

**CITY OF DOVER PLANNING COMMISSION SESSION 2
NOVEMBER 18, 2024**

The Meeting Session 2 of the City of Dover Planning Commission was held on Monday, November 18, 2024, at 7:00 PM as an In-Person Meeting and also using the phone/videoconferencing system Webex. The Meeting Session 2 was conducted with Chair Mr. Witham presiding. Members present were Mr. Michael Lewis, Mr. Roach (virtual), Mrs. Denney, Mrs. Maucher (virtual), Mr. Baldwin, Dr. Jones, Mr. Reaves (virtual), Mrs. Welsh (virtual), and Mr. Witham.

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

APPROVAL OF AGENDA

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

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that in keeping with our regular order of business for meetings, under Communications and Reports, it is just a meeting reminder. The next Planning Commission Meeting is set for Monday, December 16, 2024 at 7:00PM. You do have several applications that are beginning the process to end up with you for that evening for hearings.

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: None

Pending Development Application: None

NEW APPLICATIONS

MI-24-09 Text Amendments: Recreational Marijuana Land Uses and Related Zoning Regulations - Public Hearing and Review for Recommendation to City Council of a series of Text Amendments to the *Zoning Ordinance* for establish provisions for recreational marijuana land uses and related zoning regulations.

A. Ordinance #2024-29: Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances, Appendix B – Zoning: Article 3 - District Regulations Section 19 - Manufacturing Zone (M), Section 20 - Industrial Park Manufacturing Zone (IPM), and Section 23 - Agricultural Zone (A); Article 5 - Supplementary Regulations adding new Section 24 - Marijuana Related Businesses; and Article 12 - Definitions.

These amendments add definitions for marijuana related businesses, allow these business types to operate as permitted uses within certain zones, and add supplementary regulations by which these businesses must abide.

B. Ordinance #2024-30: Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for retail marijuana stores and provisions for compassion center conversions by amending Dover Code of Ordinances, Appendix B – Zoning: Article 3 - District Regulations Section 16 - Highway Commercial Zone (C-4); Article 5 - Supplementary Regulations adding new Section 24 - Marijuana Related Businesses; and Article 12 – Definitions. These amendments add the definition of retail marijuana stores and allow recreational marijuana stores to operate as permitted uses in the C-4 zone, and add supplementary regulations by which these businesses must abide.

Representative: Mrs. Ann Marie Townshend, Rossi Group and Planning Staff

Mrs. Melson-Williams stated that this evening there are two Text Amendments that are here before the Planning Commission. In regards to them, the Planning Commission will be making a recommendation. That recommendation goes onto City Council as City Council has their own public hearing and action scheduled for their December 9, 2024 meeting in regards to these two Ordinances. Because they are Ordinances that amend the *Zoning Ordinance*, that's why they are here in front of the Planning Commission. Ordinance #2024-29 focuses on the marijuana cultivation, product manufacturing, and testing and where those marijuana land uses would be permitted in municipal city limits of Dover. The other Ordinance #2024-30 focuses on recreational marijuana retail stores and likewise, the provisions to allow that like when and where in the City of Dover. For this effort to focus on recreational marijuana land uses and zoning provisions, the City did retain consultant services given the staffing levels over the last year in the Planning Office and she is going to allow the consultant to really give this presentation. They are much better versed in what happened and how we got to this point here. Your Planning Commission meeting packet includes a narrative report with comments from our Development Advisory Committee members, copies of each of the Ordinances, and then a number of other reference documents.

Mrs. Townshend stated that she would start by giving an overview of what we are going to be talking about. There is a lot of ground to cover. We will talk first about the Marijuana Control Act: what it does, what it allows municipalities to do, and what the City's options are under this Act. We will talk about the timeline to date. There was a public survey that was available online. It was also mailed with utility bills and available in paper form at City buildings. We will share some of the takeaways. She knows your packet includes the detailed Survey Report. In the interest of time, we will kind of hit the major takeaways from that and then we will talk about the Draft Ordinances and the next steps.

