

CITY OF DOVER PLANNING COMMISSION
October 20, 2025

The Meeting of the City of Dover Planning Commission was held on Monday, October 20, 2025, at 7:00 PM as an In-Person Meeting and also using the phone/videoconferencing system Webex. The Meeting Session was conducted with Chair Mr. Witham presiding. Members present were Mr. Roach (virtual), Mrs. Denney, Mrs. Maucher (virtual), Mr. Baldwin, Mr. Reaves (virtual), Mrs. Welsh and Mr. Witham. Mr. Lewis and Dr. Jones were absent.

Staff members present were Mrs. Dawn Melson-Williams, Ms. Sharon Duca, Mr. Jason Lyon (virtual) and Mrs. Kristen Mullaney.

APPROVAL OF AGENDA

Mrs. Welsh moved to approve the Agenda as presented, seconded by Mrs. Denney and the motion was carried 7-0 with Mr. Lewis and Dr. Jones absent.

APPROVAL OF MEETING MINUTES OF SEPTEMBER 15, 2025

Mrs. Denney moved to approve the Planning Commission Meeting Minutes of September 15, 2025, seconded by Mrs. Welsh and the motion was carried 7-0 with Mr. Lewis and Dr. Jones absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, November 17, 2025, at 7 PM. We will determine whether that meeting is necessary in early November. There is a chance that you may not meet that evening as currently there is not a new application to consider.

Mrs. Melson-Williams provided an update on the regular City Council and various Committee meetings held on September 22 & 23 and October 13 & 14, 2025.

Mrs. Melson-Williams stated that there is not much to report. We are trying to hang on. We have a variety of different position openings in our overall Department as does the City citywide. So, she encourages people to take a look at what those employment opportunities may be.

Mrs. Melson-Williams stated that the Institute for Public Administration at the University of Delaware has a Planning Education Certificate Series and that actually began last week. Unfortunately, that class filled rather quickly so hopefully they will re-do that one. It was one specifically on Planning Commission training. But they have the upcoming Tuesday series to be presented on various Planning topics. If you are interested in attending any of those training sessions, please alert Planning Staff as they will have to register you. You can join Mrs. Denney as she is going to be attending those.

As the Chair noted, the 2025 Delaware Planning Conference Annual Meeting that is presented by the American Planning Association's Delaware Chapter is scheduled for Wednesday, December 3, 2025. It is here in Dover and it is a one-day long Conference with various speakers. It is to be held at Bally's Dover Casino Resort in their Rollins Center. Likewise, there are a

number of registration options on that; so, see Planning Staff if you are interested in attending that Planning Conference.

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-23-20 Cold Storage Warehouse at 451 Garrison Oak Drive - Request for a One-Year Extension of the Planning Commission Approval granted November 20, 2023 of the Site Development Plan for a 165,000 SF Warehouse with associated site improvements. The site is located at Lot 8 of the Garrison Oak Business & Technology Park. The property is zoned IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center) and partially subject to the SWPOZ (Source Water Protection Overlay Zone: Tier 2 Primary Wellhead Protection Area). The property of 11.53 acres is located on the south side of Garrison Oak Drive. The owner of record is the City of Dover; and the equitable owner is SLS Equity Partners. Property Address: 451 Garrison Oak Drive. Tax Parcel: LC-05-068.00-02-08.00-000. Council District 3. *Waiver Requests Approved: Partial Elimination of Upright Curbing and Reduction of Parking Requirement. Approved: Performance Standards Review Application. The site was granted two variances to reduce setbacks related to building height and to increase the maximum lot coverage to 71% (Board of Adjustment Application V-23-05).*

Representative: Mr. Jonathan Street, Becker Morgan Group (virtual); Ms. Shira Weisz

Mrs. Melson-Williams stated that S-23-20 is for the Cold Storage Warehouse at 451 Garrison Oak Drive. That is Lot 8 within the Garrison Oak Business and Technology Park. The Planning Commission reviewed it back in November 2023 as a Site Development Plan for a rather large warehouse building and its associated warehouse improvements. At the time, waiver requests were approved related to the partial elimination of upright curbing and also a reduction in the parking requirement. The Planning Commission also approved a Performance Standards Review Application for the site as it is found in the IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center) and also partially subject to the SWPOZ (Source Water Protection Overlay Zone: Tier 2 Primary Wellhead Protection Area). It was previously the subject of a Board of Adjustment application. Since that time back in 2023, the applicant in the recent month has achieved Final Site Plan Approval for their project but is seeking additional time in order to proceed with moving towards construction and an end user for that site.

Mr. Street stated that they have no presentation other than that the project recently received Final Plan Approval and frankly they are just in need of more time to develop a list of contractors and pull permits. The time it took from the end result of Final Plan Approval, there isn't enough time to pull permits. They are requesting a one-year extension to the Planning Commission approval so the end user has time to develop those contracts and pull permits.

Mrs. Welsh moved to approve S-23-20 Cold Storage Warehouse at 451 Garrison Oak Drive for a one-year extension, seconded by Mrs. Denney and the motion was carried 7-0 by roll call vote with Mr. Lewis and Dr. Jones absent. Mrs. Welsh voting yes. Mr. Roach voting yes. Mrs. Maucher voting yes. Mrs. Denney voting yes. Mr. Baldwin voting yes. Mr. Reaves voting yes. Mr. Witham voting yes; the request appears to be reasonable under the circumstances.

S-23-21 BHD Operations Facility at 250 Garrison Oak Drive - Request for a One-Year Extension of the Planning Commission Approval granted November 20, 2025 of a Site Development Plan for a 6,000 SF Office Building with 4,000 SF Truck Maintenance Garage, parking and storage area for collection trucks and containers, a refueling station, and with associated site improvements. The site is located at Lot 11 of the Garrison Oak Business & Technology Park. The property is zoned IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center). The property of 10.755 acres is located on the west side of Garrison Oak Drive. The owner of record is Trash Gurls, Inc. Property Address: 250 Garrison Oak Drive. Tax Parcel: LC-05-068.00-02-11.00-000. Council District 3. Approved: *Performance Standards Review Application*.

Representative: Mr. Jim Eriksen, Solutions IPEM

Mrs. Melson-Williams stated that this is S-23-21 BHD Operations Facility at 250 Garrison Oak Drive, another lot in the Garrison Oak Business and Technology Park; this is specifically Lot 11. Likewise, it received Planning Commission approval back in November of 2023 for an office building and a truck maintenance garage combination along with a storage area for the trash/recycling collection trucks and containers. It is not a facility that would process trash. This is where the collection trucks live when they are not out collecting the trash. That Site Plan was approved also with a Performance Standards Review Application back in November 2023. Likewise, they have been moving through the Site Plan finalization process. They do actually have all of the agency approvals in hand and they are just waiting on a time on her calendar to grant their Final Plan Approval. We do have it in the Planning Office and they have already filed Building Permits. But in the interest of making sure the project stays alive, we suggested that they go ahead and seek an extension. Specifically, their letter requests a six-month extension but our standard approval time for an extension is one year just for tracking purposes.

Mr. Eriksen stated that he doesn't have a ton to add. Basically, we have been moving forward with the engineering process. We received most of our approvals back in January. We were waiting for some correspondence between the City and DelDOT to be able to move forward at that point. Once they received that, they moved forward with the Final Site Plan. At this point, they have the request for Final and they are just waiting for a little bit of time to finalize that Final Site Plan as well as establish the Building Permit and go through that process.

Mr. Witham asked if they have had any hiccups in the process. Responding to Mr. Witham, Mr. Eriksen stated that the biggest thing is just timing of agencies. We had a little hiccup with DelDOT. It took a few months to coordinate that and we were at the finish line back in June from a Final Site Plan standpoint and we submitted all of our sets for final approval. We just haven't heard anything back from the City at that point.

Mrs. Welsh moved to approve S-23-21 BHD Operations Facility at 250 Garrison Oak Drive for a one-year extension due to the timeline issues that they have experienced, seconded by Mrs. Denney and the motion was carried 7-0 by roll call vote. Mrs. Welsh voting yes. Mr. Roach voting yes. Mrs. Denney voting yes. Mrs. Maucher voting yes. Mr. Baldwin voting yes. Mr. Reaves voting yes. Mr. Witham voting yes; for the reasons set forth on public record.

