

**CITY OF DOVER PLANNING COMMISSION
FEBRUARY 21, 2023**

The Meeting of the City of Dover Planning Commission was held on Tuesday, February 21, 2023 at 7:00 PM as an In-Person Meeting and also using the phone/videoconferencing system WebEx. The Meeting Session was conducted with Chair Mrs. Maucher presiding. Members present were Mr. Cooper, Mr. Roach (virtual), Mrs. Denney, Mr. Hartman, Mr. Baldwin, Dr. Jones, Mrs. Welsh (virtual), and Mrs. Maucher. Mrs. Malone was absent.

Staff members present were Mrs. Mary Ellen Gray, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek, Ms. Katherine Oehmke, Mr. Jason Lyon (virtual) and Mrs. Kristen Mullaney. Also present were Mr. Kyle Burchard, Mr. Patricia Keller, Mr. Jim Eriksen, Mr. L.B. Steele, Mr. David Kuklish, Mr. Mark Dunkle, and Mr. Jonathan Street. Speaking from the public were Mr. Scott Pedis, Mr. Thomas Coffman, Mr. Osturm, Mr. Cameron Gerrick, Ms. Denise Cottman, Mr. Paul Cartanza, Jr., Mr. Charles Mayhall, Mr. Brian Carbaugh, Mr. Ron Virdin, Ms. Mary Ellen Opdyke, Mr. John Orona and Mr. Donald Opdyke.

APPROVAL OF AGENDA

Mrs. Maucher stated that the Commission was provided with a Revised Agenda. Please note that application C-23-01 TLC Childcare, LLC at 901 S State Street will not be heard by the Planning Commission as that application was withdrawn. There is also a request for an extension of Planning Commission approval for Site Development Master Plan application S-21-03 Three Lots at Secure Storage on Lafferty Lane: Master Plan and that has been added under Old Business.

Mrs. Denney moved to approve the Revised Agenda as submitted, seconded by Mr. Baldwin and the motion was unanimously carried 8-0 with Mrs. Malone absent.

APPROVAL OF MEETING MINUTES OF JANUARY 17, 2023

Mrs. Welsh moved to approve the Planning Commission Meeting Minutes of January 17, 2023, seconded by Mr. Baldwin and the motion was unanimously carried 8-0 with Mrs. Malone absent.

COMMUNICATIONS & REPORTS

Mrs. Gray provided an update on the regular City Council and various Committee meetings held on January 23 & 24, 2023 and February 13 & 14, 2023.

Mrs. Melson-Williams stated that there is a training session coming up for *Advanced Land Use Law* on March 3, 2023. This one will actually be held in-person. If you are interested in attending that please let Planning Staff know so they can get you registered.

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, March 20, 2023 at 7:00PM in the City Hall Council Chambers. You do have a number of applications that will be coming to you.

Mrs. Melson-Williams stated as noted by Mrs. Gray, the City's Annual Report for our Department was presented to City Council. The full report itself is rather lengthy but they did

include in the packets tonight a summary listing of the applications that were processed by our office. A number of them did appear in front of this Commission and we may still be working with them to get them to Final Plan Approval. This gives you a sense of the various applications that we have been dealing with.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Melson-Williams presented the audience information on policies and procedures for the In-Person Meeting and Virtual Meeting using the WebEx system.

OLD BUSINESS

Requests for Extensions of Planning Commission Approval:

S-21-03 Three Lots at Secure Storage on Lafferty Lane: Master Plan - Request for one year extension of Planning Commission Approval granted March 15, 2021 of a Conditional Use Site Plan for the construction of Site Development Master Plan Application to permit development of three (3) existing parcels. The parcels are listed as Lots 2, 3, and 4 respectively; with Lot 1 being the main parcel for the Secure Storage Facility. Lot 2 is proposed to contain a Building of 23,600 +/- SF with associated site improvements. Lot 3 is proposed to contain a Building of 23,600 +/- SF with associated site improvements. Lot 4 is proposed to contain a Building of 21,400 +/-SF with associated site improvements. The proposed development area of the three Lots totals 7.67 acres +/- and is zoned IPM (Industrial Park and Manufacturing Zone). The land tracts are located on the north side of Lafferty Lane and east of Bay Road. The owner of record is Secure Storage LLC. Property Addresses: unaddressed but are adjacent to 640 Lafferty Lane. Tax Parcels: ED-05-077.00-01-25.01-000, ED-05-077.00-01-25.02-000, and ED-05-077.00-01-25.03-000. Council District 2. *The three Lots were created as part of a Minor Subdivision Plan with Site Plan S-02-23 Secure Storage LLC for Mini-Storage Facility (Lot 1) in 2002.*

Representative: Mr. Jonathan Street, Becker Morgan Group

Mrs. Melson-Williams stated that this request for extension is related to S-21-03 which was a Site Development Master Plan that appeared before this body in March 2021. With Master Plans, they are overall good for a period of five years; however, within the first two years you must submit an Administrative Site Plan for your first phase of construction, have that approved and commence activity. The applicant in this case, has filed the Administrative Site Plan S-22-15 and Staff has provided them at least one round of review comments. However, it is somewhat unlikely that they may be under construction by the end of March so they are seeking the opportunity for a one-year extension of that Master Plan approval. The Ordinance allows for such consideration by the Planning Commission.

Mrs. Welsh moved to approve S-21-03 Three Lots at Secure Storage on Lafferty Lane: Master Plan for a one-year extension, seconded by Dr. Jones and the motion was carried 8-0 by roll call vote with Mrs. Malone absent. Mrs. Welsh voting yes. Mr. Cooper voting yes. Mr. Roach voting yes. Mrs. Denney voting yes. Mr. Hartman voting yes; based on Planning Staff comments about the project moving forward. Mr. Baldwin voting yes. Dr. Jones voting yes; the applicant is moving forward. Mrs. Maucher voting yes.

NEW APPLICATIONS

S-23-03 NeighborGood Partners Division Street Office at 223 West Division Street – Public Hearing and Review of a Site Development Plan Application to permit construction of a two-story 6,226 SF office building and associated site improvements. The property is zoned C-1A (Limited Commercial Zone). The property is located on the north side of W. Division Street, east of N. New Street. The owner of record is NCALL, Inc. Property Address: 223 W. Division Street. Tax Parcel: ED-05-076.08-05-29.00-000. Council District 4. *Waiver Request: Elimination of Upright Curbing. For Consideration: Tree Mitigation Plan. This site was most recently subject to Site Development Plan Application S-19-13 which was approved by Planning Commission in July 2019, but construction had not commenced, and Plan Approval has since expired.*

Representative: Mr. Kyle Burchard, Mountain Consulting; Ms. Patricia Keller, NeighborGood Partners

Mr. Swierczek stated that this is a Site Development Plan Application for a two story, a little over 6,200 SF office building for the organization known as NeighborGood Partners previously known as NCALL). Some of you may remember that a previous iteration of this plan had come before the Planning Commission in July 2019 under application S-19-13. Initially this was for a three story building. It returned in November 2020 and it had revised the design of the building down to two stories. They had achieved Final Plan Approval in May 2022; however, the Plan which has been granted a one-year extension approval through the end of June 2022 had not submitted permits yet. As such, the Plan did expire. NeighborGood Partners has indicated that they wish to return to this project which is why they had to resubmit. There are very few design changes from the second version of the initial submission. The rendering shows a two-story building facing Division Street and with New Street to the left of the picture there. They have submitted a Tree Mitigation Plan. Supplementary information from the applicant indicated that one additional tree each was to be planted at 26 and 28 N. Kirkwood Street which are single family homes developed by the subject organization. They had also submitted a Waiver Request for upright curbing. Due to the limited size of the site, there is only one vehicle access point to the rear of the building. There is a paved alley where there are providing three parking spaces but due to the sort of tight nature of the site, they requested the upright curbing waiver to allow for stormwater management. He will also note that this Plan had previously been addressed as 223 and 225 West Division Street. The previous Plan had gotten the Final Plan Approval. They did get the lot consolidation recorded with Kent County prior to the expiration of the plan so that part is complete from the original submission. It is just now the one parcel of land with the one address of 223 W. Division Street.

Mrs. Melson-Williams stated that she will note that she is getting some messages from some people saying that they are having a difficult time hearing. If you are here in the room, make sure you are talking directly into your microphone.

Mr. Burchard stated that they worked with the DAC through their comments and they note that there is tree mitigation to be done and the other waiver for curbing. Other than that, the recommendations of Staff are noted and acceptable to bring them to the conclusion of this

review.

Ms. Keller stated that they are ready to release the bid for the GC on this project. They are looking forward to moving ahead and hopefully building what will be a real asset for the City on this corner of N. New Street and W. Division Street.

Mr. Hartman stated that he notes in the Waiver Request for the Tree Mitigation Plan that it shows the trees will be planted between the sidewalk and the street. He would like to ask Planning Staff if they feel that is a good idea. Responding to Mr. Hartman, Mr. Swierczek stated that on the whole that is a fairly standard practice. In new subdivision developments, for example, they will put trees in that space between the sidewalk and the road. Were you speaking as to whether or not there would be enough space for the tree to grow?

Mr. Hartman stated that he was just thinking about the damage that has been caused by trees on N. State Street. Responding to Mr. Hartman, Mr. Swierczek stated that he can't speak to that specifically but he does know that generally because of the location of these properties that NeighborGood Partners works with in general, they tend to develop their properties in the Downtown area. The lots are going to be somewhat more limited as to available space for tree plantings. That would be generally a common practice to put trees in that spot. They can certainly look to see if there is a somewhat more advantageous area or spacious area of the properties that they could look to do tree plantings in the future.

Mr. Hartman stated that on his street there are no trees planted like that and it seems to him that if you are going to have Tree Mitigation Plan that you would want to put a tree somewhere where it's going to be able to grow and not be damaged. It just doesn't appear to him that that would be a location where that could happen.

Mrs. Denney stated that she agrees with her colleague. She happens to live on State Street and has a lovely tree that is right in front of her home. It can be a lot of clean up with leaves and acorns, but she doesn't mind it because it is lovely. However, it is a trip hazard because of the roots. From time to time she is out picking up some senior off of the sidewalk who has stumbled or maybe a family with kids on bikes. She knows that there are species of trees that are less likely to lift the roots. She thinks that her preference would be that a list be provided with applicants who are doing this thing so that they can choose something that does not cause that problem. Typically, it is the homeowner or the business owner that is expected to repair the roots by lifting the concrete to fix the roots or patch the concrete, which they have done on more than one occasion. But Mother Nature is a force and the sidewalk gets lifted.