Basically, during the 152nd General Assembly, which was in 2023, the Legislature approved two bills: House Bill 1 and House Bill 2. House Bill 1 decriminalizes personal use quantities of marijuana and then House Bill 2 creates a framework for a legal recreational marijuana industry in Delaware with regulations and taxation that is similar to how the State regulates alcohol. Under House Bill 1, adults 21 and over may share personal use quantities of marijuana; they may

possess, use, display, purchase, and transport personal use quantities of marijuana. They may transport marijuana and marijuana accessories in a vehicle if the items are in a closed container, not readily accessible to anyone in the vehicle. So, you cannot use it in a vehicle. Also, under what individuals cannot do is that individuals may not sell marijuana. They may not consume marijuana inside of a moving vehicle or drive under the influence of marijuana. You cannot transport marijuana over state lines. You cannot consume marijuana in areas that are accessible to the public; so that would be streets, sidewalks, restaurants, malls or any place that is open to the public. So, it's not just an open space but places that are open to the public. People that are under 21 cannot use recreational marijuana. House Bill 2 adds Chapter 13 to Title 4 of the *Delaware Code*. Basically, this establishes the role of the Marijuana Commissioner and charges the Marijuana Commissioner with establishing a licensing process and regulations and penalties for the industry. It also establishes a 15% tax for recreational marijuana and creates the Marijuana Regulation Fund. The rules under this law and under the Office of the Marijuana Commissioner are enforced by the Division of Alcohol and Tobacco. The Office of the Marijuana Commissioner is located within the Department of Safety and Homeland Security. A State issued license is required for growing, manufacturing, testing, or selling marijuana. All growing facilities must be indoors; no outdoor cultivation is allowed. Marijuana sales are restricted to the same days and times as liquor sales; so, there are certain days of the year where marijuana sales, just like liquor stores are closed, marijuana sales are not allowed on those days either. Marijuana retail establishments will not be allowed to sell online or offer delivery. They will not be able to sell alcohol, tobacco, or food. No consumption of marijuana products is permitted on the premises of any marijuana establishments and that includes all of the establishments whether it's the cultivation facilities, the retail, the manufacturing, or the testing. Employers still have the freedom to manage the terms of employment, policies and discipline procedures; so, not all employers are required to allow employees to use marijuana. Those in charge of a property can prohibit or somehow restrict marijuana use on their properties. That would mean that a landlord for instance, could say that it's not allowed in their building. House Bill 2 does specifically mention what municipalities can and cannot do. House Bill 1 legalizes recreational marijuana; therefore, that preempts the City's ability to be able to say it's not allowed in municipal limits. We are also at the municipal level, preempted from creating a special tax or fee and that has been one of the things that have come up in many municipalities. She thinks municipalities would be more receptive if they could get some revenue from it, but the State does prohibit that. It can be licensed in the same manner as other business licenses that are issued. Similar to the alcohol regulations, the public will get notice and have the opportunity to comment at the State level before a license is issued for a specific location.

So, what can we do at the municipal level? One of the options is, and many municipalities in the State of done this, municipalities can prohibit the operation of marijuana establishments in their jurisdictions. You have seen this particularly in Sussex County with the coastal towns; most of them have passed something to say all of these uses are prohibited. The other thing that municipalities can do is regulate the time, place and manner in which the establishments operate. So, what does that mean? You can set hours; you can set standards. You will see when we get into some of the things that we have put into these draft ordinances, we have distancing requirements. You can do things at the municipal level to restrict how, where, and when these uses take place. Again, through the State regulatory process, residents do have the opportunity to comment before licenses are issued for a specific location.