NEW APPLICATIONS

Z-25-01 Lands of Bayhealth Medical Center, Inc. at 600 South State Street: Rezoning RGO/SWPOZ to IO/SWPOZ - Public Hearing and Review for Recommendation to City Council of a Rezoning application for a parcel of land consisting of 1.0053 acres +/- . The property is zoned RGO (General Residence and Office Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). The proposed zoning for the property is IO (Institutional and Office Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). The property is located at the southwest corner of South State Street and South Street. The owner of record is Bayhealth Medical Center, Inc. Property Address: 600 South State Street. Tax Parcel: ED-05-077.13-01-48.00-000. Council District 2. Ordinance #2025-15. *The First Reading of the Proposed Ordinance occurred on September 22, 2025 and Public Hearings are scheduled for Planning Commission on October 20, 2025 and City Council on November 10, 2025.*

Representative: Mr. Gregg Moore, Becker Morgan Group

Mrs. Melson-Williams stated that this is a Rezoning Application for the Lands of Bayhealth Medical Center, Inc.; specifically for the property located at 600 South State Street. The rendering shown on the screen kind of gives you a sense of where the property is located; it is shown in the center of the page shaded in yellow. It is at the corner of State Street which runs north/south and South Street which is on the north side of this property. It is a property just over an acre in size. Currently, there is a two-story brick building located on property which since having been acquired by Bayhealth has served as offices. They are seeking Rezoning because of future plans for the hospital expansion. The hospital is the remaining portion of that block that's bounded by South Street, South State Street, Hope Street and then South Governors Avenue. Currently, the property is zoned RGO (General Residence and Office Zone) so the office type use there is permitted. There is a portion of the property that falls within the SWPOZ (Source Water Protection Overlay Zone). That is the shaded green curve that kind of passes through this property. That is a zoning classification that helps protect our underground water resources. With this Rezoning, the property would remain subject to the SWPOZ (Source Water Protection Overlay Zone). They are making a request for rezoning to IO (Institutional and Office Zone). The IO (Institutional and Office Zone) has a variety of uses that are permitted in that zone. With a Rezoning application, we can't lock it in to any one of those in particular but for a sense of what can happen in the IO (Institutional and Office Zone), it's a series of different office types, banks, design and development laboratories, public and institutional uses and those would include things like hospitals, medical clinics, libraries, police stations, courthouses, schools colleges, universities, places of public assembly, philanthropic institutions, and other public uses. The IO (Institutional and Office Zone) also allows for things like child care centers, emergency shelters, transitional housing, and adult daycare facilities. Then there are other things that would be allowed through a Conditional Use which is a specialized review process and then other

accessory uses. With a Rezoning application, we have to look to the City's *Comprehensive Plan* and what does that say from a land use perspective about how the property should be utilized and in the *2019 Comprehensive Plan*, the Land Development Plan Map identifies this property as the Institutional land use category. The goals for Institutional land uses are specifically listed in the *Comprehensive Plan*. It is to maintain and improve the City's position as a center of government, education and medicine through support of existing institutions and encouraging well-designed campuses that are integrated into the community and have room to expand. The *Comprehensive Plan* also outlines the policies and recommendations and specifically speaks to the hospital complex that's found in this area of the City. With the *Comprehensive Plan*, the land use category of Institutional identifies the appropriate zoning district that it could be considered to be rezoned to and that is where we find the IO (Institutional and Office Zone). The next slide shows the location of this property that is shaded in the darker gray. You can see the balance of the property at the existing hospital location for Bayhealth.

As part of our Report, the Planning Staff must formulate a report and the Planning Commission members were provided that. In it, they discussed different zoning classifications and what it means for IO (Institutional and Office Zone) which is more truly an institutional zone here in the City. Staff is recommending approval of the Rezoning to IO (Institutional and Office Zone) noting that it is consistent with the *Comprehensive Plan* and that it's grouping is in the area of other similar institutional activities and we also recommend that it would remain subject to the SWPOZ (Source Water Protection Overlay Zone) recognizing that there are some exemptions for that zone in its requirements because of the location here in Downtown. The *Comprehensive Plan* encourages the long-term viability of our existing major institutions; so, we also note that. The Rezoning process does not grant approval of a specific use of the property but makes the use of the property subject to the list of permitted uses in the Zoning District that it is applied. Tonight, the Planning Commission, in looking at a Rezoning, will be making a recommendation that will move onto City Council. The Planning Commission is charged with considering this with three factors that are outlined in the Report. The first one being whether it is compatible with existing uses and zones in the area. The second one being whether adequate public services and infrastructure exists or can be created to serve the needs of any demand related to such change. And then, the third is whether the change is in accordance with the City's *Comprehensive Plan*. The Development Advisory Committee Report is made up of those background information provided by Staff, our Staff recommendation, and then the conditional comments from the Development Advisory Committee agencies. In this case, most of these agencies are identifying that they have no objection to the Rezoning and they provide some additional guidance about future endeavors should the property seek to redevelop. Those agencies include our Department of Water/Wastewater, Public Works, the City's Electric Department, Office of the Fire Marshal, the DelDOT and Kent Conservation District as well as the Dover/Kent MPO for this project.

Mr. Moore stated that Mrs. Melson-Williams' presentation was very complete. They agree with the Staff Report with all of the recommendations and all of the conditions that are there. A couple things that he does want to make clear. We do believe that there is a significant change in character of the neighborhood which would facilitate the Rezoning. That is the only parcel that Bayhealth owns in this area that is not IO (Institutional and Office Zone). All of the remaining parcels are IO (Institutional and Office Zone) including the parcel directly across State Street,

which is where the surgery center is and the parking lot. The property across South Street is their central utilities office building and parking is also IO (Institutional and Office Zone); as well as the properties that are on the opposite side of Hope Street, which houses some parking for the Bayhealth building on that side. In addition, Holy Cross is also IO (Institutional and Office Zone). So, we are almost completely surrounded by IO (Institutional and Office Zone) which is really why we think it's very compatible with the surrounding neighborhoods as Mrs. Melson-Williams pointed out. Also, the *Comprehensive Plan*, as Mrs. Melson-Williams pointed out, they are consistent with that. So, this is just allowing us to have all of the parcels of Bayhealth in the IO (Institutional and Office Zone) which makes perfect sense to us. They are planning a major renovation/addition to the entire campus. We are focusing on this very block. We own property around it, but the problem that we are having is that our hospital is starting to spread out too much. We are going to pursue a ten-story addition to the existing building, four stories of which were built in about 2010 and that was actually approved in this chamber for the ten-story tower in 2006. We will be coming back to this Board probably next year and presenting our Comprehensive Master Plan of the entire campus and you all will be seeing that. That ten-story tower addition is the focus of that. That will be what we call a bed tower where we are going to be adding up to in our first bays, about 100 beds and in total for a 30-year master plan, about 200 beds. Part of that is from growth of our community. We are the main health care provider and we are running low on beds and that has been since COVID. That is also presenting us problems in our Emergency Department where we are having problems finding beds for people who come into the Emergency Department. They can't get a bed and it becomes backed up causing wait times. We are trying to alleviate that for our community. A lot of the building is to the left. The tower is actually right in the center of the South Street block. You can see that there is a square and it is above that area where we are asking for Rezoning. Much of that area to the left is what we would call legacy buildings. Much of it is more than 50 years old. Our original hospital is embedded in there and because of the age, it does not meet current health care codes, it does not meet floor to ceiling distances, and we have a problem being able to repurpose some of those areas because of that. As a result, we are going to go vertically with ten stories and surround the area around the bed tower where people will actually be in rooms. We will migrate everything around there so that they are more efficient. If you have been in the hospital lately, when you go in the main entrance that is the existing four-story podium that was approved in 2006. That four-story podium will allow the six stories to be above it to get to ten stories. This is a very planned process. But if you go there now, many of our beds have locations to the left and there are two different banks of elevators. One is as far as almost 500 feet from the main entrance. We are seeing that our patients, health care providers, and others have confusion as to where they need to go and where are the rooms located. We have some elderly people who have a difficult time in actually making that walk down to the elevators. This will make it more efficient and will go straight up right behind the information desk at the front entrance. Eventually, under their Master Plan, they are going to be tearing down a lot of that component of the hospital that is 50 years and older and that would then become future growth but the hospital would be centered around the ten-story tower. So, that is kind of a snippet of our expansion and we will be bringing that back in detail and we will have all kinds of plans. We did appear before the Board of Adjustment last week with the ten-story tower and some of the details about the tower and with that, it allows us to finish our master planning so that we can submit that to the Planning Department. We have had a number of meetings with Mrs. Melson-Williams about that. This is somewhat of a house cleaning issue for us so that all of our properties are zoned similarly when we present a 30-year

master plan.

Mrs. Denney stated that when you say ten stories, there are already six floors. Responding to Mrs. Denney, Mr. Moore stated no. There are actually two buildings. When you go straight in the main entrance now, the desk is right in front of you. We call that the podium which is a four-story structure and we designed that to allow six stories to go on top. The elevators that you would go to to get into the second, third and fourth floors with the Cancer Center being one of them, that elevator will actually continue to stay in the current location and will go all the way to the top. That is what he is saying is the easy way to find everything. You will be able to walk directly behind the desk, go to the elevator and be able to go all the way to ten stories. You won't have as much having to walk distances to get to the green elevator or the yellow elevator.

Mrs. Denney stated that it is a good plan because she still goes over there frequently on a volunteer basis and it is usually it is about a five-mile walk by the time you go up. This will really make that a lot easier. Responding to Mrs. Denney, Mr. Moore stated that our Master Plan is a three-phase plan. The first phase will be that tower and it will probably take three to five years to execute that and the second phase, which is adding around the tower would probably be starting in five to seven years. The problem that we have is that it is very difficult to maintain healthcare process throughout the whole hospital and it is very difficult for us to make expansions.

Mr. Witham stated that from a personal standpoint and a public standpoint, the big issue here is the hospital business. In fact, the wait time in our trauma care and emergency services is absolutely outrageous. He recognizes the problems that they have that really need to be addressed. He realizes that your plan provides all of that but the sooner that issue can be addressed, the sooner it will help. Responding to Mr. Witham, Mr. Moore stated that part of our first phase is improvements both inside and to make some additions to the ED and the tower. That Emergency Department will go from one story to three stories surrounding that tower. We will be adding temporary beds there so that when you come in you will have a place to go, you will be seen. They can decide whether or not you need to get admitted, and then you can go to a room. The other thing that he didn't mention that they are going to be doing is that we have a number of rooms that are dual occupancy rooms where there are two beds in a room. His father was in one. It is difficult for the providers and it is difficult for the patients. It is not the best program for healthcare. We are going to eliminate all of them and then through our Master Plan, they will all be single person rooms which are more modern healthcare. Part of our two hundred (200) beds is because we have to do that. It is not a full add that we have to split, it's two hundred (200) rooms and that will give us the same amount of beds in single rooms. But we have nearly one hundred (100) that we need to add for exactly what you are saying for capacity; and part of that is our aging healthcare and our aging population and part of that is growth and part is just modern medicine. We hear your story. We have heard it many times. The hospital knows it well and they want to quickly get into the building phase so that we can address that.