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

Mr. Hartman moved to approve S-23-03 NeighborGood Partners Division Street Office at 223 West Division Street acknowledging that Planning Staff has already approved the Waiver for the upright curbing and considering the Waiver for the Tree Mitigation Plan, he would like to stipulate that that should be approved with due consideration given to avoiding sidewalk damage that the City has experienced in the past, seconded by Mrs. Denney and the motion was carried

8-0 by roll call vote with Mrs. Malone absent. Mr. Hartman voting yes; based on the comments provided in the DAC Report. Mr. Baldwin voting yes; for reasons stated. Dr. Jones voting yes; for reasons already stated. Mrs. Welsh voting yes; for reasons stated. Mr. Cooper voting yes; for reasons stated. Mr. Roach voting yes; for reasons stated. Mrs. Denney voting yes; she thinks that this is a lovely improvement to that area and well needed. Mrs. Maucher voting yes; based on comments from Staff and the DAC and agrees that it is a nice improvement to the area and will help with Downtown redevelopment.

S-23-04 Leander Lakes III Apartments – Public Hearing and Review of a Site Development Application for the construction of eight (8) 3-story garden style apartment buildings, and 1 (one) 2-story 8 unit building for a total of two hundred (200) units. Also proposed are 450 parking spaces, walking paths, landscaping, recreation areas and other site improvements. The project area of 25 acres is zoned RM-2 (Medium Density Residence Zone) and partially subject to the COZ-1 (Corridor Overlay Zone) with the balance of the overall property zoned R-10 (One Family Residence Zone and partially subject to COZ-1 (Corridor Overlay Zone). The application includes a Minor Subdivision Plan to create Lot 1 of 50.19 acres+/- (residual) and Lot 2 of 25 acres (project area). The property is located on the south side of Forrest Avenue west of Dover High Drive. The owner of record is Calvary Baptist Church of Dover and equitable owner/developer is Leander Lakes III, LLC. Property is currently addressed as 2285 Forrest Avenue. Tax Parcel: ED-05-075.00-01-06.00-000. Council District 1. *For Consideration: Active Recreation Area Plan. The property was the subject of Rezoning Application Z-22-02 approved October 2022 and Conditional Use Site Plan Application C-19-06 Calvary Baptist Church.*

Representatives: Mr. Jim Eriksen, Solutions IPeM; Mr. L.B. Steele, representative of equitable owner/developer Leander Lakes III

Mrs. Melson-Williams stated that this is a Site Development Plan for Leander Lakes III Apartments. This is a location that is out on the western edge of Dover on the south side of Forrest Avenue. The image on the screen reflects the area of the project site. The overall parcel that is owned currently by Calvary Baptist Church is just over 75 acres of land. With this Site Plan Application there is a request to subdivide the property to create the project area of 25 acres of this garden style apartment project. The remaining residual land of just over 50 acres in the current proposed location of a new church build for Calvary Baptist Church of Dover that was reviewed through a Conditional Use Site Plan Application previously and has Final Plan Approval for that development as a church. Preparations are ongoing regarding its construction. This 25-acre portion of the overall tract of land went through a Rezoning process back in the Fall of 2022 and the 25-acre portion of land is now zoned RM-2 (Medium Density Residence Zone). The front portion of the property is actually subject to the COZ-1 (Corridor Overlay Zone) and that is the image on the right hand side. There is not a building in that area; there is just required landscaping and that is where they are making the connection to the access drive of the church project which then connects to Forrest Avenue. The project itself for the apartments as you can see is a series of rings with the parking lot being in the outer perimeter then the ring of buildings. Central to the site are two stormwater management areas. The project site is also bisected by a stream corridor where they will have to have appropriate crossings of that with permits. They are also providing a 50-foot buffer from that stream crossing that bi-sects the property. The project overall did go through the PLUS Review process, (the Preliminary Land Use Services) and the applicant has submitted the response to the PLUS Review comments. Those were provided to the

Planning Commission members by email and there was also a copy placed on the desks this evening. Overall, the project is proposing a series of tree plantings throughout the project site. There is a small area of woodland that they will clear but that meets requirements under our Code provisions. There is a sidewalk network that links parking areas to buildings. Then there is also a trail system as part of this and an extra wide sidewalk that is also serving as a rear emergency access. It is a concrete path of ten feet width with additional grass pavers on the edge of it for an additional four feet on each side that in total is 18 feet wide which meets the requirements for rear emergency access and will allow fire trucks to reach those rear portions of the apartment buildings. The project has an Active Recreation Area. There have been some revisions to that. The next image shows that there are some changes to that area and those involve what was originally proposed as a playground area; it is now more of a fitness workout area. They have made some improvements to the connections from the walkway trail systems to the playground and the fitness area. Additionally, there are some game court surfaces that are proposed for corn hole and horseshoes. The overall walking trail network is also counted towards the Active Recreation for this project. They are required to provide just over 55,000 SF of Active Recreation Area and with the revisions, they have certainly provided the information to confirm that. With the trail system they can only count the active improved part of the trail network. The Active Recreation Plan was presented to the City Council Committee of the Whole Parks, Recreation and Community Enhancement Committee on February 14, 2023. That Committee did accept the Plan. They did note a few things for the applicant to consider, those being the ground surfaces in the playground and fitness areas to ensure handicapped accessibility and also whether or not the equipment in those areas would be handicapped accessible as well. They also recommended covering some of the bicycle parking that is proposed on the project site. Additionally, they did encourage the applicant to consider adding EV charging stations in the parking lot and to either add or plan for any future roof mounted solar for the project as well. There are no specific waivers with this application. Planning Staff provided their review comments along with the other jurisdictions about the plan submission. They did recommend that some of the bicycle parking be covered. There may be opportunities to bring some of that to the interior of a building. Also at this point, Planning Staff encourages projects to plan for EV charging stations, whether that is full install or laying the conduit for future opportunities in that realm. For the Active Recreation Area Plan, that is a plan review with its addendum and then the other items that were submitted by the applicant. The applicant also has a PowerPoint to share tonight.

Mr. Eriksen stated that as described by City Staff, this application is for a 200-unit garden style apartment complex. There is a Minor Subdivision for the parcel located at 2285 Forrest Avenue in Dover. The site may look familiar as it has recently come through for a couple of other applications. One for a Conditional Use and Site Plan approval for a church which it is his understanding that it is about to begin construction soon. They have also recently had a Rezoning to RM-2 (Medium Density Residence Zone) which is the exhibit that you are looking at for the 25-acre piece. This Minor Subdivision would occur on that 25-acre piece so basically the rezoned portion would be on its own standalone parcel at that point. It should just be noted that the Site Plans are still preliminary at this point. Much of the DAC Comments reflected a level of detail that just hadn't been drawn up at this point but they are recently able to meet the requirements that are presented in the Code with this Site Plan. As we get into full engineering those details will reveal themselves. With the preliminary plat, what they are showing here, they

acknowledge that they do need some additional easements. They need some cross access easements in order to provide access to the adjoining parcels as well as to provide some utility connections and things of that nature which will be finalized as they go through the process. The next slide shows the area of the site that is located on Forrest Avenue. As you can see in this exhibit, there is a good deal of residential development in this area existing. There is a future church and it is also adjacent to the existing Leander Lakes Apartment Complex. It is in the vicinity of the Dover High School as well. There are RM-2 (Medium Density Residence Zone) parcels right in this area which matches the zoning of this particular parcel. The RM-2 (Medium Density Residence Zone) maximum density allowed is 8 units per acre. 8 units per acre are the density achieved at the adjacent existing Leander Lakes Apartments as well. The next slide is showing that it is an acceptable use in the *Comprehensive Plan* and obviously it is consistent with the adjoining parcels as it is the same exact use and the same exact zoning. The Area Level Investment Map shows it as Investment Area Level 1 and 2 which means that it is the area that is expected to be developed per the State guidelines. The next slide is an overview of that area as well as the access points so that you can understand a bit of how the traffic is going to work. We have had our kickoff meeting with DelDOT, and this site is going to generate approximately 1,357 daily trips. That is not enough trips to warrant a TIS for DelDOT's standards. It would be subject to the Area Wide Study Fee which means the developer will pay a fee for that study and then basically would be required to contribute to any DelDOT projects that this development would impact. The site is generally going to be accessed by the Calvary Baptist Church's proposed entrance onto Forrest Avenue as one of the access points. It will be a shared access and so there will be both the church as well as this apartment complex will be utilizing that access. In addition to that, there will be access provided on Dover High Drive through the existing Leander Lakes Apartments. It should be noted that Dover High Drive has a traffic signal at the intersection of Forrest Avenue so that will allow for better movement and access to Forrest Avenue. One of the very unique things about this orientation and all of the shared access is the number of options that people will have to enter and exit the site. Basically, it will help limit the impacts of traffic because they have a choice to go and utilize the light and get a little bit better flow of traffic. But if they are making a right turn in, then they don't have to go through the light because they have separate entrance and separate means of access. Also, having several access points onto other main roadways allows for emergency vehicles to have several access points as well should there every be an accident at one of them. Internal to the site, there is going to be 200 units that will be provided by eight 24-unit three story buildings as well as one 8-unit two story building. The elevations were included with this application. Generally, it is going to match the character of the existing buildings in the existing Leander Lakes Apartments right next door. The Site Plan shows the general orientation of the buildings being interior to a loop road system and then there are loop trails and paths throughout the site. There are 450 parking spaces provided on this site which is in accordance with the Code. It should be noted that the developer does intend to provide infrastructure and conduits to be installed at the future date at some of the parking facilities that are in the vicinity of the buildings. It should also be noted that while it is not shown or labeled on the plans, they do intend to provide a six-inch reveal curb all the way around that parking area and the roadway system in accordance with the Code. ADA compliant ramps will be provided as necessary as well in order to utilize those reveal curbs. They also will be taking Staff's recommendation for the access road up to the church entrance. They will be pulling that sidewalk further from the curbing as feasible through there. The one area he does have a bit of concern about is once they get to the church's access, there is some drainage alongside of that