Looking at the timeline to date: this was first discussed by the City Council Committee of the Whole back in September 2023 and there were three specific Committee meetings this year in 2024 where the Council Committee of the Whole discussed options for how the City could deal with it. In July 2024, the City passed a Moratorium basically to provide time for the City to thoughtfully address the issue and not be put in a situation where the clock runs out and a license is issued because we don't have anything in effect. So basically, in July, the Moratorium was put in place and that will last until the end of the year. Also in July, the City launched a public survey. They started online and then it was at a Council of the Committee of the Whole Meeting where they said they wanted to make sure that it was as widely available as possible. So, paper copies were made available at City Buildings and they were mailed with every utility bill. The Survey remained open until the end of August. On August 5, 2024, the Legislative, Finance and Administration Committee had a special meeting to talk about options and to ask questions. At that point, they knew they weren't going to make any decisions until after the Survey was done but they were able to have a little more of an exchange. On August 19, 2024, the Office of the Marijuana Commissioner started accepting applications for their lottery. On September 11, 2024, the Marijuana Control Act Regulations went into effect officially. Also, at the end of September and beginning of October, City Council Committee of the Whole: Legislative, Finance and Administration Subcommittee continued discussion and ultimately took action to recommend a set of Ordinances to City Council at their meeting on October 8, 2024. The First Reading was on October 28, 2024 and that was when the referral was made to the Planning Commission. Over the course of the last year, there have been nine (9) public meetings where this has been discussed. This will be the tenth meeting. There was a public Survey where they received 1,408 online responses and 820 paper responses for a total of 2,228 responses in general. Again, the Moratorium remains in place until the end of December. Some of the themes and trends that we saw on this Survey are that a majority of 58% of the people who responded in favor of allowing recreational marijuana businesses within the City. There was also support for distancing from incompatible uses. The uses that were really at the top of that list were schools, daycares and rehabilitation centers. The biggest concerns that were cited by over 1,000 people out of 2,228 were concerns about odor and crime. The biggest potential benefits, again cited by over 1,000 of the people who responded, were economic growth and better regulation of marijuana products and increased licensing revenue. Again, keeping in mind, the licensing revenue is not a big financial boom for the town because we are limited through State law by how much it can be licensed in terms that we can't impose a higher license fee than we would on similar uses. In the Ordinance development, basically the City can prohibit all of the uses. That is an option and many municipalities have done that. The City can permit it similar as to how alcohol or any other use is permitted without any special restrictions. The path that City Council ultimately chose was to develop Ordinances that permit with restrictions. Again, as we get into the Ordinances you will see that they have drafted in things to work to protect the surrounding communities from any external negative effects.

The first Ordinance #2024-29 addresses marijuana cultivation, manufacturing and testing facilities. It would permit these as permitted uses in the M (Manufacturing Zone) and IPM (Industrial Park Manufacturing Zone) and additionally it would allow marijuana cultivation facilities as a permitted use in the A (Agricultural Zone). It would also include Supplementary Regulations which we will discuss in a second and it adds definitions for compassion center,

marijuana cultivation facility, marijuana manufacturing facility, and marijuana testing facility.