Mr. Witham opened the public hearing.

Mr. Zach Prebula – Kent Economic Partnership 555 Bay Road Dover, DE 19901

Mr. Prebula stated that they are in support of this project. Part of our goal as the economic

development organization is to support businesses looking to expand and Bayhealth is one of our largest employers looking to do just that. By approving this Rezoning, you can help Bayhealth move this expansion forward more smoothly as they only have to focus on one zoning code rather than navigate multiple which will help them get this expansion through more timely.

Mr. Nate Attard – 452 East Loockerman Street Dover, DE 19901

Mr. Attard stated that he is the President of the group called The Friends of Old Dover. He is not here to voice his displeasure with this Rezoning. This Rezoning is consistent with the City's *2019 Comprehensive Plan* and it should be supported. He is; however, here to voice his displeasure that the City did not effectively utilize the H (Historic District) overlay for this and other adjacent properties. City Staff has not been willing to recommend this overlay in any meaningful way in any recent years to provide the community a voice and preservation and design outcomes with the exception of the nearby Family Court property where this was used after the demolition of the buildings on the site. The City has not sought to proactively use this overlay to provide a voice to the citizens in what our City will look like in the future. Better outcomes come with community support and involvement. With this Rezoning, it looks like we are going to get another parking garage at this location. He knows Bayhealth can do better so he is just hoping that with this, we get some more positive design outcomes, not just a single faceless parking garage. Many hospitals do this and he knows Bayhealth can do it. He knows their design consultants can rise to the challenge.

Mr. Thomas Smith – 126 Hampton Drive Dover, DE 19901

Mr. Smith stated that he is a member of the board called the Historical Society of Dover, aka The Friends of Old Dover. Our mission is to protect and preserve the historic buildings of our City and its wonderful architect. We also realize that rezoning will probably result in the demolition of certain properties that some people in the City consider historic because they knew the people who lived there as part of the community. Preserving our community is important to us.

However, these properties that we are concerned with and that will change as the hospital expands are not in the Historic District and we fully realize that. What we want you to know is the expansion of Bayhealth Campus is necessary to the health of our community. We fully understand that and we fully support that. We do not want people to get the idea that we are always against something because we are not always against something. What we are against is the change in the community fabric that has a negative effect on our community. So, the Board of Directors wants Bayhealth and the City of Dover to know that we do not oppose this zoning change.

Ms. Laura Kaehler – 307 Merion Drive Dover, DE 19901

Ms. Kaehler stated that the house at 600 South State Street is the house that she grew up in. It is the house where her dad had his office. He was a general practitioner for 30 years and was also involved at Kent General from the 1960's to the 1990's. Her family had just heard about this just recently. They didn't know anything was planned for the house. When her mom sold the house, she was told that it would be a nice block or shield from the industrial look of the hospital next to the Historic District. The house itself is an old home at approximately 100 years old. But because Dover is a historic community and that's what kind of puts them on the map, she would ask them to reconsider getting rid of that house just because they make a nice shield. When you are coming down that main street, you would see the houses next to the Historic District. That is

what we were told it was going to be and now the family is saddened to hear this. She knows that the hospital needs to expand, but she would also ask for consideration of maybe starting a hospital zone 2; maybe something off campus. Just like churches when they expand, they end up having to go out of the City because they need so much room. With this being so close to Downtown Dover and the Historic District, it could be expanded without having to look outside of the main part of Dover and that way it would keep this house as a buffer. If you drive down the street and notice what it looks like, it does make it look much different. Dover is known as historic; it's what just kind of puts it there. She would just ask that they think about the idea and perhaps an off-campus location could be used to expand for what they need because they will have to do it again. Also, they are just going to become land locked; so, maybe they should just start their future where they can expand.

Ms. Anne DeMarie – 712 Oak Drive Dover, DE 19901

Ms. DeMarie stated that her question is since they are asking for the change; they probably have a pretty good idea of what they want to do. She knows that they have all of these options but she would like to know what they really want to do with the property. They probably already know what they want to do with it if they are requesting the zoning IO (Institutional and Office Zone). How many stories do they think they are going to make out of that space where the house is or is that going to be part of the emergency department? If they tear down that house, how many stories do you intend on building right there and what do you intend to do there? Are you considering adult day care? If you are, an adult day care facility wouldn't have to be there. An emergency shelter wouldn't have to be there. Are you considering transitional housing? Are you considering child day care centers? Because that doesn't have to be there and certain institutions don't have to be there; and if they are, are you going to be considering how close they are because they have to be within a certain number of feet or in close proximity to the two schools at Holy Cross and South Dover Elementary. You say you have plans, what are you plans right now for the property at 600 South State Street? She really hasn't heard what your intentions are there. She will be honest; she doesn't attend these things but she was kind of bewildered and disappointed that she has not heard questions from the Commission. She is shocked and annoyed and irritated and disappointed that she is not hearing questions. She is hoping that people listening online maybe will come to the next meeting and make a difference. She thought that was the whole idea; to come here and explain really what your plans are in a little more detail. Just these options aren't really telling the citizens really what you are doing. She is sure that most of the people surrounding that area have no idea that you are even having this meeting tonight. She knows that you sent letters to a certain group but she is thinking about the traffic. She hasn't even heard anybody interested in the amount of traffic this is going to involve. Just the things that you are allowed to do from the 10.1 until you get to the 10.2 where you need more approvals. But she is not hearing anything else. Like you said, you must have some idea if you want to go to an IO (Institutional and Office Zone), what else is in your mind that you want to do? She would just like to know from someone on the Commission or Staff. Responding to Ms. DeMarie, Mr. Moore stated that he needs to be very clear that they are here for a Rezoning tonight. The Rezoning has legal standard for its approval and that is that we have to prove that it's a change in character of the neighborhood, which his testimony was that over almost 100 years, the hospital has existed here and this neighborhood has changed as Bayhealth has grown and our community has grown. Thus, much of the property surrounding us is already IO (Institutional and Office Zone). We have to prove that we are compatible with surrounding uses.

We have coexisted with Holy Cross and the commercial zones around us for decades and we plan to continue to be good neighbors to them. We have to prove that we are consistent with the *Comprehensive Plan*. What we can't do legally is come here and show you plans of what they are doing and what they want to do and what it all looks like because that is called contract zoning and that is illegal in Delaware. We are very aware of our community making comments of what it's going to be. He was clear that what he said they were going to do was based on the presentation to the Board of Adjustment of last week; that is public information. We are beginning the process of outreach to our community. We started that with City Council in this Chamber trying to explain to them. We are in the process now establishing days to outreach to our neighbors in the surrounding area as well as The Friends of Old Dover so that people are aware. We are going to do a good job of that outreach and that has already started by our executive team establishing dates and locations so that when we do outreach, we have a good process to do that. With that, Bayhealth is not trying to be coy by not explaining and bringing drawings. That is not a legal standard that they have to prove and it is contract zoning. We want to make sure that they are proper to the process.

Mrs. Denney stated that for her last thirty to forty years of her career she spent in medical management. She has managed both a primary care and an orthopedic surgeon practice here locally. The one thing that she can tell everyone for sure is that for a long time there has not been enough beds in that hospital. It needs to expand in order to accommodate the general population as well as the aging population. While the comments and thoughts about perhaps having an annexed building, that doesn't really work. You can't have somebody and think oh we saw them in the emergency room but they have to have surgery so now they are going in an ambulance and ride down the street before their appendix bursts. When she saw this application and looked at it initially, it seemed to make common sense to her; the planning aspect is that the zoning should be uniform across the board so that you don't have just this one little piece standing out especially in that block. She is elated when she realizes that they are planning on going up as opposed to spreading way out. Especially at this point, we don't know what will happen. But the hospital is one of our biggest employers and it is very important to our community. It is very essential to the health of our residents. For those who know me and know that I speak very firmly about things that near and close to her heart, she is very adamant in declaring that this is the Capital City of the State that started the Nation and we do have to be careful when we start erasing history. She felt that with the Downtown development further up and she expressed that, but there is plenty of history north on State Street. Again, it would be very difficult to preserve that area and expand the hospital the way it needs to be done. It is not just the people who work there and separating rooms, there is a lot of behind the scenes that go on like JACO inspections and many other inspections and types of things that happen. For many years when she first started here, the hospital was very small and we had one insurance plan that would insure doctors here for people to see doctors here and that was the old Principal Health Care. Part of her job was to bring people here and expand. It was very hard to recruit doctors here. It is kind of crazy because you think when you are driving your beat-up old Volkswagen trying to get through med school and you're thinking "someday, someday, some day." Recruiting doctors, many of those wives want to live near Central Park in New York City; they don't want to live in Downtown Dover. They are disappointed with the restaurants and the shopping and that was a callus. For her, it was involving herself with the restoration of the Schwartz Center so we could bring some more and more arts down here. It is a very fine line and while she is certainly empathic to "I

grew up in a house there,” she really understands that and how it touches you but this expansion of this hospital which begins in a very small way with a Rezoning, needs to happen for the state of everyone’s health here. It begins with a lot of things and this is the first hurdle right now for us.

Mr. Richard Kosior and Mrs. Kathy Kosior – 12 Elm Terrace Dover, DE 19901

Mrs. Kosior stated that they have traffic concerns which are pretty standard in any building project and also the use of the corner lot where 600 S. State Street is now and what that would mean for it. She understands that it is not revealed at this moment but was it a parking garage, was it a parking area and how would it impact State Street to Elm Terrace where we live.