road. So, it's going to be a matter of what they can fit and provide safe slopes for as far as how far off of that roadway they will be able to provide that sidewalk. They did provide bicycle parking facilities. In their submitted plan, they were leaning towards doing three rather large facilities and grouping them that way. After hearing some of the comments that they received during the DAC Meeting, they decided that they are actually going to break that up and provide smaller bicycle parking racks throughout the community closer to the buildings. That way people have a better opportunity to utilize them no matter where they live in the community. They will provide at least 23 of those spaces per regulation. The next slide is an example of what they intent to provide: a wave style bicycle rack. That is what's used in the existing Leander Lakes Apartments as well. They will be providing central water and sewer and they have started coordination with the City. It is anticipated to have a small pump station that will service a portion of the site and they will be able to design these utilities in accordance with the City standards. The site does feature two large stormwater management facilities. It is anticipated that stormwater conveyance to these facilities will generally be accomplished via a closed conduit drain system. Those facilities do discharge into the existing ditch. This ditch generally drains to the north and all stormwater management will be designed according to DNREC Regulations. They have submitted a Stormwater Assessment Study to the Kent Conservation District and they are awaiting a kickoff meeting with them. The existing ditch has portions of it that are classified as wetlands and as such, they are providing a fifty-foot buffer. The wetland delineation was performed on the site by a certified wetland scientist and that is the wetlands that you are seeing on this drawing. It is also recognized that there will be additional permitting required in order to provide the road crossings across that ditch and that will be accomplished. The developer has already engaged wetland scientists for that permitting. They will be providing culverts under the roadways to make sure that drainage is not impeded. There is also an agricultural setback along the southern line. There are no structures that would require Certificate of Occupancy within that setback so that is in compliance as well. The next slide shows the landscaping plan. There are approximately 341 trees that are required to be provided based on their preliminary layout. They have provided 367 trees on this plan. It should be noted that this plan shown does incorporate some of Staff's recommendations already. So it's what they would actually be proceeding with should they receive favorable action from the Planning Commission. What they would be proceeding with would be better in line with this plan than the one originally submitted. The proposed Site Plan provides several forms of recreational facilities throughout the site. The total Recreation Area on the latest plan includes approximately 1.3 acres of Active Recreation Area which is more than the 1.26 acre minimum. You may notice that on the previous exhibit there was a typo in the areas; however, the minimum requirements are still met but that area is 1.3 acres not 1.6 acres. As described, there will be outdoor fitness areas, walking trails, and game courts. The outdoor fitness areas are going to be anticipated to include chin up bars, dip bars, parallel bars, a balance beam, body curl benches, step ups and a designated yoga and free workout area. They would be intending to provide signage on how to use these facilities and what they are as well as providing some kind of ground cover which they have labeled as mulch on their Plans so that they don't tear up the grass when using these facilities. The next slide shows the recreation area. One thing that he does want to note is that they still are showing a playground between Buildings A and C and that is kind of towards the central northern section of that plan that is shown. One thing that the developer would appreciate consideration on is if they would have the ability to provide maybe a different active recreation area there. In the existing Leander Lakes section, there is an existing playground that they found has been seldom utilized

so it has kind of sat there with no one using it for the most part. They would rather provide something that they feel people are going to utilize and provide something different than what is out there. They would ask that maybe they could swap that out and either break it up maybe and provide another fitness area over there or perhaps do another yard game court like bocci ball since those aren't shown right now. Either of those would be acceptable to the developer should Planning Commission choose to act favorably on that. The next slide shows what that swap up would look like. The area actually gets a little bit bigger as far as the overall recreational area. To conclude the presentation, he just wants to point out that the Site Plan does generally comply with the City's Code. They don't have any waiver requests with this application. They believe that they will be able to accommodate the comments received in the DAC Report as most of them are related to details that will be finalized with engineering.

Mr. Hartman asked if the Active Recreation Area was 1.3 acres. Responding to Mr. Hartman, Mr. Eriksen stated yes.

Mr. Hartman stated that since the Addendum for the Active Recreation Plan cites 1.61 acres, does Planning Staff have any concerns with the difference? Responding to Mr. Hartman, Mrs. Melson-Williams stated they wouldn't have any concerns. They would be looking for what the confirmed total is. That was one of the things in the process of getting sorted out. The 1.3 acres does meet the minimum requirements and she thinks it's easily enough chalked up to a math problem. It doesn't appear that it eliminates some feature by making that correction to the true acreage of the proposed Active Recreation Area.

Mr. Hartman stated that he believes the original submittal met the requirements. Does this change necessitate it meeting with the Parks, Recreation and Community Enhancement Committee again? Responding to Mr. Hartman, Mrs. Melson-Williams stated that she thinks what they were presented would be revised information about the amenities and their recommendations weren't necessarily area driven in their comments. She thinks that they were looking at some refinement to the amenity options in ensuring that they were accessible. She is not sure if Mrs. Gray has any additional comments since she was at that meeting where this application as discussed.

Mrs. Gray stated that she believes that Mrs. Melson-Williams captured that correctly.

Mr. Hartman stated that this is a property that is adjacent to an Agricultural Lands Preservation Program and there are specific requirements. You have addressed them in the answers to the PLUS comments. There is a requirement for deed restriction and a notice to residents in 300 feet. These will be rentals, correct? What provisions are there to inform the people who rent here of this fact? Responding to Mr. Hartman, Mr. Steele stated that the short answer is that any of the residents in the three buildings that are bordering that property line will have an addendum to their lease that they understand the conditions and they accept them.

Mrs. Denney stated that her feelings about those being addressed in leases or in other ways like that, to her verbal promises don't work in those matters and she feels strongly of that. Realistically she thinks that some things that would need deed restrictions during leases have a large propensity to not be respected. Responding to Mrs. Denney, Mr. Steele stated that it is

more just acknowledging that that's an agricultural site and there are going to be agricultural things going on there. Like when they are farming it, there may be noises associated with that and the smell of manure. One thing that he believes that the applicant would be willing to do is provide some signage on there so that everyone who lives there acknowledges that there is a sign. It's in your lease documents and it's very clear that there is going to be agricultural nuisances associated with living that close to a farm.

Mrs. Denney stated that she would definitely like signage along the border of that. She realizes that it is at an added cost but it shouldn't be on the other property owners; it should be up to you to put the signage up. She thinks that those things can be done in a nice matter. She really thinks that should be added. She thinks that it is necessary because again, she doesn't think that when things are just written in deed restrictions and leases, to her they are just very easily ignored.

Dr. Jones stated that given the perspective age range of the renters, she is thinking fairly young but at any rate, young or not so young, as the applicant considered a pickleball court. That is very popular. Responding to Dr. Jones, Mr. Steele stated that that is one of five different ideas that he and Mr. Eriksen have talked about.

Dr. Jones stated that she noticed as he was describing the recreation areas, she thought that she read somewhere that there would be a child age playground but she didn't hear you speak about it. Responding to Dr. Jones, Mr. Eriksen stated that in the one (Plan) that was submitted previously, they did have a playground area and that is represented on the screen. What they are asking for is actually permission to remove that playground area and provide additional fitness areas because there is an existing playground area on the existing phases of Leander Lakes and what they have found is that it is seldom utilized.

Mrs. Maucher asked if these were going to be market rate rentals or will there be provisions for affordable housing. Responding to Mrs. Maucher, Mr. Steele stated that these will be market rate units.

Mrs. Maucher opened the public hearing and after seeing no one wishing to speak, closed the public hearing.

Mrs. Denney moved to approve S-23-04 Leander Lakes III Apartments. She would have liked to have seen the children's playground there because as a grandparent, she often likes to walk to the playground. Her reasons for feeling secure in making a motion to approve is this PLUS Report which she thinks is a fabulous tool for all of us. Frankly, within this Report the applicant has agreed to do almost every single thing in here. There are a few things that will have to wait until they get to a certain point as they progress in establishing it should it be approved. She is very pleased with how much they have agreed to participate and follow the suggestions of the PLUS letter, seconded by Mr. Baldwin and the motion was carried 8-0 by roll call vote with Mrs. Malone absent. Mrs. Denney voting yes; in keeping with the comments that she made with her motion. Mr. Hartman voting yes; based on the applicant's February 17, 2023 response to the PLUS Report and the comments provided by the applicant and Planning Staff tonight. Mr. Baldwin voting yes; it is a good fit for the area. Dr. Jones voting yes; based upon some of the previous comments and she would also like to see some reconsideration of that child's

playground and pickle ball court. Mrs. Welsh voting yes; she thinks that it is a great project and she is voting yes for reasons previously stated. Mr. Cooper voting yes; for reasons previously stated. Mr. Roach voting yes. Mrs. Maucher voting yes; for reasons stated and it is consistent with surrounding the land use.

S-23-05 Tidal Wave Auto Spa at 245 N. DuPont Highway - Public Hearing and Review of a Site Development Plan and Lot Consolidation Plan for two (2) parcels totaling 2.15 +/- acres at 245 North DuPont Highway. The Plan is to permit construction of a 3,690 SF Car Wash facility, 24 vacuum spaces, and associated site improvements. The properties are zoned C-4 (Highway Commercial Zone). The parcels consist of a total of 2.15 +/- acres and is located on the northeastern corner of N. Dupont Highway and White Oak Road. The owner of record is TWAS Properties LLC. Property Addresses: 245 and 243 N. Dupont Highway. Tax Parcel IDs: ED-05-068.18-01-13.00-000 and ED-05-068.18-01-12.00-000.

Representatives: Mr. Dave Kuklish, Bohler Engineering

Mr. Swierczek stated that this is a two part application. It is a Site Development Plan and also a Lot Consolidation Plan. This is involving two parcels that are both addressed as 245 North DuPont Highway. The most recent use of this property was as retail. It was a Rite Aid and that operation as since ceased and the building is now vacant. This project proposes demolition of the existing building, consolidation of the two lots and then construction of the almost 3,700 SF one-story Car Wash building. In total, they are also proposing forty-one parking spaces and this is to include thirty-four vacuum spaces. In addition to the main Car Wash building, there are two additional structures. To the east and perpendicular to the main Car Wash building are two canopy structures. One is to cover twenty-four spaces to the south and one to cover ten spaces to the north. There are a few additional parking spaces for employees. The applicant did provide renderings. They show that all four sides of the main building and the most visible façade that is parallel to North DuPont Highway would be that blue one that you see in the middle. The most visible side of that building will be the glass window façade. There are no Waiver Requests submitted with this. The applicant has indicated that they intend to provide the required curbing and they are showing some stormwater management onsite. They are largely compliant with the provisions of the Code.