For the Supplementary Regulations: one, it clarifies that a “compassion center” is classified as retail use. That is something that has been in place through policy and that the “compassion center” that is here was treated as a retail use similar to a pharmacy; so, that is memorialized in this. The real Supplementary Regulations that are there in order to protect the community are that the building footprint of a cultivation or manufacturing facility would be required to be 750 feet minimum from residential zones, K-12 schools, hospitals, colleges and universities, child daycare centers, and substance abuse disorder treatment facilities. The Supplementary Regulations would also require odor control technologies, as do the State regulations. But again, this just gives you that kind of double layer of regulation on that. It would require that openings be screened and windows be covered so that the inside cannot be viewed from the outside. And it would require compliance with the utility handbooks and the applicant would be responsible for upgrade costs. This issue is really an issue with cultivation. Cultivation utilizes a lot of water. It utilizes a lot of electricity. Anybody initiating a land use needs to comply with the utility handbooks anyway but it was because these could be big utility users. They decided that it was important to put that in there so that there’s not any question. Marijuana testing facilities would be required to be 750 feet away from residential zones, K-12 schools, hospitals, child daycare centers, and substance abuse disorder treatment facilities. What is not on that list is colleges and universities and part of that is because laboratories are often a use that’s on a university campus and it could be that there is some sort of interest in one of the universities or colleges to do something. The testing for all of the uses has the least external effects. If you look at the Map, basically what you see is there are very few places where the manufacturing, cultivation, and testing would be allowed. Basically, anything that has one of those icons with a circle around it has the distance requirement and all of that gray shading is a distancing requirement. So, you have a portion of maybe the Enterprise Business Park and some of the industrial manufacturing land around the Base and the stuff around Kraft General Foods which at this point is all utilized. Basically, that’s what you are left with. She is going to explain the agricultural from a zoning perspective, but also then from a practical perspective because we did talk to the State about this. One, cultivation again, has to happen indoors. What the State is seeing is where there is cultivation; there is also the product manufacturing. So, you are seeing a lot of vertically integrated businesses and you see that in Milford and Newark where they have the cultivation facilities are also processing and manufacturing and, in some cases, they are also selling. Basically, that is the business model that seems to be out there and that would not be able to take place in the Agricultural Zone land because the only thing that would be allowed is the cultivation. But again, since we are not 100% sure how the business is going to unfold, there was a sense that because growing is an agricultural use that it should be allowed in that zone. Again, she thinks the likelihood is not really there. Then you have a whole other level of complexity if you get into agricultural land that is in the State’s Agriculture Preservation Program because the uses that are allowed and then there is also in some cases, federal money in the easements which adds another challenge. From a practical perspective, it’s unlikely that any of these will be in the Agricultural Zone but the Ordinance is drafted in a way that would allow the cultivation use.

The next Ordinance #2024-30 is specific to retail marijuana stores. One of the things that they decided in working with the City Administration is that breaking them into two ordinances keeps the retail which seems to have a lot more concern about it from what we heard, keeping that in a

separate ordinance so that they are not dependent on each other. That's why it's in two separate ordinances. Basically, this would permit the retail marijuana stores in the C-4 (Highway Commercial Zone). So the C-4 (Highway Commercial Zone) is only on Route 13 and Bay Road. It also includes Supplementary Regulations that include that the building footprint would need to be at least 500 feet away from K-12 schools, child daycare centers, substance abuse disorder treatment facilities, and hospitals and then 250 feet away from residential zones and colleges and universities. Additionally, there is language that would require that the building footprint be at least 1 mile away from other marijuana retail establishments or marijuana retail stores in the City. So that would prevent any grouping of marijuana retail stores near each other. Again, similar to with the other uses, it would require that openings and windows be covered. The last thing is that it would allow licensed compassion centers to obtain a conversion license and operate without meeting the distancing requirements. There is currently one compassion center in the City and it does not meet any of the distance requirements. This was something that as it was discussed at the Council Committee of the Whole, there was interest in making sure that establishment could receive a conversion license. The other thing is that it adds a definition of a "retail marijuana store."

With that, we look at the Map and C-4 (Highway Commercial Zone) is in red on that map. With the buffering, there are just a few places. A marijuana leaf shows where the current compassion center is located. So, if that compassion center received a conversion license at that location and became a retail marijuana store, we show in that light green strip as a mile in either direction. Basically, you take that out and you take the buffering from other uses and there might be some place just at the north end of town and then maybe right along Bay Road or at the south end of town. There is not a lot of area so it is not something that is really going to proliferate. There were some responses in the survey for the question "where else would it make sense?" Some people said anywhere liquor stores are allowed. Some people said nowhere. The current Ordinance Draft does not include anything along the Route 8 Corridor. It restricts it only to Route 13 and Bay Road.