Mr. Moore stated that in a Rezoning is not appropriate to be addressing traffic. We are talking about a use and any project that goes on in Downtown Dover will go through the Department of Transportation and any Traffic Impact Studies will be done if needed. The beauty of this site for 100 years for Bayhealth is that we have two of the main feeders through the Downtown; both Governors Avenue and State Street to allow access from both sides of the hospital. It has functioned greatly there and that is a very good access to have. We have both Hope Street and South Street to give us feeders for that so we can manage traffic. We aren’t concerned about that. We know we have a lot of work to do to address traffic but that’s true of almost every function, whether it’s codes of the buildings or fire or emergency. All of those things will be addressed but the Rezoning is not the place to address them. We think that’s the Site Plan process when we are detailing all of our plans exactly. The public will have part of that process and it has worked well. The Commission has done a great job. He will end by saying that in 2006 he stood in this very Chamber getting a 10-story tower approved. This is not a surprise; this is not new. Being a Delawarean and knowing the growth that we have, 200 hundred beds are direly needed in this facility.

Ms. Laura Kaehler – 307 Merion Drive Dover, DE 19901

Ms. Kaehler stated that she just wanted to add that Bayhealth does have another location in Milford, DE. Just like there is another location, there could be another location for Dover. It would be like two locations for Dover, not for people to get sent from one location to the other but if half of the people attended one and the other half to the other. There wouldn’t be as much traffic going to each one. But also, eventually there needs to be something done in the future because Dover will keep expanding and it won’t physically fit there. If that is paid attention to now and planned for now, the second location outside of where the main area of Dover is and the historic area of Dover is, the extra beds and things could go somewhere else. Responding to Ms. Kaehler, Mr. Witham stated that you realize you will have an opportunity to come forward to comment during the Site Plan Development of this parcel.

Mr. Witham closed the public hearing.

Mrs. Denney moved to recommend approval to City Council for Z-25-01 Lands of Bayhealth Medical Center, Inc. at 600 South State Street: Rezoning RGO/SWPOZ to IO/SWPOZ as this is just a very small piece of what needs to happen here but it begins with Rezoning this small parcel from RGO to IO and all of the zoning in the block will now be equal, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Lewis and Dr. Jones absent. Mrs.

Denney voting yes; in accordance with her motion and she does think that the Rezoning of this parcel needs to happen just to make that uniform. Mrs. Maucher voting yes; based on DAC comments as well as it being consistent with the Comprehensive Plan. Mr. Baldwin voting yes; based on aforementioned statements. Mr. Reaves voting yes; for reasons previously stated. Mrs. Welsh voting yes; she will state that we are just voting on the Rezoning at this point in time and she has seen many proposals from Becker Morgan Group to this Commission so she has no doubt that when they come back, we will see an excellent presentation that will let us all know what is planned for this site. Mr. Roach voting yes; he encourages the community to continue to show up to these meetings. He definitely understands their concerns and like everyone said, it's a Rezoning application so continue to come to the future meetings to state your concerns and things like that. Mr. Witham voting yes; the zoning is clearly compatible with the existing uses of the zones in the area. This property is completely surrounded by IO (Institutional and Office Zone) and it makes a lot of sense. There appears to be adequate public services and substantial infrastructure that already exists to meet the needs of future expansion of the hospital which is indicated by the comments. It is sorely needed and the change in the zoning is compatible with the Comprehensive Plan.

Mrs. Melson-Williams stated that the Planning Commission's recommendation will be forwarded along with your public testimony this evening. City Council will consider this Rezoning application at their meeting on November 10, 2025. The Council Agendas are posted about a week before and their meetings begin at 6:30PM.

S-25-12 Blue Hen Corporate Center Pad Sites Master Plan (as Revised) - Public Hearing and Review of a Site Development Master Plan application for three parcels of land with frontage on Bay Road consisting of a total of 23.61 acres ±. The properties are zoned SC-2 (Community Shopping Center Zone) and with certain areas subject to the SWPOZ (Source Water Protection Overlay Zone Tier 3 – Excellent Recharge Areas). The proposed project would set the sites for four 8,000 SF buildings (Buildings 1 – 4) and associated 450 parking spaces to be placed on the pad sites located at the Blue Hen Corporate Center. Development is proposed in no specific phase order because it will be built to suit as tenants approach the developer. The property is located on the east side of Bay Road and south of Blue Hen Boulevard. The owners of record is Blue Hen CC, LLC, and Blue Hen Mall, LLC. Property Addresses: 631 Bay Road and 655 Bay Road and another listed as 655 Bay Road (S-10). Tax Parcels: ED-05-077.00-01-19.08-000, ED-05-077.00-01-19.04-000, and ED-05-077.00-01-19.05-000. Council District 2. *Waiver Requested: Partial Elimination of Upright Curbing.*

Representative: Mr. Jonathan Richard, Becker Morgan Group

Mrs. Melson-Williams stated that this is a Site Development Master Plan. It involves three parcels of land that are part of the larger area known as the Blue Hen Corporate Center which is located on the east side of Bay Road. The overall Master Plan comes to the Planning Commission and then it identifies just general phases of a project. Then each phase would then be subject to an Administrative Site Plan Review process. The Planning Commission is charged with looking at the overall concept but then the finalized details will happen through an Administrative Site Plan Review process. As noted on their opening cover sheet, they are looking to place buildings, moving from the left, Building 1, Building 2 and then what had

initially been filed as a location for Buildings 3 and 4 on the far right, has been revised to just be a large parking area. That's the note for revision. The property is zoned SC-2 (Community Shopping Center Zone). We are dealing with three parcels of various sizes. The area that is to become the redeveloped parking lot is also subject to the SWPOZ (Source Water Protection Overlay Zone Tier 3 – Excellent Recharge Areas) and as such, has some limitations on its level of impervious surface coverage that they will have to make reductions in that area to achieve. The property as noted is zoned SC-2 (Community Shopping Center Zone) and that is described more fully in our Report as well. As noted, a Conceptual Master Plan outlines the general concepts for laying out a building and parking. Then the details are more fleshed out in the second step of the process with an Administrative Site Plan Review that involves the Planning Office and other regulatory agencies. For this project, they are providing parking spaces well above the minimum requirements based on the buildings that they hope to construct and then the additional parking area that will be established. They will have to provide bicycle parking at each of these locations and items related to lighting of those parking areas and for the building sites, things like dumpsters. The frontage of this property will need to be improved with a street frontage sidewalk and then connecting sidewalks from that sidewalk into the site to serve each of these areas. Since they don't know who the tenants of the individual buildings will be, there is no building architecture that is being presented to the Commission this evening. When they move into that Administrative Site Plan process, if this goes forward, they will have to revisit the Planning Commission with that architecture. As with any site development, there is some landscaping and tree planting requirements for the project site. There is tree planting based on the size of the areas of the development and then from a landscape requirement, this property is located where an arterial street buffer is required. That minimum buffer is thirty (30) feet in depth when measured from the right of way. Their initial proposal is showing that being implemented for the plan. The Planning Office provided review comments on the plan being revised for these two buildings and then the parking lot area. Key things for them to continue to work on will be bicycle parking, the overall pedestrian circulation for both along the frontage and then moving into this overall site area, and then greater details on the Landscape Plan to ensure that we are meeting our tree planting and the lot coverage limitations that may be proposed on the particular areas of the site. They did make one waiver request and that was for the elimination of upright curbing. Your *Zoning Ordinance* allows the City Planner to grant approval of that request and we have done so. It is the elimination of select areas of curbing related to what is anticipated to be their stormwater management design. So that will be looked at even more so when we get actual real buildings to be placed these locations. The other recommendations that the Planning Staff had made for this project are outlined on Page 9 of our DAC Report. They go onto discuss ensuring that pedestrian circulation is clearly delineated and that with landscaping that there would be a greater mix of tree species so that we don't see all of one type. Then if some bug likes that one type, then you have no trees. Certainly, with the area that is to be the redeveloped or improved parking lot, there are some landscaping requirements in the parking lot areas that they will have to ensure that they are meeting. Along Bay Road, for the installation of sidewalks, they will have to work with whether that happens on their property or within the available right-of-way along that street frontage. We do recommend in the area that is to be the parking lot, to implement parking lot islands with upright curbing in appropriate areas to help with traffic circulation and control in those areas to guide where the major circulation should be versus driving down a parking lot aisle. She will note that there is an opportunity for interconnection with this property and to the properties located just to the south. With the

development of the properties off of Stover Boulevard and Energy Drive there was a service road connection that stubbed into this Blue Hen Corporate Center property area. But it is not fully established because of lack of easements to do so and really the property design on the corporate center side. We also note that if they plan on having electric vehicle charging that is easier planned at the beginning rather than later. The various Development Advisory Committee participants have also provided comments and those coming from the typical agencies: the Department of Water/Wastewater, the Public Works Office, the Electric Department, the Fire Marshal's Office, DelDOT, the Kent Conservation District, the MPO and also from Chesapeake Utilities.