Mr. Kuklish stated that they generally agree with the comments made within the Staff Report. He just wanted to reiterate that they have a by-right use on a commercially zoned parcel surrounded by a commercial zoning use on the north and east and two roadways on the other two property lines. In regard to the DAC Report, they are committed to adding the bike rack for potential employees onsite and working with City Staff to remedy as needed these onsite sidewalks. There are two sidewalk connections: one from White Oak Road into the site and one from Route 13 into the site. For the project and for DelDOT, they are going to be improving the sidewalks both along the frontages of Route 13 and White Oak Road as well. There were some comments about aligning the architecture with the Site Plan and that will be made compliant as well.

Mr. Hartman asked the applicant if Planning Staff's comments were addressed on the sidewalk being laid out in a manner to convey pedestrians with a little interaction with vehicle traffic as possible. Responding to Mr. Hartman, Mr. Kuklish stated that that is still ahead of them but that

is what they just agreed to do.

Mrs. Maucher opened the public hearing.

Mr. Scott Pedis – Miracle – 1033 Demonbreun St Ste 300 Nashville, TN 37203

Mr. Pedis stated that he was a representative of the car wash across the street owned by Mr. Harvey Blonder. His comments will probably be in follow up to Mr. Thomas Coffman and Mr. Harvey Blonder. Mr. Coffman's connection got disconnected. He works with Mr. Coffman for a group called Miracle and they represent Mr. Harvey Blonder. They are representing the sale of his car wash across the street but they are also against the Tidal Wave application that is being discussed. They represent Mr. Blonder who is local to the market and owns multiple businesses in the Delaware area. As many are probably aware, he owns the Car Wash that is directly across the street. It is the same model as the Tidal Wave that is being discussed here. It is an express Car Wash. This is going to severely affect the sales that he has done to support the local community. There other thoughts are the noise from the vacuum producers on the other side of the street and the high powered conveyor belt. They are going to severely obstruct the peace of the houses on Edgehill and Greenhill. Also, what is the water availability and what can the City really support the amount of water coming out of three car washes on the same street? Does the City have this hardship and the sewer capacity? This is going to be a huge problem. They represent car washes nationwide and it is essential to have respectful conveyor per population ratio to be successful. A courtesy distance of separation is five miles to another express wash. Three miles is dramatically impactful to our business and building within a mile, not to mention directly across the street is uncalled for and basically unethical. They have tried to sell this location directly to Tidal Wave so that they can all work together and have a compromise that is satisfactory to both parties but they declined all of those offers. They are providing a list of references from clients that have been crushed by this economic dictatorship as far as building directly across or in the same vicinity of another car wash. They represent some in Tennessee, Texas, Oklahoma, and North Carolina that have all had this happen to them and can speak to that if desired by the panel.

Mr. Thomas Coffman – Miracle – 1033 Demonbreun St Ste 300 Nashville, TN 37203

Mr. Coffman stated that he thinks that there are a number of Car Washes that are on the same road like Mr. Pedis mentioned. He thinks if there is a way to minimize this for the sake of their business. He thinks there are three or four on the same street. He thinks it would make a lot more sense to have a company take this property and turn it into something that would not affect their business.

Mr. Ostrum – Race Track Car Wash – 226 N DuPont Hwy Dover, DE 19901

Mr. Ostrum asked if the City had the capacity in the sewer system to take care of two car washes that close to each other.

Mr. Pedis stated that he has noticed that on the previous applications members of the community have talked about how these projects will be an asset to the community. He is just not seeing how a third wash on the same street would bring any tangible benefit or asset to this surrounding community or street as a whole.

Mr. Cameron Gerrick – 722 White Oak Road Dover, DE 19901

Mr. Gerrick stated like what the other gentleman said it is unreasonable to have so many Car Washes in the area. He just Google mapped it and there are about 6-7 within a two mile radius. If they want to build something else like a Shop Rite or something that is more beneficial, he is all for it but another Car Wash, he doesn't see the point of.

Ms. Denise Cottman – Dover Federal Credit Union – 255 N DuPont Highway Dover, DE 19901

Ms. Cottman stated that she did submit a statement in advance. They are in opposition due to the traffic. The only concern is the traffic pattern for their membership.

Mrs. Melson-Williams stated that Ms. Cottman did submit an email to the Planning Office this afternoon as more of a question inquiry, noting that she planned to attend the meeting tonight regarding this application as a representative of the Dover Federal Credit Union. You note that while reviewing the documents provided, you had a concern and you noted "If I'm reading this correctly there will be an option to enter the car wash from White Oak Road and Route 13. Do you have a traffic flow management plan in place?" A Staff member responded to you with some information about the Plan itself. At this point, she thinks that we can ask the applicant's engineer to explain any kind of traffic management pattern that may exist for this project.

Mr. Kuklish stated that they are going to maintain the existing entrance points. There is one on Route 13 and one on White Oak Road. There will be a 458 trip decrease from the pharmacy to the Car Wash. That is a 36% decrease in traffic using the existing entrances that are in place. Access is through existing easements to the Rite Aid parking lot. As a result of the meeting with DelDOT, they are going to follow the standard course of record and entrance construction plans with DelDOT. As he mentioned, they are creating the pedestrian network along both frontages. DelDOT stated that no entrance improvements are anticipated other than the sidewalk improvements that they are committed to make.

Mr. Thomas Coffman – Race Track Car Wash 226 N DuPont Highway Dover, DE 19901

Mr. Coffman stated that if that Car Wash is so anxious to open up, we just had Tommy's Car Wash open up down the street which is very busy and which has cut into our business. Now you have an awful lot of pickup trucks leaving that carry a lot of water off the premises to go to the sewer. They also carry a lot of oils from leaking transmissions or oils underneath their cars. If Tidal Wave is interested, they are certainly very interested in selling them their car wash. We don't need to have too much competition on the street. If you look up and down the street from Google Maps, it is over car washed on that street. Every time one opens they just take away more business from the other one and eventually you will have all of the car washes go bankrupt. There are enough car washes and if Tidal Wave wants a car wash, they can move right across the street. It will probably be a heck of a lot less money than what they would spend on the new expansion.

Mr. Lyon stated that with regards to the question about capacity for both water demand and wastewater discharge, at this point they can't make any determination because they haven't seen the calculation from the engineer. That being said, they have a very large allocation permit with the County for wastewater flow and he doesn't anticipate them having that issue with another

Car Wash. But again, at this point they can't make a determination until they get the calculations from the engineer.

Mrs. Maucher closed the public hearing.

Mr. Hartman asked who Mr. Lyon said they were waiting for calculations from. Responding to Mr. Hartman, Mrs. Melson-Williams stated that as part of their project design for connection to City utilities for water and sewer, there is information that the project engineer must provide to the Department of Water/Wastewater about what their expected usage is for the site. She is not sure if the project engineer can expand anymore on that.

Mr. Hartman asked the project engineer when they anticipate the calculations being available for Mr. Lyon. Responding to Mr. Hartman, Mr. Kuklish stated that should the project receive approval and they move forward with technical construction drawings, at that time they would submit calculations. They will share that this Car Wash will have a series of re-clean tanks which recycle the water. On average, 75% of the water will be recycled on site which then also feeds into the sewer piece as well.

Mr. Hartman stated that he also believes that one of the commenters mentioned a problem for the residences on White Oak Road. Could you please speak to that? Responding to Mr. Hartman, Mr. Kuklish stated that the "problem" was in regard to noise. He can share with you that on most Car Washes there is a large amount of noise generated from the engine of the vacuum which serves the vacuum units that are then stacked up for the vehicles. On this site and at all Tidal Wave washes, the vacuum engine is completely enclosed within a structure so that sound is essentially mitigated by that enclosure to prevent and greatly reduce noise from traveling outside of that enclosure.

Mr. Hartman asked if the applicant has talked with Dover Federal Credit Union about traffic flow. He was looking at the traffic flow and thinking about Dover Federal Credit Union because he goes in there often. He couldn't make out number of vehicles or anything like that coming in and out that shared entrance. Responding to Mr. Hartman, Mr. Kuklish stated that all of that technical data is still required and still ahead of us in terms of our submission to DelDOT. He has personally not talked to Dover Federal Credit Union.

Mr. Hartman stated that on the concerns with the spacing of the car washes, he is aware of two other car washes that have been proposed that haven't been built yet; one at the north end of the Dover and one on Martin Luther King Jr Boulevard. Is there anything in the Ordinance that they should be looking at for addressing these concerns about spacing? This is a new question for them. Responding to Mr. Hartman, Mr. Swierczek stated that the *Zoning Ordinance* does not contain any provisions for regulating sort of the consistency or massing of business types. It is strictly just looking at what is permitted based on the zone of the property. In these situations, if the zone permits a motor vehicle service or car wash facility, there are no provisions to regulate any sort of spacing between facilities or competitiveness on a business type or anything of that nature.

Mr. Hartman stated that he would like the Commissioners to consider tabling this application

until the applicant has a chance to sit down with Dover Federal Credit Union or at least provide a more detailed view of the traffic flow of that shared entrance.

Mrs. Maucher asked what the operating hours were. This business is a chain so in other states or jurisdictions, what are the operating hours and flow? Do you have problems with cars backed up on accessing the site because that has been a concern at some of the other car wash sites?

Responding to Mrs. Maucher, Mr. Kuklish stated that the typical hours are 8AM-8PM and with the queuing that is provided here, they do not anticipate a backup onto any public right-of-way from that standpoint.

Mrs. Maucher asked how many cars could be on the site at once? Responding to Mrs. Maucher, Mr. Kuklish stated that if you zoom in you can see the number but he believes that they have sixteen stacking spaces behind the paid gate.

Mrs. Maucher stated that it is an automatic car wash. How long does it take for a car to go through? Responding to Mrs. Maucher, Mr. Kuklish stated that he doesn't know but he can get the minutes.

Mr. Cooper stated that he doesn't know that he can find a co-reason to Mr. Swierczek's point to not approve this. Businesses open up across the street from businesses all the time who are competitors; for example, Wawa and Royal Farms or McDonalds and Burger King. He is assuming that the applicant did a market study and to the question that is on everyone's mind, how many more car washes can Dover handle? Responding to Mr. Cooper, Mr. Kuklish stated that he doesn't have that answer.