Tonight, we are here for the Planning Commission Public Hearing and then the City Council has set the Public Hearing and Final Reading before them at their December 9, 2024 meeting and on December 31, 2024 the Moratorium expires. One thing they want to make sure you understand and that the City Council understands also is that failure to have an Ordinance in place basically defaults to what the underlying use is. So, if the *Zoning Ordinance* doesn't address marijuana retail stores, then basically you are looking at where retail stores are allowed. You are looking at the type of use not the category because retail in the Code doesn't address what you are selling. So, without having that layer to say these are how we are dealing with the marijuana uses, it really will fall down to that base use below it. This is why with the Moratorium expiring, they have been working really hard to try to make sure that there is something in place before the end of the year. As for the Planning Commission, you will have your Public Hearing and you can obviously propose amendments. You could recommend to not approve any of these. You could recommend to scrap it all and prohibit. Basically, the motion you make is a recommendation to City Council. But if there are specific amendments, you could make that as well.

Mrs. Denney asked Mrs. Townshend to help her understand the "compassion centers." When she reads this, her assumption is that it's a facility where people who are prescribed by professionals,

the use of marijuana. Responding to Mrs. Denney, Mrs. Townshend stated yes, but right now a “compassion center” is a medical marijuana facility where you need a medical card to go in and buy any product. Under the State Law, they created a conversion license and basically, they are expecting the compassion centers to convert to the full recreational and medical. They are issuing conversion licenses that would allow the existing establishment to become a recreational establishment. So, the “compassion center” that we have in Dover is only retail. They do not do any cultivation or manufacturing; so, for them to get a conversion license it would convert to a retail establishment for recreational and medical marijuana.

Mrs. Denney stated that realistically if a conversion happens, then what her understanding of what was just said is that if a conversion happens, our Council would have to allow or disallow with recommendations but if the conversion happens, then that is going to be a retail center where if she decided to use marijuana, she could go down there and buy it whether it is prescribed or not. Responding to Mrs. Denney, Mrs. Townshend stated yes.

Mrs. Denney stated that that needs to be clear and we all need to really understand that. Responding to Mrs. Denney, Mrs. Townshend stated that it is in Ordinance #2024-30. Again, from a practical standpoint, she has had several conversations with the Office of Marijuana Commissioner about this and they are expecting that compassion centers will be phased out because the retail marijuana stores will service both. In order for a compassion center to get their conversion license, they have to demonstrate that they can still support that medical need but they are going to do that. What the Commissioner’s Office has said is that once industry is up and running, a business won’t be able to survive as compassion center alone. From a practical perspective, while the law still recognizes the compassion centers, from a practical perspective they will be phased out. In Ordinance #2024-29, the top of Page 2, starting Line 40 it says that “a compassion center licensed by the State of Delaware on or before January 1, 2024 (that date is there to make sure nobody tries to get a compassion center up and running) that obtains a conversion license under the State of Delaware Marijuana Regulations, must comply with the requirements of Article 3 - District Regulations.” This means it has to be permitted in the zone. If it wasn’t permitted in the zone, all bets are off. Also, it “shall be exempt from the distancing requirements detailed in Appendix B – Zoning, Article 5 - Supplementary Regulations.” The conversion of a compassion center to recreational retail would allow the existing compassion center, which we only have one, to be where it is and not meet those distance requirements; but it wouldn’t allow any new.

Mrs. Denney stated that they can all see it on the map but do you happen to know the address of our compassion center? Responding to Mrs. Denney, Mrs. Townshend stated that it’s on Jefferic Boulevard but she can’t remember the exact number. It is near Big Lots and Burlington Coat Factory.

Mrs. Denney stated that it is more out on the Route 13 Corridor. Responding to Mrs. Denney, Mrs. Townshend stated yes.