Mr. Richard stated that there is also an owner/representative from Pettinaro Construction Company online tonight in case there are any questions that arise for the owner itself. As Mrs. Melson-Williams previously mentioned, this is the Blue Hen Corporate Center with the pad sites being the three stars on your screen. The overall parcel in the middle happens to be about 18 acres, the one to the left is about 2.3 acres and the one the south which is on the right is about 3.1 acres, summing to just shy of 24 acres. The present uses are parking lots of the building which have not been utilized in probably several years just because of the lack of the parking necessary for the Blue Hen Mall or Corporate Center as it transitioned throughout the years. The Blue Hen Mall is a very old facility that was built before his time. Obviously, the proposed uses would be two commercial pad sites with a parking on the southern side, just kind of revamping that parking area on the south side there. That has a Source Water Protection Overlay Zone attached to that as well. With that, we will make the improvements necessary to comply with the SWPOZ (Source Water Protection Overlay Zone) which he believes is ultimately a reduction in impervious surface. The two buildings are 8,000 SF a piece holding about 16,000 SF and requiring about 54 parking spaces. As Mrs. Melson-Williams had mentioned, this is well over parked given the nature of this used to be the Blue Hen Mall with just over 500 spaces. The next slide gives a little more of a detailed view of what's going to happen for Building 1 and Building 2. Building 1 is the one to the left which is encompassed by the Firestone on the left-hand side and the Enterprise just on the right-hand side of that building. Then Building 2, which is directly adjacent to Way Back Burgers. The next slide shows a bigger view of the south parking lot. As Mrs. Melson-Williams had previously mentioned, nearby is the service road that was built with the Stover Professional Campus at that particular time. There is certainly a possibility to make a connection there to make that service road go all the way through. The next slide is a color rendering of this with the appropriate landscaping that is up there with the buffering that we are required given the fact that this is an arterial buffer. What was not shown on this plan at that particular time was the sidewalk interconnectivity. We do not have any opposition to that. It will kind of give it a better networking to access the Corporate Center itself. We actually have discussed that with Mrs. Melson-Williams and we are going to be working through that particular process with her when the Administrative Site Plans come through for these three parcels. The only waiver that we are requesting is the upright curbing waiver for stormwater management in certain areas. These pad sites all drain towards Bay Road. Therefore, they are going to be draining through the landscaped area and the necessary upright curbing waiver will really help the situation for sheet flow across the parking lot towards those existing storm drains that are out there adjacent to the right-of-way. They have reviewed Staff's Report and they are in agreement with everything that is mentioned in there and coming back for the Administrative Site Plan reviews and ultimately coming back for the building elevations to be reviewed by this

Commission to actually see the architectural elevations and so forth at that time. As previously mentioned by Mrs. Melson-Williams, we do not have a current tenant for this particular project itself. This is a Master Plan so we are just trying to strategically plan ourselves for the future for future development on this parcel itself. When that information becomes available, obviously the building elevations will show how the potential tenant could potentially be.

Mr. Witham opened the public hearing.

Mr. Zach Prebula – Kent Economic Partnership 555 Bay Road Dover, DE 19901

Mr. Prebula stated that as mentioned earlier, part of our role is supporting business expansion but our overall role is to locate and attract businesses to Kent County. This project here will help us do both and speed to the market with doing those. Attraction and supporting business expansion is vital as businesses are looking to move faster than ever now a days and by approving this, you can help get this one step closer to being ready for the market to attract and support our businesses and create jobs here in Kent County and Dover.

Ms. Andrea Fineroski – Pettinaro Construction

Ms. Fineroski stated that she just wanted to thank Mr. Richard for such a good presentation. I typically do attend these meetings myself; however, she is moving tomorrow and was unable to make the trip down to Dover tonight. If anyone has any other questions, she would be glad to answer them. She thinks Mr. Richard did a fantastic job on the presentation. We conferred on this during the day today and she thinks he touched on everything that we have done with this project so far.

Mr. Witham closed the public hearing.

Mrs. Welsh moved to approve S-25-12 Blue Hen Corporate Center Pad Sites Master Plan (as Revised) as presented to the Commission; it was well done and it seems like it's a good use for those vacant areas of the property.

Mrs. Maucher stated that she wants to make a friendly amendment to include the partial elimination of the upright curbing waiver request.

Mr. Witham stated that since she brought that up, he has a question for Mrs. Melson-Williams. Do we need to approve your action on the waiver? Responding to Mr. Witham, Mrs. Melson-Williams stated that in regard to the waiver request for upright curbing, the authority is granted to the City Planner but you can certainly recognize that in your motion. The other thing the Planning Staff would want to confirm with the motion maker and the seconder is whether or not they are referring to the Development Advisory Committee Report and comments as part of your recommendation of approval. Responding to Mrs. Melson-Williams, Mrs. Welsh stated yes.

Mr. Witham asked if Mrs. Welsh agrees with the amendment. Responding to Mr. Witham, Mrs. Welsh stated yes, she does.

Mrs. Welsh moved to approve S-25-12 Blue Hen Corporate Center Pad Sites Master Plan (as Revised) as presented to the Commission; it was well done and it seems like it's a good use for

those vacant areas of the property and to include the waiver request for the partial elimination of upright curbing and the DAC Report and comments, seconded by Mrs. Maucher and the motion was carried 7-0 by roll call vote with Mr. Lewis and Dr. Jones absent. Mrs. Welsh voting yes; for the reasons stated in the motion. Mr. Roach voting yes. Mrs. Denney voting yes; she is looking forward to seeing yet another Becker Morgan Group project come to fruition soon. Mrs. Maucher voting yes; based on the DAC comments. Mr. Baldwin voting yes. Mr. Reaves voting yes. Mr. Witham voting yes; based upon the comments tonight before the Commission and based upon the DAC comments as well.

S-25-14 LivSmart Extended Stay Hotel at 530 and 540 Bay Road – Public Hearing and Review of Site Development Plan for new 5-story hotel of 113 rooms as a Hilton LivSmart Extended Stay Hotel and with associated parking lot and site improvements. The project will involve the consolidation of two parcels totaling 2.20 acres +/- . The properties are zoned C-4 (Highway Commercial Zone) and are located at the southwest corner of Miller Road and Bay Road with Martin Street to the west. The owners of record are Bay Road Four, LLC and Bay Road Three, LLC and the equitable owner is Weathervane Capital Partners. Property Addresses: 530 Bay Road and 540 Bay Road. Tax Parcels: ED-05-077.00-01-45.00-000 and ED-05-077.10-01-10.02-000. Council District 2. *Waiver Requests: Reduction of Arterial Street Buffer and Elimination of Loading Berth. The most recent application was S-21-05 Bay Road Office Park Master Plan (Revised) granted conditional approval by the Planning Commission in May 2021; it is expired.*

Representative: Mr. James Curran, Century Engineering; Mr. Mike Murchie of Weathervane Capital Partners

Mrs. Melson-Williams stated that this is for a hotel project at 530 and 540 Bay Road. This request is made up of two parcels of land that are zoned C-4 (Highway Commercial Zone). This is a proposal for a five-story hotel consisting of about 113 rooms. It is an Extended Stay Hotel and along with that there is the associated parking lot that surrounds the building. The two parcels working together here make up the site and they will be combined as part of their project activities. The properties are located on the west side of Bay Road and is bounded by Miller Road which is on the right-hand side of this image and Martin Street which is at the top of the image and then the property to its south or left is other lands that are owned and already developed. There is an entrance drive that leads back to the office building that is currently occupied by Century Engineering. That entrance drive is important because it is one of the access points to this property along with an access point from Miller Road. With the property being zoned C-4 (Highway Commercial Zone), they have to follow those bulk standards. Parking for a hotel is based on a rate per guest room along with some additional areas. They include office space. Based on the rooms and that extra space, they would be required to have 117 parking spaces and they have above that. Also associated with parking, there would be a requirement for bicycle parking based on the number of spaces they are providing. They would be required to provide 7 bicycle spaces. We need to clarify with the applicant this evening if they are seeking a waiver of those bicycle parking spaces. Other site elements that we have on this plan include the required dumpsters, street lighting; and she did speak to access which comes from both an existing street there of Miller Drive and then the shared commercial existing driveway that leads from Bay Road basically back to a property in the rear. Other parking requirements include a waiver request for the elimination of the loading berth requirement. They do have kind of a drop-

off area at the front of the building, but our Code would require more than just one based on the size of the building. So, they are seeking relief from that. The applicant has presented building architecture and we will see more of that in their presentation. They have provided information about all sides of the building since it will be visible from multiple streets. With this property, they are required to have a tree planting requirement. There was some indication in a data column that there might be woodlands on the site and she thinks the applicant has been reevaluating whether or not the existing vegetation is truly woodland on this property or not. That has some implications on their tree planting requirements so we will hear about that. They are requesting a waiver for the reduction of the Arterial Street Buffer, seeking to go from the 30-foot requirement down to 20 feet. She will note that one of these properties at 540 Bay Road did previously receive that relief as it was proposed earlier for a different development scenario but that has since expired. Additionally, because this property is across the street from residential when you look at Martin Street, there are some parking lot screenings. They will be implementing that for those parking spaces that face that road. The Planning Staff has provided a number of comments. They are recommending approval of both the elimination of loading berths and the reduction of the Arterial Street Buffer to 20 feet. They are also asking them to clarify the cross-access easement to be able to utilize that shared entrance drive that was previously planned and exists on the adjacent property. Likewise, the Development Advisory Committee Report continues with comments from our regulatory agencies including the Department of Public Works, Department of Water/Wastewater, the Electric Department, the Office of the Fire Marshal, DelDOT, the Kent Conservation District, the Dover/Kent County MPO, and Chesapeake Utilities with those agencies providing technical review comments and advisory comments in other instances.