Mrs. Maucher asked if there was a Market Saturation Study done. Responding to Mrs. Maucher, Mr. Kuklish stated that there was and that was before Bohler's involvement in the project.

Mrs. Denney stated that she fully believes that competition is not up to the Planners. She also thinks that as far as Dover Federal Credit Union is concerned, to the best of her knowledge, and she has a long history of sitting on boards and commissions such as this, typically one would find that DelDOT is completely in charge and never has a taste to speak to ingress and egress and traffic congestion. They see it from time to time where they say you have to pay the cost of widening the street. She really thinks that at this point, is not up to us. These things that are being brought up should primarily go before agencies that have all of the research and knowledge of what should and shouldn't be.

Mr. Baldwin stated that he expected to see a lot more residents here. Were there any homes within the notification distance that were notified? Responding to Mr. Baldwin, Mr. Swierczek stated that they did notify all property owners within two hundred feet of the subject site. They did not receive any communications from any of those recipients.

Dr. Jones asked if there were businesses or homes within that two hundred feet? Responding to Dr. Jones, Mr. Swierczek stated that off the top of his head it was predominately businesses to the north and west along North DuPont Highway. There are a few residences in the vicinity to the southeast.

Mrs. Melson-Williams stated that looking at the mailing list notification area, it does capture across DuPont Highway: the Dunkin Donuts, the Race Track Car Wash, and she believes the next is a motel. Certainly it is items that are to its north and east including Windswept, the Dover Federal Credit Union and part of the land mass that is the Centre at Dover. Any residences are going to be on the south side of White Oak Road. It picked up the Sherwin Williams and Rita's Water Ice sites and then there are about nine residences that are along that edge of White Oak Road in the northern elements of the Edgehill neighborhood.

Dr. Jones moved to table S-23-05 Tidal Wave Auto Spa at 245 N. DuPont Highway due to the fact that they are still missing some information regarding calculations and other bits of information.

Mrs. Melson-Williams stated that Dr. Jones is suggesting a motion to defer action on this application and she thinks that we should be specific in what information you are looking for.

Dr. Jones moved to defer action on S-23-05 Tidal Wave Auto Spa at 245 N. DuPont Highway until the calculations on the water usage that Mr. Lyon spoke about is received, seconded by Mr. Baldwin and the motion was carried 7-1 by roll call vote with Mrs. Malone absent. Dr. Jones voting yes; she thinks that they need to have some definite information. The applicant was asked a few questions and wasn't quite certain and was waiting for approval. She thinks that they should get the information first. Mrs. Welsh voting yes. Mr. Cooper voting yes. Mr. Roach voting yes. Mrs. Denney voting yes; although she feels as though when he mentioned that 75% of the water is recycled, she felt that it was an adequate answer for her. Mr. Hartman voting yes; he encourages the applicant to open discussions with Dover Federal Credit Union to let them know what is going on with the site as far as traffic flow. Mr. Baldwin voting yes. Mrs. Maucher voting no; she thinks that the 75% recirculation of water was sufficient for that and that the capacity of cars inside the site was sufficient for the concern.

MI-23-01 Comprehensive Plan Amendments 2023 – Public Hearing and Review for Recommendation to City Council of a series of Amendments to the 2019 Comprehensive Plan, as amended. The Amendments include consideration of the following as associated with Annexation Application AX-23-01 Lands of Calpine Holdings, LLC – Two Properties on White Oak Road: requests for amendment of Map 13-1: Potential Annexation Areas to revise the Annexation Plan category of two properties and requests for amendment of Map 13-2: Potential Land Uses for Annexation Areas to identify the Land Use Classification of two properties.

- A. Consideration of Amendments to Map 13-1: Potential Annexation Areas Plan Map - Request for two parcels located on the north side of White Oak Road and west of Bayside Drive to revise the Annexation Plan category from Area of Concern and unidentified area to Category 2: Priority Annexation Area on Map 13-1: Potential Annexation Areas Plan Map. (Planning Reference: MI-23-01A)
 - a. Property Area: 144.83 acres +/- . Property Address: unaddressed parcel near White Oak Road. Property Owner: Calpine Holdings, LLC. Tax Parcel: LC-00-058.00-02-49.00-000.
2019 Comprehensive Plan, Map 13-1 – Annexation Plan Category: None

Proposed Comprehensive Plan Designation, Map 13-1 Annexation Plan Category:
Category 2 – Priority Annexation Area

- b. Property Area: 104.06 acres +/- . Property Address: 3015 White Oak Road. Property Owner: Calpine Holdings, LLC. Tax Parcel: LC-00-058.00-02-48.00-000.
2019 Comprehensive Plan, Map 13-1 – Annexation Plan Category: Area of Concern
Proposed Comprehensive Plan Designation, Map 13-1 Annexation Plan Category:
Category 2 – Priority Annexation Area

- B. Consideration of Amendments to Map 13-2: Potential Land Use for Annexation Areas Map - Request for two parcels located on the north side of White Oak Road and west of Bayside Drive to identify the Land Use Classification as Public & Private Utilities on Map 13-2: Potential Land Use for Annexation Areas Map. (Planning Reference: MI-23-01B)

- a. Property Area: 144.83 acres +/- . Property Address: unaddressed parcel near White Oak Road. Property Owner: Calpine Holdings, LLC. Tax Parcel: LC-00-058.00-02-49.00-000.
2019 Comprehensive Plan, Map 13-2 – Land Use Classification: None
Proposed Comprehensive Plan Designation, Map 13-2 Land Use Classification:
Public & Private Utilities
- b. Property Area: 104.06 acres +/- . Property Address: 3015 White Oak Road. Property Owner: Calpine Holdings, LLC. Tax Parcel: LC-00-058.00-02-48.00-000.
2019 Comprehensive Plan, Map 13-2: Land Use Classification: None
Proposed Comprehensive Plan Designation, Map 13-2 Land Use Classification: Public & Private Utilities

Representatives: Mr. Mark Dunkle, Parkowski, Guerke and Swayze; Mr. Jonathan Street, Becker Morgan Group

Mrs. Melson-Williams stated that this is MI-23-01, the Comprehensive Plan Amendments for 2023. The City of Dover's *Comprehensive Plan* allows an opportunity at least once a year to allow applicants to seek an opportunity to amend the *Comprehensive Plan*. That timeframe requires a filing in December and then it begins a review process in the new year. The first step in that process is that City submits all requests to the Preliminary Land Use Services; the PLUS review process. This request was submitted to them and reviewed at their January 25th meeting and as of today, they received the PLUS Review Letter that is dated February 22nd which is actually tomorrow. She thinks they knew that this meeting was being held tonight for this application. The PLUS review comments include comments from the Office of State Planning Coordination and a number of the State agencies. Some of the comments are advisory in nature; and basically the one thing of note is that while the Office of State Planning Coordination recognizes that these two properties we're discussing are in a Level 4 Investment Area which is typically not supported for development. There are instances with low impact and specific requirements with low impact land uses that they could be deemed consistent with a

Comprehensive Plan and that is the statement that they have made in this regard. One of the examples of a low impact land use according to their comments is a solar farm. They do note that previously this subject area received a PLUS waiver when an application was under consideration in Kent County. Those PLUS review comments were provided on the Planning Commission member's desks this evening.

Moving back to the application itself, it does involve two properties and amendments to two maps. With our *Comprehensive Plan*, there is a chapter that deals with annexation. The Annexation includes first a Map 13-1 and that's what is shown on the screen. This is the map that shows potential annexation areas for the City of Dover. Those of you viewing the map can see that the dark green areas are what they consider enclaves; areas that are surrounded by the City. These are considered Category 1 and are the highest priority for annexation. The next is Category 2 which is shown in a light yellow. These are Priority Annexation Areas where it makes sense to expand the boundaries of the City for one reason or another. Category 3 is the next tier of potential for annexation. In most of these cases, they are considered longer term annexations areas. They may require some other properties to come in first as they may not be contiguous to the current City boundaries. Then there are Areas of Concern in several portions adjacent to the City. These may be areas that are near other jurisdictions or for other reasons were identified as Areas of Concern. They are not formally in our Annexation Area Plan, but the City has interest in what could potentially be happening in those areas and identified it. We are talking today about two properties that area found on the north side of White Oak Road. You can see by the circle where they are in the greater scheme of the City. Currently on the *Comprehensive Plan*, one of the properties, it is an unaddressed property that is highlighted in blue on the screen, it has no designation whatsoever. They are seeking to take it to a Category 2- Priority Annexation Area; changing it to that light yellow color. The second property is addressed as 3015 White Oak Road and is directly adjacent to White Oak Road. Currently, it is identified as an Area of Concern and this request would take it to a Category 2 Priority Annexation Area. You can see in these two images, one is the current designation on the map and the proposed designation is what they are seeking. The next request also involves a map associated with annexations. When we have the annexation areas, there is a subsequent Map 13-2 that shows the potential land uses for the annexation areas. All areas that are identified by Category 1 or Category 2 in the City's Annexation Plan Area are identified with a land use classification on this map in particular. The next image shows the location that we are dealing with, the two same subject parcels of land. In this case because they were not part of the City's Annexation Area, they have no designation currently but the applicant is seeking to change that land use classification to Public & Private Utilities. The next slide shows the current designation. The blue outlines just show the property boundaries. While they are contiguous to the City, there was not an identified land use classification. Their request is to set a proposed designation of Public Utilities and Private Utilities on the map exhibit. The two properties are close to 250 acres. It is adjacent to the Garrison Oak Business and Technology Center. That is its kind of neighbor that it shares the City boundary with. In this case, the *Comprehensive Plan*, in our Chapter 13 talks about growth and annexation. They have identified the sections of the *Comprehensive Plan* that deal with the land use category of Public Utilities and the policies and goals related to that. They have also included in the packet, the overall *Comprehensive Plan* and Chapter Goals. The applicant, as part of their submission, was required to provide why they think this request meets the goals of the *Comprehensive Plan*. They have cited and marked a number

of sections within the overall *Comprehensive Plan* for the City that present information about the ability of green energy, environmental issues and the proximity to the Technology Park from an economic development standpoint. The Planning Staff did provide a recommendation in regards to these *Comprehensive Plan* Amendments that make the changes to Maps 13-1 and 13-2. Planning Staff is in support of the application finding that the requests do support the overall set of goals that are established in our *Comprehensive Plan*. The land use classification that is identified as Public & Private Utilities does appear to be consistent with other nearby electric generation facilities and technology based development. The Garrison Oak Business and Technology Center does include already, a solar facility and a gas powered electric generation facility as part of it. That land use classification of Public & Private Utilities does limit the types of zoning that could ultimately be considered for the property should it move forward and go through the process of Annexation into the City of Dover. Tonight, we are just dealing with amendments to the *Comprehensive Plan*. The next step for this, should it be successful, will be consideration of Annexation of the two parcels into the City of Dover and the setting of a City of Dover Zoning Classification. The Planning Commission tonight will be making a recommendation. That recommendation is forwarded to City Council and they conduct their own public hearing and is the final acting body for amendments to the City's *Comprehensive Plan*. She knows that the applicant probably has a lot to say about their application and they are here tonight.

