are fine with that so it will be added across the frontage. One other thing that DelDOT had requested that they do is add a bike lane between the existing right turn lane. If you are coming south on Bay Road and you make a right into the center at that light, there is not a bike lane now and they have asked that it be added. They have agreed to do that. Stormwater management would likely be in the location shown in blue in the rear. It would be screened and access would be somewhat limited obviously because it would be behind the buildings. They think that they can work some outdoor seating opportunities in there and create somewhat of a nice opportunity for a restaurant or what have you on that end unit. They also have some underground stormwater as well. They will go through that process with Kent Conservation District. Cross access was mentioned and it seems like that may be a moot point at this point given the prior application but if that was something that was desired by the neighboring properties they do not have an objection to that provided that they don't need to modify their layout.

On the waiver request, it is very similar to the prior application and really for the same reasons. There is an excessive amount of right-of-way, well beyond the Code. Normally, DelDOT would require thirty feet of right-of-way from the edge of the travel lane. (Referencing a map drawing.) The second orange line shown in the graphic shows where that buffer would be if DelDOT had its normal thirty-foot right-of-way but it's about thirty-six or thirty-seven feet along there. There is more right-of-way along here than you would normally see from DelDOT. The two green dimensions on the left show the green that exists between the new right turn lane and their parking and it's about forty-four feet. The multi-use path is in there as well. They have a significant amount of buffer there already and that is the reason for their waiver request which is very similar to the prior application because of the excessive right-of-way that exists across the frontage. There will be varying materials and varying roof lines; some gable roofs throughout will definitely break it up. It's a combination of brick and stone and Hardi-type composite materials. They definitely want to try to give it a little better aesthetics.

Graphic rendering views of the property were shown from different locations on the property.

With that, they have reviewed the Staff Report and they don't have any issues with it. They will work with Staff to continue to improve the plan.

Mr. Holden stated that they received a correspondence from B&B Delaware Investments which is the property encompassed along Bay Road requesting that sewer be extended from the

property line. What is the applicant's view on that request? Responding to Mr. Holden, Mr. Riemann stated that they don't think it's an issue. They are going to have to run sewer right by there so he thinks that would be a relatively easy thing to accomplish. One of DelDOT's requests was to actually try to provide a cross access easement opportunity for them as well which they agreed with DelDOT that they would do.

Ms. Edwards asked if they could review the traffic flow. Is there only one exit? Responding to Ms. Edwards, Mr. Riemann stated that there is an existing signalized intersection that is going into what used to be the Value City Shopping Center. There are two access points; there is this signalized intersection as well as a new right in/right out location here. Leading into their center there are going to be three points of access along the main drive. There are about four lanes so there is a multitude of auxiliary lanes along the main drive. They are going to be improving this intersection by adding a bike lane between the right turn lane and a through lane. One of the DelDOT requirements that came out of the Traffic Study was to lengthen the double left turn lanes that come into the center. If you are traveling north, there are two left lanes and they were requested to lengthen those. DelDOT would also require that they enter into a signal agreement for this particular intersection.

Ms. Edwards questioned if all of the entrances were right in/right out? Responding to Ms. Edwards, Mr. Riemann stated that one is right in/right out and some are full movement entrances. Their truck circulation is to come in and back into loading and then continue out.

Mr. Tolbert opened a public hearing.

Mr. Scott Rathfon – Century Engineering 4134 North DuPont Highway Dover, DE 19901

Mr. Rathfon stated that they are going to be at the property just north of here. The only concern that he has is that their office is going to be on the back side of the retail space. He is concerned about the cleanliness and what their requirements are for the dumpsters. Responding to Mr. Rathfon, Mr. Riemann stated that the dumpsters will be enclosed along the back and there would be landscape screening there as well.

Mr. Tolbert closed the public hearing.

Mrs. Melson-Williams stated that for the record they did receive a fax from the B&B Delaware Investments and that is the adjacent property owner of 580 Bay Road. This project site wraps around it. Their request is that the Planning Commission require the developer to bring City sewer to the property line of their particular parcel. They make note that currently it does not have City sewer available and that is what they would like to have happen. They note that it would be a benefit to the City for them to be on and utilize the City's sewer system. She thinks that it was mentioned previously in the discussions of this application that the applicants would be amenable to designing it to allow that to happen with this project as they need to be serving the adjacent restaurant sites anyway. The person who signed the letter is Mr. Bob Peterson.

This is a Site Plan with one waiver request which is the reduction of the arterial street buffer.

Mr. Holden moved to approve S-17-20 Bay Road Commercial at 560 and 600 Bay Road

inclusive of the waiver request for reduction of the arterial street buffer from thirty to twenty feet. He knows that the applicant has concurred to provide cross access and that they have volunteered to provide sanitary sewer to the property at 580 Bay Road. He requires that the applicant work with Staff to provide landscaping as submitted in the graphics, seconded by Mrs. Welsh and the motion was unanimously carried 7-0 by roll call vote with Mr. Baldwin and Dr. Jones absent. Mr. Holden voting yes; due to Staff and DAC comments. Mr. Roach voting yes; he thinks that it is a beautiful plan and an improvement for the area. Ms. Edwards voting yes; based on the reasons previously stated and as stated in the previous application, the improvement to the area is most welcomed. Mr. Holt voting yes; he thinks that it's going to be a major improvement to the area. Mrs. Welsh voting yes; it's a great plan and she thinks that it will improve the area significantly in conjunction with the prior plan. She thinks that they will both enhance the area significantly. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; the renderings that have been shown to us are very aesthetic. He is pretty sure that Dover will appreciate it once it's up and running.

NEW BUSINESS

Mr. Tolbert stated that he would like to extend a warm welcome to Mr. Julian Swierczek and he hopes that his stay with us is enjoyable and he hopes that he appreciates the Planning Commission has much as they appreciate him.

Meeting adjourned at 9:08 PM.

Sincerely,

**Kristen Mullaney
Secretary**