Mr. Curran stated that the LivSmart Extended Stay by Hilton is proposed at 530 and 540 Bay Road. The total area is 2.2 acres. It's a vacant lot. There is some vegetation down the center. We did look at that; it does not meet the qualifications or definition for woodland; it's a hedgerow so that will be revised on our plans. Water, sewer and electric are all available on the site. It is situated along Bay Road between Miller Road, Martin Street, and the Century Engineering entrance road. The existing concrete for the previous use that has been demolished will be removed. The zoning is C-4 (Highway Commercial Zone) and hotels are a permitted use. We are proposing a five-story extended stay hotel and the gross square footage is about 57,000 SF; 11,000 plus SF on each floor and 113 guest rooms. We are proposing sidewalks along Miller Drive and Martin Street and the connection of the existing sidewalk on the opposite of the Century Engineering entrance road, a shared use path along Bay Road connecting to our Miller Drive intersection with a crosswalk and handicapped ramp on the opposite side of Miller Drive. There is no access directly from Bay Road. Entry will be from the Century Engineering access drive and Miller Road. We did uncover the recorded plan that shows a 30-foot-wide shared access easement along the Century Engineering drive so that shouldn't be a problem. They are requesting three waivers as Mrs. Melson-Williams mentioned. They are asking for a waiver from the 30-foot Arterial Street Buffer requirement along Bay Road. We are providing 20 feet and can fit all of the required landscaping within the 20-foot buffer. No widening from DelDOT is required along Bay Road so that existing width will remain. They are requesting a waiver from providing an off-street loading berth due to the nature of this hotel. There are very few deliveries of linen and some concessions for vending machines and office supplies that will be done. There will be small box trucks that can be unloaded from the front entrance. They are also looking for a

waiver from the bicycle parking requirement. They do understand the importance of bicycles and adequate bicycle facilities; however, with an extended stay hotel, very few if any patrons require their bicycles to stay there. We have very few employees and any guests who do bring their bikes can keep it inside due to weather and other financial reasons. They add that there are no restaurants or bars, banquet facilities, or conference facilities in the hotel. It is generally the residence rooms, a small gymnasium for the guests, and a small laundry area for the guests. At an extended stay, you don't expect any other patrons other than the people staying at the hotel. They did receive all of the comments and letters. They do not agree with the recommendations from the Dover/Kent County MPO about extending the shared use path on other frontages north of the Miller Road intersection. There is drainage and other concerns about adding that along the frontage of other uses. They have the existing sidewalks along Martin Street for pedestrians if they would like to walk to Martin Luther King Jr Blvd. They have an existing sidewalk along the south side of the Century entry road and we are providing connections to there. There is very little traffic so adding sidewalk along the north side is not necessary. As he explained for the bike racks, they do not propose any bicycle racks outside for this use. The next slide shows a prototype of what the hotel will look like. Most of the parking is in the front; there will be some parking in the back. On the plan, we have 123 parking spaces. We may need to lose 2 of those to add an emergency generator; so, they will probably end up with 121 spaces which are still about four more than what's required per Code. The remaining slides are just the different views of the hotel: the front, the back, there is a small patio area in the back, and the two sides.

Mr. Witham stated that Staff notes that the plan itself is difficult to read the location and details of the sidewalk along portions of Martin Street at the intersection of Miller Road. Has that been explained? Responding to Mr. Witham, Mr. Curran stated that he doesn't think he touched on that but they will make the plans more legible. There is sidewalk from Miller Road to about halfway down Martin Street where the right of way ends. The sidewalk is along the curb line and they will tie into that sidewalk and extend it to the Century Engineering entrance drive. There is also sidewalk from about where our entrance is on Miller Road towards Bay Road. In between our entrance and Martin, there is not sidewalk and they will be adding sidewalk so that it's all interconnected.

Mrs. Maucher asked what is considered an extended stay. Is it weeks, months? Responding to Mrs. Maucher, Mr. Murchie stated that in the industry, an extended stay is considered for people generally staying more than a week and sometimes they may stay a few months. You might think about someone going through relocation and their home is not done yet so they will stay for a week or a few weeks. It could be a traveling contractor working at the Air Force Base. So, we do expect that a good percentage, probably more than a third of the people staying there, will be staying for more than 10 days.

Mrs. Maucher asked what the amenities were that they were including at the hotel. Responding to Mrs. Maucher, Mr. Murchie stated that the amenities that are being included are what is typically important by Hilton in today's environment and that is a really nice gym for people who work out and a really nice laundry room for people to do their laundry. Also, by the front desk there will be a really nice coffee bar for people to have their morning coffee in.

Mr. Witham stated that he anticipates that some of your cliental is going to be people who are

working at the Air Force Base. Responding to Mr. Witham, Mr. Murchie stated that they could be for sure. We work with Hilton on the location of our LivSmart and they have a kind of profile on what they think some of the residents will be and whether it could be Air Force Base. Traveling nurses or traveling doctors is also kind of common. He toured one of these LivSmarts in Tennessee and it was nurses and construction technicians.

Mrs. Welsh stated that she thinks she saw a colored rendering that was up on the screen. Could that be put up again? Just from the description of the colors, she was envisioning more black than that but that (image) answers her question.

Mrs. Melson-Williams stated that for those that have joined us online, the image that you are seeing on screen is also being presented on a board here in the room that shows a color palette that is more in the white and gray with a portion of it looking like it's somewhat charcoal or lead pencil color.

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

Mrs. Welsh stated that she heard the gentleman make the presentation, she believes he commented that they disagreed with the MPO comment on one of the issues. Can she be refreshed on that? Responding to Mrs. Welsh, Mr. Curran stated that the MPO requested that we extend the shared use path beyond our project another 500 feet towards Martin Luther King Jr Blvd. There are a lot of concerns with that. We are extending our shared use path to our frontage at Miller Road, a crosswalk at Miller Road, and a proposed handicap ramp for a future connection. There is drainage. There are like swales on the shoulder and grass that would have to be navigated in order to do that. In addition, along Martin Street, they have both sides of the road with sidewalks so he thinks it would be safer for pedestrians to walk along the back roads if they needed to get to Martin Luther King Jr Blvd. if they needed to do any shopping.

Mrs. Welsh moved to approve S-25-14 LivSmart Extended Stay Hotel at 530 and 540 Bay Road inclusive of the waiver requests for the reduction of the Arterial Street Buffer, the elimination of the loading berth, and in accordance with all DAC comments, seconded by Mrs. Denney.

Mr. Witham asked if she was including the waiver for the seven bicycle parking spaces. Responding to Mr. Witham, Mrs. Welsh stated yes.

Mrs. Welsh moved to approve S-25-14 LivSmart Extended Stay Hotel at 530 and 540 Bay Road inclusive of the waiver requests for the reduction of the Arterial Street Buffer, the elimination of the loading berth, and the elimination of seven bicycle parking spaces and also in accordance with all DAC comments, seconded by Mrs. Denney and the motion was carried 7-0 by roll call vote with Mr. Lewis and Dr. Jones absent. Mrs. Welsh voting yes; for reasons stated in the motion and she thinks it is a good use of the property. Mr. Roach voting yes. Mrs. Denney voting yes. Mrs. Maucher voting yes; based on DAC comments. Mr. Baldwin voting yes. Mr. Reaves voting yes. Mr. Witham voting yes; based upon the recommendation of Staff as well as the presentation tonight and he thinks he would agree with the comments from the applicant not to approve the extension of the walkway.

S-25-15 7-Eleven with Fuel Pumps at 736 and 738 N. DuPont Highway and 1021 & 1027 N. State Street – Public Hearing and Review of Site Development Plan for redevelopment of four parcels (to be consolidated) for a 4,816 SF convenience retail store with fuel pumps under a canopy and associated site improvements. The existing buildings on the properties will be demolished. The properties are located on the east side of North State Street and west of DuPont Highway. The properties are zoned C-4 (Highway Commercial Zone). The owner of record is Harrington Four Seasons, LLC and the equitable owner is Dover DuPont State, LLC. Property Addresses: 736 N. Dupont Highway, 738 N. DuPont Highway, 1021 N. State Street and 1027 N. DuPont Highway. Tax Parcels: ED-05-068.09-01-07.00-000, ED-05-068.09-01-06.00-000, ED-05-068.09-01-04.01-000 and ED-05-068.09-01-04.00-000. Council District 3. *Waiver Requests: Reduction of Arterial Street Buffer and Partial Elimination of Upright Curbing.*

Representatives: Mr. Mike Kaezyski, Atwell, LLC; Mr. Michael Harrington, Sr., Owner; Mr. Michael Harrington, Jr., Owner; Mr. Michael Carp, Dover DuPont State LLC; Mr. Edward D. Scott

Mrs. Melson-Williams stated that this is another Site Plan for us this evening found basically near the intersection of North State Street and North DuPont Highway. It encompasses a total of four parcels currently and she will just note those for the record: 736 and 738 N. DuPont Hwy, 1021 N. State Street, and 1027 N. State Street. These are properties that have existing buildings on them. We will see some more about that in the applicants' presentation but they are all zoned C-4 (Highway Commercial Zone) and the proposal is for a convenience store with gas pumps. Both of those are uses that are allowed in the C-4 (Highway Commercial Zone) zoning district. The gas pumps have some additional caveats to them as they are considered a motor vehicle service type activity. The surrounding use to the north of this is where you find the TD Bank and then there are other commercial properties located to the south of this collection of properties. As noted, the C-4 (Highway Commercial Zone) has bulk standards which they are meeting for the project. With the addition of the gas pumps, we have to look at the provisions for motor vehicles services in the C-4 (Highway Commercial Zone). They are complying with those and they have provided us with information regarding one of the things that they had concern which is when they have an entrance drive that has to be at least ten feet from the property line. There was some concern about the southern access point onto DuPont Highway but they believe that their design can be adjusted to accommodate that in particular. The property meets its parking requirements and is providing the associated bicycle parking. Site access to this site will be both from N. State Street and also from the southbound lanes from DuPont Highway. That will function as they are designed as a one-way circulation for a right-in and a right-out on that DuPont Highway side. They are proposing to construct the sidewalk on the property frontages making adjustments as necessary with their new entrance designs for that. The project does include the dumpster and then they do have a couple of wavier requests. Planning Staff has already recommended authorization of the partial elimination of upright curbing associated with some of their stormwater management planning and also for access immediately around the building so that it will be level entry from the parking areas that are already there which also include their handicapped parking locations. The building is further protected by a barrier system of bollards. The other waiver is related to a reduction in the Arterial Street Buffer going from 30 feet to less than that. That is required on the DuPont Highway frontage of the property. This project will be dedicating additional right-of-way to DuPont Highway so there may be additional green space