Mr. Dunkle stated that they fully agree with the Development Advisory Committee comments and of course the Staff recommendation. They also had a very positive response from the Office of State Planning Coordination, in particular "therefore the Office of State Planning Coordination does not object to the proposed future use of the property as a solar farm." This is the first step in many hoops but the ultimate goal is to bring another solar farm energy production facility to the City of Dover. Calpine is not only the applicant but the property owner of these farms for about the last ten years. They bought this property when they constructed the current natural gas powered electric plant that is in the Garrison Oak Park; so, they have been in Dover for quite some time. Also in the park is the LS Power Solar Field. This request, after we progress, is intended to join the Garrison Oak Park with another electric facility. Their obligation is to demonstrate to the Planning Commission that this is consistent with the City of Dover's *Comprehensive Plan* and it is for several reasons. They are stated in the Staff Report but your Plan focuses very much on green energy, technology, sustainable infrastructure, lessening carbon footprint, and moving more toward electric. It is throughout the Plan and as Mrs. Melson-Williams mentioned, they highlighted in yellow what they think are the relative provisions of the *Comprehensive Plan*. From the Dover *Comprehensive Plan*, solar energy production supports the plan goal of "green development and sustainable energy practices." The more solar energy you produce, even though it goes to the grid helps reduce the amount of carbon intensive energy production in some places. Solar energy production supports the *Comprehensive Plan* which includes green energy goals. Solar energy production adjacent to the Garrison Oak Business and Technology Center and is identified in the plan. That Center is to be supported and encouraged to thrive. That is part of your *Comprehensive Plan* and is intended to be a location for green industries. The second part, is it consistent with the *Comprehensive Plan*? It can be designated for annexation. One of the cardinal rules of annexation is, is it adjacent to the City? Which it is and also, is it consistent with what it is adjacent to. It is adjacent to the Garrison Oak Park and the electric production facility that he mentioned; so, they certainly believe that it is consistent.

This is also mentioned in the Staff Report and also in the comments from the PLUS review. One thing about the property as Mrs. Melson-Williams mentioned, it is about 250 acres among the two parcels. About 100 acres is clear and the other 150 acres is wooded wetlands. It is going to stay wooded wetlands and won't be touched at all. The solar panels go in the cleared land. He doesn't call it farm land because it is barely farmable. The property is riddled with ditches. There are about 90-year-old mosquito control ditches on the property and it is very difficult to mechanically farm. He anticipates that there are going to be some speakers in opposition from farmers in Kent County who spoke when this application went through the original (Regional) Planning Commission where it was recommended positively and was then tabled at Levy Court. In the testimony at Levy Court, a very well-respected local farmer named Mr. Paul Cartanza, Sr. of 6289 Bayside Drive Dover, DE testified that this property was not worth farming; he had tried to farm it in the past. It had 90 ditches and it really can't be farmed in a modern sense. So, it is not good farmland. It is an excellent site for green energy infrastructure. One of the main reasons the applicant would like to bring this property into the City is its consistent with the *Comprehensive Plan* goals. There is a general (feeling) that solar farms shouldn't be out in Kent County amongst the areas of farming and that it should go where it is zoned for utilities. That is what they are asking for tonight, they are asking that this adjacent property be annexed into the City and be zoned for private utility and ultimately as it is consistent with the City's IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center) which promotes and supports electricity produced by solar. They think this property is the exception to the general discontent from the farmers in the County. They would like to join the City in the zoning specifically permitting solar energy production which the City views as a positive in the *Comprehensive Plan* and in the Zoning Code.

Mr. Hartman stated that the letter that is dated February 21, 2023 from Mr. Paul Cartanza that references that a portion of the parcel is zoned as Agricultural outside of the Growth Zone and that there is litigation at the Kent County Levy Court regarding this. Is this counter to what you just quoted him saying at Levy Court? Responding to Mr. Hartman, Mr. Dunkle stated no; he quoted Mr. Paul Cartanza Sr. But more to the point and to clarify, this application that was tabled at Levy Court is not the subject of any litigation. Our property owner is not involved in any litigation. It was a Conditional Use Application under the County's old Zoning Code and was timely filed. It went through their (Regional) Planning Commission as a Conditional Use and was recommended to the Levy Court. In that timeframe, another solar farm out in the County, not adjacent to the City, after it was approved as a Conditional Use, opponents filed a lawsuit challenging the suitability of a solar farm under the County's Conditional Use Ordinance and whether it actually did permit it even though the County had already approved it. So that litigation is still going on regarding if a solar farm is an allowed conditional use in the Agricultural Conservation District in the County. Because that lawsuit was pending, Levy Court tabled their application and didn't vote on it. We are not in that litigation but we are frozen because of their interpretation of the law. They are a business and have owned this property for over ten years and want to provide solar panels and create electricity. So, since they are adjacent to the City, they are happy to leave the County's jurisdiction to where they know that the City has a classification specifically supporting solar energy production. There is no question about the City's Ordinance and also their property. The technical park, already has a solar farm and is a center for solar production; again, making them different than solar farms that are trying to build out in the County. To avoid that and to go forward, they think that it is only logical and the best

place to be is in the City of Dover which supports solar. He did want to tender for the record, what he was quoting from the testimony about was very poor farmland; and he wants to provide a copy to Mrs. Melson-Williams. Kent County takes testimony under oath.

Mr. Hartman stated that because litigation is mentioned in this February 21, 2023 letter, is this something that should be run by the City Solicitor before they vote on it? Responding to Mr. Hartman, Mrs. Mary Ellen Gray stated that she sees no connection between the two issues.

Mr. Cooper stated that we listed the property in question as an Area of Concern in other colors on a previous map. Can you explain why it was an Area of Concern as it relates to annexation? Responding to Mr. Cooper, Mrs. Melson-Williams stated that the *City's Comprehensive Plan*, Chapter 13 deals with growth and annexation and for the most part, the Area of Concern has been utilized in two ways. In the southwestern portion of the City, some of those land areas were also of interest for an adjacent jurisdiction for potential annexation. So that was negotiated, we will both agree to say that they are both concerned about it and should the time come in the future that the property owner wishes to move forward with an Annexation request, that the two jurisdiction would work together. Also in that area, there is a lot of farmland that is currently participating in the Agriculture Land Preservation Program which is another reason why they put it into Areas of Concern in that situation; recognizing that currently right now it is in active farm land production and that's the intent of the owner. But it puts the map on notice that should that idea for how that land is being used changes, the City of Dover wants to be a player at the table regarding potential annexation. The areas to the east of State Route 1 is where you see the other Areas of Concern; there are similar philosophies there. In some cases, there may be Agricultural Land Preservation Districts. The other is that for the longest time the State was very concerned about development moving east of State Route 1 for various reasons, from environmental, ag land preservation, and a number of things in that fashion. There were some areas that they did identify as Priority Annexation Areas which were really in enclaves given what the City boundaries were at the time that they were doing the *Comprehensive Plan* in 2019 and its adoption in January of 2020. The other areas were left as the Areas of Concern noting that it is directly adjacent to the City and they were concerned about what's its future could potentially hold. So, that is why it was identified in that fashion.

Mrs. Melson-Williams stated that for the record, she wants to highlight what Mr. Dunkle did submit for the record. It is a copy of what appears to be Meeting Minutes from the consideration by the Kent Levy Court of a petition for Conditional Use Approval. The Kent County application name was CS-22-02 Calpine's Kent County Solar Energy Center. It is their information regarding the public testimony and public hearing that occurred on that before the Levy Court, and it appears it was their meeting of May 24, 2022.

Mrs. Maucher stated that Calpine had ten years to request annexation and it has delayed until now. Is there a reason for that? Responding to Mrs. Maucher, Mr. Dunkle stated that they were waiting for market timing to build their solar facility. They are a big corporation and it really wasn't suitable in their business plan until about two to three years ago. They have gone through their corporate planning process to then move forward with the solar facility. It only became business worthy for them in the last three years but that is why they bought the property in the first place.

Mrs. Maucher stated that wasn't the property for the other 300 megawatt gas generator? Responding to Mrs. Maucher, Mr. Dunkle stated that the City owns the Garrison Oak Park and Calpine built the electric facility in the Park. They also needed land to connect to the grid and so part of the purchase of the farm was to be able to run the power lines to connect to the grid and to also essentially bank it for the future for a solar facility. They don't own the plant (now) but they built the plant and operated it for a number of years.

Mrs. Maucher opened the public hearing.

Mr. Paul Cartanza, Jr. – Shadybrook Farms 1477 Cartanza Road Dover, DE 19901

Mr. Cartanza stated that he is the one who submitted the letter to the City of Dover today on behalf of Shadybrook Farms. The litigation that was spoken of is what caused Kent County Levy Court to kind of table all of these issues because they were waiting for the one in Smyrna, DE to get figured out before they moved forward with any other applications. He feels that based on what he knows this is a simple way for Calpine to go around that situation by the annexation of this farm. Some of the things that were said before him are definitely not true. To them, that farm is a very viable farm. Shadybrook Farms tilled it for almost 20 years before the current tenant, Mr. Lee Brown who tills it now. It is 80% of his overall farm. For him to lose that piece of farm in particular would be devastating to that gentleman. He personally represents Shadybrook Farms and he also represents his father, Mr. Paul Cartanza, Sr. who was going to try calling into this meeting. He is the owner of Lazy Day Farms which is his neighbor. He also represents his uncle, Mr. Mark Cartanza who is the owner of MASC Farming. They all stand together not wanting to see the Harmon Farm get changed or brought into the City of Dover. It needs to remain a farm; it has always been a farm and it has been a good farm. The mosquito ditches that were previously mentioned are to help that farm drain. That is why they are there and that is their purpose. It has two main ditches across it and they have tilled the farm for over 20 years. They wrote a letter to Calpine because they were downsizing. Farm help is hard to find these days and it is truly hard to get. His daughter is part owner of the farm and they are just trying to protect the land because it can't protect itself. They are not against solar. They have five acres worth of roofs that they can put solar panels on the farm if they wanted to. He is not against it in any way. There are parking lots at Delaware State University where they can place solar panels over top of. He sees it done at Salisbury University. They've got the solar panels raised above the parking areas and he doesn't see any issue with that. He doesn't see what those things couldn't be considered for these kinds of applications. But that is not why we are here; we are here to talk about the land. The land is very viable. Calpine bought it and they rented it from them for at least 5 years before Mr. Brown got it. They had a great relationship with Calpine. The farm averages anywhere from 60 bushels of beans which is great. For the corn crops that he knows Mr. Brown is pulling off of it currently is anywhere from 200 to 220 bushels of corn crops. That is unirrigated ground so that is pretty darn good for that situation. It is Mr. Brown's livelihood and he stands here before the Commission mainly because of him. He is a good friend of his and he would do anything in this world to help protect his livelihood. Kent County, like he said, it seems to him that this was a way to wash their hands of this situation by moving it on to the City. Route 9 is supposed to be a federally protected Scenic Byway. He doesn't know what that means to anybody else in this room, but to him that means it should be open spaces and farmland. It should be taken seriously. You put these solar panels up and you have taken away from the

geese, deer and other wildlife. You ride down that road and it is supposed to be a Scenic Byway. That's why a lot of people ride on that road, to see things and to be a part of nature for a little while. You can go back to the City if you don't want that. He has been on this farm for most of his life and they still help Mr. Brown from time to time if he needs it. He doesn't know what record they spoke of that Mr. Paul Cartanza, Sr. said it wasn't a viable farm. He has farmed it all of his life and he knows for certain that that man didn't say that.

Mr. Charles Mayhall – Edgewater Farm – 210 Edgewater Farm Lane Dover, DE 19901

Mr. Mayhall stated that whether the lawyer has not been to the property or he was just intentionally misleading everyone here tonight, but if you get on Google Earth and zoom in to notice that there are three ditches on that property that run from east to west. It's not a flooded wetlands like they are trying to make you believe that it is. That is just part of what they do, just like they are here today to try to turn things around because they couldn't get it done in front of another board or commission. That area is supposed to be the non-growth zone. Those of us that live out there, they don't want the city life. If they wanted that they would move into town. Now town is encroaching out on them. He just asks the Commission tonight to take into consideration that they don't want the city limits pushed out any further. It starts with this farm and then it moves to the next farm and before you know it, they are all trapped into your city limits. If they want to set it up to be a non-growth zone with one house per 5 acres and then if you go east of Route 9 which is a historical highway as of 2007, its one house per 10 acres. He doesn't understand how you fast forward 15 years to this meeting and we are ready to build up on it. He heard someone speak earlier and he said that in that area, it's what's going on in that area so it's okay to grow. Well in our area, it's farm fields; it's not industrial parks or solar panels. They hope that the Commission will stick with them and try to keep that land what it is now, a non-growth zone.

Mr. Brian Carbaugh – Braeland Farm – 7793 Bayside Drive Dover, DE 19901

Mr. Carbaugh stated that he thought the picture on the screen with properties shown in purple was pretty (informational) because if you look at that white stripe that runs through the middle of that purple, that's his property. He has lived there for over 20 years and he can tell you that the land in question has been in farming for that entire time and there has been no problem farming it. It has been farmed by the Cartanzas and the Browns. What most everybody in the neighborhood understands is that Calpine would never own this land if the Harmons had been willing to give them an easement to bring their powerlines across this property. But the fact of the matter is that the Harmons tried to develop it and they were unsuccessful. They weren't farmers and they wanted to unload the property. When Calpine needed to get their power lines through this property, they weren't willing to give them an easement; they said buy the whole thing. That's how Calpine came to own this property. They weren't in the solar business 10 years ago they just needed to get the power lines out of the gas plant. It is true that this has been before Levy Court as a solar field. He isn't sure how you call this a solar farm because you don't grow solar panels. He didn't speak against that. He figured that the County had their rules and they would decide what was appropriate for this land. He questioned what appeared to be a run around the County while they figure out what is appropriate in the County. He lives in the County and everyone around this property is in the County. You can see adjacent to the City is minor on this property compared to where it is in the County. The relationship between the power companies and the City of Dover is pretty well established. The existing gas plant rents

their land from the City of Dover. They buy all of their water from the City of Dover and they discharge that water back to the City of Dover through their sewer. They are a major client of the City so to now see the City promoting expanding that by annexation, there is that error of questionable relationships. He thinks that the County has the ability to approve or not approve and the set conditions on any solar field that might or might now occur on this land. He thinks the County is the one that he trusts to look out for his benefit and his land that is in the County. He will say that in the *Comprehensive Plan*, in the section where it talks about utilities, it says that there isn't any planned expansion of utilities. So to talk about not only expanding utilities by 250 acres but by annexing County land to make that expansion, if the City wants support power generation or green power that is great but let's do it in the City. Let's not come out and annex land around him and annex land out of the County in order to promote that. There are a couple of guys who own a car wash that think the corner of White Oak Road and Route 13 would be a perfect place for a solar field. He doesn't know if this piece of ground will ever become a solar field or not but if it does, he thinks that the County are the appropriate people to do that. He thinks that the City should avoid this annexation and they should let the County do what the County was going to do with regards to any application and avoid any appearance of impropriety in the relationships that the City has with the power companies.

Mr. Ron Virdin – 1087 Haypoint Landing Road Dover, DE 19901

Mr. Virdin stated that he owns property at 225 White Oak Road. He has been around this area all of his life and was born maybe 3 miles from where we are talking about. All of the grain that Mr. Brown harvested last season, he hauled every bit of it to the mill for him. He knows for a fact that he grew 70 bushels of beans to the acre and 200 bushels of corn to the acre. A couple of years ago he grew 100 bushels of wheat to the acre so he can't see how that is not a good farm. He would hate to see it end up as a solar field. He doesn't like to ride down the road and see a bunch of solar panels out in a field like they were talking about up in Smyrna. People grow a lot of chickens in the State of Delaware and it takes a lot of feed to feed those chickens. Down at the mill where he hauled all of the grain, they told him that it takes 125,000 bushels of corn a week to grind for chicken feed and that's just Mountaire. That is not counting Perdue and all of the other people that raise chickens. He would hate to see this property turned into a solar farm; he would be totally against it.

Ms. Mary Ellen Opdyke – 265 Bayside Drive Dover, DE 19901

Ms. Opdyke stated that she is older than most of the people here put together. She wouldn't make a great farmer; she would talk too much. She would like Commission to meet her two great grandchildren. She doesn't want to see them hungry; she doesn't want to see any of your great grandchildren or future children hungry. You will be and they will be if you allow all of these solar systems in. They are great for cars; they are great for electricity. They are great for many things like maybe running a hospital but they are too big. The day is coming that they are going to make them smaller. Remember the great big computers that they had? How big are they now? You have a little bitty one on your phone. They ought to be taking their time and making them smaller so they don't have to take up the farmland that feeds us. Where are you going to go in an electric car to find food? What are you going to put on the table for your children to eat? There will be a light over the table and no food. How hungry will they be? She heard a story a long time ago and it touched her. During the war, the soldiers were rationed out food and they were given fresh fruit. They were given a little old lousy banana. There were four little children

standing over in a corner and they would pass of the food to all of their soldiers. One officer saw them and he saved his banana and gave it to the children. The girl walked over and thanked the officer. She was dirty and grungy; there were no solar panels to keep her clean and no food on the table, just a banana. She opened that banana up and divided it three ways for the other three children. What did she do? She ate the skin. She is not here to make money; she is here to feed her great grandchildren off of that farm land. When they get them little bitty panels and they will, then where will you feed the kids from then?

Mr. John Orona – 459 Quaker Lane Dover, DE 19901

Mr. Orona stated that unfortunately he has to follow someone who had a really good story. He has lived in the City of Dover for his entire life. He has lived in Hampton Square, Fox Hall, Virginia Avenue, Towne Point and Heatherfield. He no longer lives in the City of Dover; he chose to move out of the City of Dover. He recently built a new home of fifteen acres near the Cartanza Farm. He runs his business out of his home. He has room for a garden. He had room to keep his equipment and he has room to do what he wants and to live the way that he wants. He thinks for the City to annex in that area, people have moved out there because they don't want to be annexed. It's like they have moved to those areas and then the City comes chasing behind them. He is not a land use attorney or a solar expert; he is just a normal person living here and trying to raise his family. He is not a large corporation from out of town that is looking to capitalize on a piece of property that he got years ago because he had enough money to buy it. He just thinks that the area in question is kind of like the last frontier of eastern Kent County. He is concerned that the value of their properties will decrease. They have nice homes on large tracts of land and people want to look out and see a corn field. They want to watch the corn tassels blow in the wind. They want to watch a storm come across the field. They want to watch geese and ducks. They don't want to look out and see monstrosities of chain link fence and solar panels. That is not what people who live out there want and he doesn't think that it should be pushed down their throats. He does think that there would be a major hit to the value of people's homes. He worries about the tax increase. He has a fairly decent sized home out there and he pays \$1,900 a year. He lives on about fifteen acres and he has probably has 10,000 SF of buildings. His mom lives in Heatherfield in a duplex and she pays \$1,400 a year in taxes. Our homes aren't even comparable and she is only paying \$500 less because she is in the City and that is with her paying a senior citizen rate. He doesn't want to pay more taxes to the City. No offense to the Police or the Fire Department or anybody here, but he doesn't want to pay for those services. He doesn't need those services. The Garrison Industrial Park that was spoken of, he doesn't have stats on that but to the best of his knowledge, that Park is halfway vacant. So he doesn't know why we are annexing additional property while that is sitting there doing nothing. To develop a property like this, he thinks one or two people are going to benefit from that. He doesn't see it creating any long term jobs. He thinks that some company who is probably publicly traded is going to make a ton of money. They are probably getting a bunch of tax money and federal money and once that dries up, the people who live here are stuck with a once fertile piece of ground that is nothing but stone, metal and mercury. Mr. Dunkle stated that the City wants green energy and that's fine, but the people who live out there don't. So maybe that should be developed on the Library, the Police Station, the Fire Department, or the City Warehouse. He thinks those are the places the City should be targeting. If they want to annex and they want that type of energy then they should be putting it where they belong; not in their back yards. He is not a highly educated person but he thinks that you are obstructing wildlife in that area like deer, fox