that is not physically on their property but within the right-of-way. They are asking for relief on that side but include landscaping in that area as required. They have presented building architecture for both the convenient store building and the separate gas canopy. We will see some more details about that in their presentation. This, again, has some parking that would be facing across the street towards residential. There is an apartment complex on the opposite side of N. State Street. They are implementing a hedge type planting to help screen that. As noted, the Planning Office has provided comments on the review of this application. They will have to include ultimately a Record Plan to combine all of these parcels together and also work with DelDOT on their entrance plan approvals, ensuring that they are meeting that code requirement in our *Zoning Ordinance* about distance to a property line for those entry/exit points. The Planning Staff, as noted, is in support of the waiver request for the Arterial Street Buffer and for the upright curbing that they already granted. They did, in their recommendations, note that they would like the applicant to look at the location of the bicycle parking. While they are providing it, it's currently located on the north side of the circulation drive and Staff thinks it would be better served and increase safety if they could be located in closer proximity to the building itself. With the building architecture, they did also note a concern on the elevation that faces N. State Street in that it appears to be a fairly blank building space with limited architectural relief. They ask that the applicant look to bring a number of the materials that animate the rest of the building facades onto that front of the building. It does have an entrance door on it as well from that small parking lot area. Likewise, the Development Advisory Committee Report continues on with the various agency comments from our Department of Water/Wastewater and Public Works, the Electric Department, the Fire Marshal's Office for the City, DelDOT, the Kent Conservation District, the MPO, and also from Chesapeake Utilities.

Mr. Kaezyski stated that tonight he has with him Mr. Michael Harrington, Sr. and Mr. Michael Harrington, Jr, the owners of the property. Online we have Mr. Michael Harp with Dover DuPont State LLC; he is the developer of the project and he is working on behalf of the 7-Eleven. The next slide shows an aerial context view overall. In the middle of the view, you see the rendering of the site itself. Across the street is the large area that was a project that is under construction. There is a shopping center in front with some apartment buildings in the back where the overflow of parking is off the right-hand side there. To the left-hand side, you can see the lake and the apartment complexes across the street on State Street. What you see is DuPont Highway which runs north and south kind of up and down through the middle of the plan view itself. State Street splits off towards the top and runs towards the lower left corner. Our property itself fronts on both State Street and DuPont Highway. The next slide shows an aerial view of the existing property itself. You can see the extent of the development on the site. As Mrs. Melson-Williams mentioned, this is the assemblage of four parcels that the Harrington's own. There are one or two different LLC entities that own the properties. We will consolidate that and complete the Consolidation Record Plan as we receive the final plans when we get to that point later. To the north, you can see the TD Bank as it exists and the drive through lanes that circulate around the property. They have an entrance off of State Street. For our site itself, we have a rather wide entrance off of State Street. The two properties are in the back. There are two parcels that front that you can see the two separate buildings: a kind of white shaded building on the upper side there and a darker smaller building in the lower left corner and two buildings that front along DuPont Highway that make up the four parcels. You can see how this is a rather extensive development on the site right now and the impervious coverage will show that we are actually

reducing the impervious coverage by about 10% from about 80% down to 70% overall and we are increasing the green space. There are two other features to point out on this plan. Along the State Street side just north of the white building that you see there on the TD Bank property is one of their larger stormwater facilities just south of their entrance and then over on the DuPont Highway side, there is a green wedge where the drive through lanes wrap around and are parallel to DuPont Highway, that is their other stormwater management facility. There is a comment that came through from the MPO that talked about a possible connection to each driveway. A presence of the existing stormwater facility and the type of circulation that you see there makes that impractical.

The next slide shows a plan view of the site as it would be developed. You can see in the green how much additional extents of green that we will have. As he mentioned, they are going from 20% open space to 30% open space. It is about 3/10 of an acre to about almost a half-acre of pervious coverage or open space coverage that you would see on the site. We do have two stormwater management facilities of our own that are situated in the back. You see the store building itself in the middle of the property. The lighter shade is the parking that already surrounds the building; that will be concrete. To the left-hand side, you see a rear parking lot. Just beyond that, there is a darker green that is kind of an almost triangular shape. That is a larger stormwater management facility. We have it mapped and likely in the bio-retention as it does have infiltration capability. The smaller facility on the north side essentially picks up the entrance driveway itself and a small part of the north side is stored there. You can see the fuel pumps facing DuPont Highway. This is what they recall a six MDP or manual dispensing pump facility with twelve fueling locations with one on either side of each dual island. So, you have twelve places where people can fuel up and be able to park and fuel. You will be able to get in between cars that are sitting there being fueled. The layout of the pumps themselves are laid out so that you have sufficient circulation and you are not blocked by somebody that is sitting there fueling.

There were two waivers that were mentioned here. The first is the flush parking that we have. As he mentioned, the light gray that surrounds the store will be concrete. You will have a concrete parking area that blends flush into the walkway of the building itself. There will be a series of bollards that are set about 4-5 feet apart around the facility. You typically see these at other similar convenient stores in the area that are constructed. We will call them the red stores and the blue stores; and you can probably figure out which ones they are as they are competitors here. But you will have that type of situation where you have ease of pedestrian traversing from the parking here into the store no matter where they are. This would include handicap accessibility from the pumps into the store itself which they typically try to locate the accessible pump location in line with where the handicap spaces are so that you have a straight walkway, but no matter where you are you have an ease of access into the store. The second waiver that we had is related to the required 30-foot buffer along DuPont Highway, this is physically possible. The width of that green space that you see there is close to about 50 feet. What we do have here, DelDOT requires up to dedicate right of way to a distance of 30 feet behind what they call a white stripe or the edge of the travel lane. So, the outer or southbound through lane, 30 feet off set from where the right-of-way sits. On this plan, they need to dedicate about 10 feet or so to DelDOT to meet dedication requirements for right-of-way. That leaves about 23-24 feet of actual green space behind that proposed right-of-way line. But effectively, the green space itself will be

well in exceedance of 30 feet. The next slide shows the landscaping around the site. You can kind of see behind the stormwater management facility; there is a green line that is a hedgerow line that they will have to shield the parking spaces themselves from the roadway. It will be hedge type planting and they will also have a whole series of street trees and lot trees surrounding that stormwater management facility back there. For the stormwater management facilities, the two bio-retention areas will be planted with wet tolerant perennials so you will see vegetation at this facility and some color seasonally as you would typically see there. Along the front itself, you will also see plantings there to kind of screen the front end off and not totally hide that but enough to block the view from the street. There were two comments that came in regarding the access for the site. It is a little difficult to see on this plan but you may see it on the copy that you did receive. The first comments came in from the Planning Department of the City. With the south entrance itself, the curb line needs to be 10 feet set off from the property line and we can adjust our curb line to meet that 10 feet. That will actually close off that access driveway and make that a little narrower. The intent here is to have a one way in and one way out access along DuPont Highway. That will be accomplished through signage and striping on the pavement. We will actually stripe it "do not enter" as well as provide a "do not enter" sign and one-way signs at both entrances. We will provide what they call core striping, the white striping at that northern entrance as well so that it appears to be channelized. The throat width itself is necessary to allow for delivery tractor trailers and fuel trucks and the product trucks that come into the store to be able to make the turn in off of Route 13 without having to cross into additional through lanes. They can make a right from the far-right lane of Route 13 to turn into the site. Our trucks typically enter from Route 13 through the site and then exit left or right onto State Street. They have also modeled where they can bring trucks in off of State Street and they can make the maneuvers on the site to then exit off of State Street as well depending on the time of day that they come in with backing maneuvers and things like that within the driveways onsite. The next slide shows the architecture for the elevations of the front and back of the store. You can see the front on the top shows a dual door entry and the storefront windows and the different materials on the façade. The high façade along the front is a parapet type of treatment along the front. The back wall is a little more plain as it was originally set up in the prototype and we are working with 7-Eleven to incorporate some of the features that you do see in the front in the back as well to kind of dress it up a little bit. We will provide those as we go through the Construction Plans to the City for review before Final Plans. The next slide shows either side of the building. What you see at the top should be the view as you are driving northbound on Route 13. The view on the bottom end would be as you are driving southbound on Route 13. You can see where there is differentiation in the architecture and there may be features that they can incorporate in the back as well to dress up that rear elevation. We have discussed the four parcels that will be combined here and the two waivers that we do have. The parking that they have proposed onsite is 30 parking spaces; 16 are required so we are well exceeding the parking requirements for the proposed use. We are working with DelDOT on the entrances themselves. They have forgone a traffic study for this property. The existing 7-Eleven that is just to the south of this will likely be relocated to this location here, especially with the addition of the fuel pumps. Operating two stores basically two doors down won't necessarily work so likely we will see that relocation. We are also working with the Kent Conservation District. We have had our presubmission meeting and discussed all of our stormwater. We are just about ready to submit final construction plans to the Kent Conservation District for review of the stormwater management facilities which have been designed in accordance with the infiltration testing that

they have received last month. So, we are proceeding as we go through Planning Commission here and then look to submit construction plans to the Kent Conservation District and DelDOT and then move towards final plan approvals this winter.