or things like that. They shouldn't be caged in or trapped by chain link fences. You go look behind Target or Silver Lake Park. All of those resident geese are there in those areas because we are taking farmland. They are becoming a nuisance and walking through Route 13 and getting hit by cars because there isn't any land for them. That is Scenic Byway. Himself, on a Saturday he likes to get in his car and go to Sambo's and have some crabs and a few beers. He likes to ride to Boondocks, to Port Penn, to Delaware City or Kitts Hummock. People don't want to ride by industrial wasteland because that is a Scenic Byway. Like Ms. Opdyke said, once you ruin it, it's gone. The City has got a ton of other issues and for them to expand their footprint he thinks would be foolish. Ride down Loockerman Street; there are no businesses there that are thriving. He was on South Governors Avenue today and there is a building defaced with graffiti. He thinks before the City expands, they should master what they have. He just thinks that it is a common sense approach. He thinks that if the people wanted it, you wouldn't have to force it on them. They would be coming to the City asking them to annex. We have one big company that is pushing it down everyone else's throat. He doesn't see anyone else here advocating for it except for special interest for a lack of a better term. You have twenty people here who have say here for two hours listening to things like car washes. If that doesn't show you that it is not wanted then he doesn't know what else would.

Mr. Donald Opdyke - 6926 Bayside Drive Dover, DE 19901

Mr. Opdyke stated that he is right down the street from White Oak Road. In 100 years, that farm land is still going to be there. What corporation is going to own that ground in 100 years? In 100 years, someone will still farm it. Solar panels will rust, fade, and break. Who is going to take care of them; this corporation? No, they bought that land because they have to run the power plant and now they are just trying to unload. If they could get it down so easily through Kent County then they would have had it done but they can't. They are fighting tooth and nail with Kent County to get it done; so, they are just going around the corner to try getting the City to do it. Like the gentleman before him said, look at all the property that is right by the power plant that is not being used. Before you go starting to rip apart a piece of ground that doesn't need to be touched, fill up the ones you have out there. There is plenty of ground out by the power plant. There are already solar panels there so adding more won't hurt. It is closer and less wire to run and the ground is already taken out of farmland; so use it. Use that property first before you start making more power plants elsewhere. Use the property you have. There is no sense in tearing up a piece of ground that doesn't need to be torn up. Like he said, that farm will be there in 100 years. Where will the solar panels be? Are you guys going to be taking care of them? No. But that ground will be there in 100 years.

Mr. Paul Cartanza, Sr. – 6289 Bayside Drive Dover, DE 19901

Mr. Cartanza stated that he just wanted to clarify the gentleman's comment about himself saying that the land is difficult to farm. There is only one section between the woods that is difficult to farm. The rest of the farm is very farmable. They have big equipment and they can get up and down the ditches. As his son stated earlier, the ditches were put in order to drain the farm and make it pliable for farming. He also farmed the Garrison Farm and that farm has fifty handmade ditches and Mr. Garrison could still farm that. He remembers talking to him and asking him about the ditches. He said that they were all put in order to drain the farm so that he would be able to plant on the farm and grow crops. They farmed that land for over 25-30 years ago with big equipment and now it is kind of lying there and being totally unused with a small set of solar

there. They should just finish putting the solar around the rest of the farm. It is already in the City of Dover. When Ruth Ann Minner was Governor, when she put Route 1 through she said there would be no development east of Route 1. That has been trickling through. The most people who have gotten through on that were people that knew what was going to happen before Route 1 was even brought to people's attention. He thinks that they have acquired enough land on their side and they need to go back to the other side or put it on other places like buildings or parking lots at Dover Downs as most of the other people have stated. He just wanted to clarify his comment on the farm being difficult to farm. That was only the back in between the two woods. Mr. Brown farms it now and he has done a very good job of taking care of it. He wants to state that he is against this 100%. Keep it more into the city limits; don't let the city limits come to us.

Mrs. Maucher stated that there was a letter from Shadybrook Farms LLC on their desks tonight regarding the application. Were there other comments received? Mrs. Melson-Williams stated that there were no other written comments received but she will formerly enter into the record the letter received. It came via email this afternoon as an attachment from Shadybrook Farms LLC which is located at 1477 Cartanza Road. The letter is dated February 21, 2023 and is signed by Mr. Paul Cartanza, Jr., a representative of Shadybrook Farms LLC. There are also a number of people that signed the letter so she will note those as she reads the letter into the record. "Dear Planning Commission Members, we are writing to you today regarding Item #8 on your agenda for February 21, 2023, MI-23-01 Comprehensive Plan Amendments 2023. The owner of the parcel mentioned above has applied for utilities solar through the Kent County Levy Court. A portion of this parcel is zoned as Agricultural Conservation (AC) outside of the growth zone; therefore the application for utility solar was tabled pending the results of a lawsuit against the County for approving other utility solar operation on a parcel zoned as Agricultural Conservation (AC). They would like to ask that you assist with avoiding further litigation and take Kent County Levy Court's decision to table the application and land use designation into consideration and not amend the land use classification to private/public utilities at this time." It then lists the property area as 104.06 acres with a property address of 3015 White Oak Road and it goes on to list the property owner as Calpine Holdings LLC and a tax parcel number of LC-00-058.00-02-48.00-000. The *Comprehensive Plan* Map 13-2, the change that was proposed from a land use classification of none to the new proposed classification. It is signed by Mr. Paul Cartanza, Jr. representative of Shadybrook Farms LLC and it does list residents and land owners near this location in support of this letter. Several of them have been here this evening to speak. The Bonk family; Bonk Farms. Mr. Paul and Janice Cartanza, Sr.; Lazy Day Farms. The Blessing Family; Waterway Farms. The Zimmerman Family; Broad Acres Inc. The Orona Family; Shortcutz Lawn and Landscape. The Mayhall Family, Edgewater Well Service. Mr. Justin Hoffman; Air Enterprises. Mr. Mark Cartanza; MASC Farms. Mr. Ronald Virdin; 3525 White Oak Road. Ms. Mary Ellen Opdyke; 6500 Bayside Drive.

Mrs. Maucher closed the public hearing.

Mr. Hartman stated that based on what the people who live out in that area have had to say tonight and the callers who have called in tonight to disagree with this Amendment, he believes that they should be very careful in going forward with this Annexation. The people out there don't want it and don't want to be annexed. Kent County is washing their hands of it or tabling

it. He believes that this is their chance as Commissioners to stop it before it becomes a zoning issue and then a Site Plan and then they are backed into a corner where they have to approve it like this Tidal Car Wash that they were faced with tonight that they are opposed to but couldn't actually vote against it. He would recommend to this Commission to stand with the residents out there and vote against this Annexation.

Mrs. Denney stated that she absolutely agrees. She feels very strongly that if it weren't for people like the ones who have given testimony tonight, we would be hungry. She lived in the City up north but she has a brother who owned a 350 acre farm. He had cows and he tilled dirt to feed the cows. She thinks that we should all be extremely appreciative because this group of people takes almost everything they own every spring, put it in a field and trust that God will let their crops come up so that we eat. She really feels very strongly that if this body were to approve an Annexation, they would be encroaching on the people who feed us in the worst way by taking away their land and their ability to do so.

Mrs. Denney moved to recommend to City Council a denial of application MI-23-01 Comprehensive Plan Amendments 202 for annexation.

Mrs. Melson-Williams stated that they are not considering an Annexation at this point. What is before you is a Comprehensive Plan Amendment so this is an application to amend the *Comprehensive Plan*. They have made two requests; so the intent of the motion needs to be clarified.

Mrs. Denney moved to recommend to City Council a denial of application MI-23-01 Comprehensive Plan Amendments 2023 based on comments made, seconded by Mr. Hartman and he added that this is a recommendation to City Council so if they vote and this is not approved, City Council can follow their recommendations or they may vote to approve it. He wants everyone here to understand that. The motion was carried by roll call 8-0 with Mrs. Malone absent. Mrs. Denney voting yes; based on the comments made with her motion. Mr. Hartman voting yes; based on his previous comments. Mr. Baldwin voting yes; based on the previous comments. Dr. Jones voting yes; there were some very compelling testimonies and they appreciate everyone coming in. Mrs. Welsh voting yes; for reasons previously stated. Mr. Cooper voting yes. Mr. Roach voting yes. Mrs. Maucher voting yes; she is deeply concerned that you go from an Area of Concern to a Priority Annexation (Area) especially with all of the compelling testimony tonight.

Mrs. Melson-Williams stated that the Planning Commission's recommendation will be forwarded to City Council along with the Meeting Minutes once they are prepared. The City Council will have its own public hearing on this application and that is scheduled before March 13, 2023. City Council does meet in the Council Chambers and their meetings start at 6:30PM and they typically presented both in-person and hybrid. If there are questions about attending that meeting, she would refer you to the City Clerk's Office or you can always reach out to the Planning Office. Their meeting agenda will be posted about one week prior to that meeting date.

NEW BUSINESS

Mrs. Melson-Williams stated that there are no new items of business. She will note that the Planning Commissioners also received a letter of correspondence that was addressed particularly to each Planning Commission member and also was initially written to the Council President regarding the Woodcrest subdivision stormwater drainage issues. They are just forwarding the correspondence; there is no action for you to take this evening regarding that item.

Mr. Hartman asked if Planning Staff was aware of anything on going to resolve that issue. He knows there were several recommendations made when it first came up. Responding to Mr. Hartman, Mrs. Melson-Williams stated that when the letter was making reference to the stormwater management and wetlands facility that is along Pat Lynn Drive. That site is part of an active Site Development Plan for the New Dover Middle Schools project. There were some requirements of this body about the long term maintenance of that facility. This letter she believes focuses on areas beyond that pond but she is not sure if there has been any direction from Council regarding this letter.

Meeting adjourned at 10:35 PM.

Sincerely,

**Kristen Mullaney
Secretary**