Mrs. Denney stated that there's the request from the Planning Office to move the bicycle parking. Can you tell me what's happened with that? Responding to Mrs. Denney, Mr. Kaezyski stated that it is one comment that the Planning Department did make that he did not mention in his presentation here. From the store itself, basically directly north kind of where the notch is in the paving; just after that notch is where the bicycle parking is located now. We are looking to bring that into the store area itself. Ideally, if he can locate it, there are typically islands on each corner where we don't have a parking space. They are a little tight on this site. We will see if we can make that work with 7-Eleven. The other option may be on the south side of the store where we can get parking but still have access to get the bikes there. One thing that we might do is remove one parking space to be able to physically get in there but he thinks that they could also shift parking to provide a driveway, essentially an access alley way to get into if we locate bike parking at that location, but we will get it as close to the store as we can.

Mrs. Denney stated that if it changes, you will not have to cross as a pedestrian in front of a car. So, we have eliminated that issue. Responding to Mrs. Denney, Mr. Kaezyski stated that it is correct, we can see if we can accommodate that. The other location that we may have is at the back on the far side where the parking spaces are towards the stormwater management area. You cross a driveway there but it's not a major driveway. You do have pedestrians that will be walking along the frontage on either side if they were walking in the provided walkways from both frontage sidewalks that we have. You still would have those and it wouldn't be much different if you had to cross a driveway with your bicycle. If we can make it easier and we are able to fit it up closer to the store, we will definitely do that.

Mrs. Welsh stated that she has looked at the MPO comments regarding the traffic in the ingress and egress. You did answer that in your presentation about one way in and one way out, but you kind of piqued her interest on the safety issue for ingress and egress on State Street particularly when you said trucks were going to be coming in and out of there. You said trucks would be using that entrance? Responding to Mrs. Welsh, Mr. Kaezyski stated yes.

Mrs. Welsh stated that she has driven that road 100,000 times and she just has concerns with a truck making a left hand turn out of that entrance to try to go south on State Street because the traffic coming off of Route 13 coming south on that road doesn't slow down. Even a car that would be coming south and trying to turn left into the 7-Eleven, is going to be crossing what she sees depicted as a double yellow line and then over two lanes of traffic going north which they don't really go too slow when they are trying to make the light there. So, she has serious issues there as far as safety concerns. Responding to Mrs. Welsh, Mr. Kaezyski stated that as he mentioned, we have been working with DelDOT on this and we are processing our construction plans for this now. They have examined the plans themselves. We do have a right in/right out, essentially access off of DuPont Highway that is split between the two access points one way in and one way out. We have full access at the rear. Right now, what are out there is just the through lanes themselves. We will construct the right turn lane into the site so that you will be able to pull off the roadway and make the turn into the site. We will also construct a dedicated

left turn lane within the existing median. That is out on State Street so you will have a place as you are looking to make the left to pull in there coming south off of Route 13. The posted speeds are low in that area; he believes that it is actually 25 MPH.

Mrs. Welsh stated that doesn't mean anything because no one follows that. It's just that it is so close to the intersection there. Responding to Mrs. Welsh, Mr. Kaezyski stated yes, they have been able to demonstrate that the turn lanes that we would need would fit within the existing lanes to the roadway that is already out there. We wouldn't have to encroach in either of the existing turn lanes so we are not modifying anything else. We are just adding for our site itself. As far as the truck movements, we would need to demonstrate that we have the turning templates for the various types of trucks that would access here for DelDOT to review. We have shown that the trucks can make the turns without encroaching onto oncoming traffic. If they make the right out in the right turn lanes or in the northbound through lane or if they make the left in, then they stay within the lane itself and they don't have to cross out. The same thing coming off of DuPont Highway, that they don't have to cross over additional through lanes to make the turn in. All of that they will need to demonstrate to DelDOT before final entrance plan approval is granted and they will certainly share that with the City as we process our DelDOT approvals for those.

Mrs. Welsh questioned whether DelDOT hasn't approved that yet, you are just presenting that to them as this point? Responding to Mrs. Welsh, Mr. Kaezyski stated that is correct. The MPO commented that they did have regarded the driveway on State Street for TD Bank and it suggested possibly combining the two driveways. There are existing stormwater facilities that TD Bank has on their property right there immediately off of that entrance. The dark green that you see right there that whole area is essentially one of their stormwater management facilities so that would be eliminated if you tried to shift the entrance itself and what we don't want to do is kind of intermix this site traffic with the bank traffic with the one-way circulation that they have. If we try to come into the TD Bank and work our way through again, we get closer and closer to the drive through lanes and it is just not feasible.

Mr. Harrington, Jr. stated that he wants to add one more point to give a little history of the property where you can see it on S. State Street. addressing your concern or your issue, a year ago they partnered with DelDOT for a pedestrian sidewalk and bike trail that leads from the south side going north where Planet Fitness is. They worked with DelDOT and they gave the land through eminent domain. They gave the land to DelDOT so that they could construct a 35 feet rights in/rights out no curb for pedestrians. If you go north where Planet Fitness is and you come to our property that is already constructed. So DelDOT has already approved it because they built the entrance. We thank DelDOT for doing that and they partnered with DelDOT to make things a lot easier in the future. Responding to Mr. Harrington, Jr., Mrs. Welsh stated thank you. She appreciates the information and the fact that you are working with DelDOT. She is still going to cross her fingers and hope that your plans work.

Mr. Harrington, Jr. stated that DelDOT made the construction and we agreed to it. Responding to Mr. Harrington, Jr., Mrs. Welsh stated that people don't always follow what you think they should.

Mr. Witham stated that he thinks the applicant is aware that there has to be a separate application for any signage. Responding to Mr. Witham, Mr. Kaezyski stated yes, that is correct. They wanted to show at least in context what it would look like. We understand that there is a separate permit needed.

Mr. Witham opened the public hearing.

Mr. Michael Carp of the Project Team

Mr. Carp stated that Mr. Kaezyski represented our case rather well and doesn't have anything to add.

Mr. Edward D. Scott of the Project Team

Mr. Scott stated that he wanted to thank you for your consideration.

Mr. Witham closed the public hearing.

Mrs. Welsh stated that the applicant did answer her other question that she didn't ask about the other 7-Eleven. So, do you anticipate that they will be moving to the new location? Responding to Mrs. Welsh, Mr. Kaezyski stated yes, more than likely. With a close proximity like that, you are competing with yourself.

Mr. Carp stated that 7-Eleven will close upon termination of their lease.

Mrs. Denney moved to approve S-25-15 7-Eleven with Fuel Pumps at 736 and 738 N. DuPont Highway and 1021 & 1027 N. State Street including the waiver request for the partial elimination of upright curbing as well as the reduction of the Arterial Street Buffer as they have already been approved by the Planning Office and as we have to allow DelDOT to make whatever recommendations or adjustments that need to be made to the ingress/egress because obviously it is not within our purview, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Lewis and Dr. Jones absent. Mrs. Denney voting yes; she thinks it is a nice addition there and she thinks that it is in keeping with replacing the one that is currently out on the highway which she thinks will benefit many. If you just need a little something from there and you live on State Street, it's a little complicated to get out there and this will make it far more convenient for her. Mrs. Maucher voting yes; based on the DAC Report comments. Mr. Baldwin voting yes; based on previous statements. Mr. Reaves voting yes; for previously stated comments. Mrs. Welsh voting yes; based on the presentation and the information provided as far as our questions and issues and in accordance with previous comments. Mr. Roach voting yes. Mr. Witham voting yes; based upon the excellent presentation made to the Commission and for the reasons set forth on the record by the Commissioners as well as Staff and the DAC comments.

NEW BUSINESS

Update on Appointments to Architectural Review Oversight Subcommittee of Planning Commission

Mrs. Melson-Williams stated that with the Architectural Review Oversight Subcommittee, that is something that you were working on this summer to appoint as part of your Annual Meeting. The Commission members were appointed with Mrs. Kathleen Welsh and Mr. Kenneth Roach and you directed Staff to reach out to the two current design professional members to seek their availability to continue to serve. She has confirmed from Dr. Chandler that he is interested in continuing to serve and she is still waiting for a response from Ms. Keifer on her status. At this point, you can certainly recognize the ability of Dr. Chandler to serve and she will keep working on Ms. Keifer. She is hoping to have an answer from Ms. Keifer at your next meeting.

PUBLIC COMMENTS OPPORTUNITY – *There were no members of the public present wishing to comment.*

Mr. Witham stated that there has been a recent ruling in Sussex County Superior Court involving the Planning Commission. He wanted the Commission to be aware of it and if you want a copy of the editorial comments from the Coastal Gazette. Basically, what it is, the case was called *Smokey Hollow LLC v. Sussex County Planning & Zoning Commission*. In this case, the Superior Court reversed the Planning Commission based on the fact that they said the Planning Commission did not comply with the law and arbitrarily denied a project which exceeded their authority. It was a planned development before the Commission and they were requiring the developer to basically eliminate 8 lots based upon an alleged requirement for them to have a buffer zone next to their development but the law did not require that. Basically, the development got appealed and the Planning Commission's decision got reversed. The bottom line is that we have to comply with the law as structured and follow the *Comprehensive Plan* and the Zoning Law. When that Zoning Law gives that discretion, the Court also said that they would defer to the Planning Commission if they had that discretion. The Court felt that the Sussex County Planning Commission exceeded their authority. He doesn't think that it is anything for us to worry about but it's the latest court hearing on what a Planning Commission can and can't do. He did take the opportunity to talk directly to the Judge. He explained to him that he wasn't trying to change the law, but he thought that they were exceeding the law by arbitrarily making a decision without supporting facts.

Mrs. Denney stated that it makes perfect sense to her.

Meeting adjourned at 10:04 PM.

Sincerely,

Kristen Mullaney
Secretary