Mrs. Denney stated that this is her opinion, but it feels like they shouldn’t be allowing that conversion to happen. The point here is that it is going to be legal and whether she likes it or not, that doesn’t matter. She doesn’t use it but again, being in medicine, she fully understands the

need for many people to have access to it. She still thinks that it should be by prescription only because we all know, just like with alcohol, you can say that you can't drink and drive but how many people are killed in this Country and even in this City because somebody decided not to obey the laws? Frankly, she lives on State Street. She drives down that road and it used to be that people stopped at stop signs and now they just roll through it. It is becoming more and more frequent and to her, it's ridiculous. She is certainly not going to say "where is the City of Dover Police Department" because they have their hands full. To her, the first thing that would need to be adopted if we were even entertaining some of this would be that we have to find some type of a fine so that we can pay our Police Department to have the extra staffing although it is hard to recruit police officers. Her husband was a Delaware State Trooper and the United States Marshal. She has a stepson who is a Deputy United States Marshal and frankly if one of her grandchildren came to her tomorrow and said this is what they wanted to do to honor Granddad, she would have a heart attack because just like they don't respect the laws, they don't respect law enforcers. She is just saying that because we are about to vote on how we feel about allowing these things to happen.

Dr. Jones asked if there was a reason why houses of faith were not included. Responding to Dr. Jones, Mrs. Townshend stated that that has actually gotten quite a bit of discussion at the Council level and we have definitely looked to map them out. The challenge is this, for K-12 schools there is a very clear way to find where they are and the same with licensed daycare centers. Now if someone is doing it without a license that is a whole different issue. The places that are included are places that we are able to obtain a comprehensive list of where they are so that there is not errors and uncertainty. There is not a comprehensive list of churches. We looked at two data sources. We looked at the tax records and you can get some through that, but there are also a lot of houses of worship that rent. If it's rented, you are not going to find them that way. So they looked at Public Occupancy Permits and it looks like they might be able to do that but it is very labor intensive in terms of the Department being able to continue that. We have looked at that and the City Manager has that information. If an amendment were introduced that did that, they would find a way. But you have to be able to know where things are to be able to distance from that and that was the challenge with that.

Dr. Jones stated that she thinks that make every bit of sense because they pop up here and there and they are renting here and there. She doesn't think it's too late in the process for your organization to take a look at this. But it is possible to call together, as there are organizations of faith-based organizations that run the gamut of various faiths. Bring them together and hear what they have to say. Responding to Dr. Jones, Mrs. Townshend stated that would be a question for City Council. That was discussed at the City Council meetings. Again, the information has been pulled together of where they are. She thinks they actually did some mapping and most of the places of worship are not in that area. There are some along the highway corridor but a lot of them are kind of more back in neighborhoods. They do have the mapping. If it is something that an amendment was introduced for and if the Ordinance was amended, it's something that could be done potentially.

Dr. Jones asked if there was any relationship between manufacturing and/or the retail with CBD. Responding to Dr. Jones, Mrs. Townshend stated no, CBD is basically unregulated. Those places don't fall into this; they are not regulated under this. They can continue to operate as they are.

Dr. Jones asked if they may become a part of what's going on. Responding to Dr. Jones, Mrs. Townshend stated that is probably a question for like the market. There is a question on whether people will still be getting CBD if they can get marijuana. Again, she has had several people using CBD in her family and they are not using that for a high. Her mother-in-law uses it to put on her arthritic hands. She thinks that it is separate enough that it's not going to be affected but she is not an industry expert either.

Mr. Witham asked if this Commission recommended to City Council to prohibit marijuana in the City, how would that affect the one compassion center? Are they likely to close because they are not going to be profitable? Responding to Mr. Witham, Mrs. Townshend stated that she knows they have already applied for and been approved for a conversion license. She knows the COO of the compassion center was here at one of the meetings where the Council Committee talked about it. He reached out to her afterwards and basically, he said here on the floor and then he said again to her, if they can't get a conversion license then they won't be able to continue.

Mr. Witham stated that the level of the HTC in marijuana has consistently gone up over the years so now they are selling high concentrated marijuana which presents great issues for people. His concern is, was there any consideration in regulating the level of HTC in marijuana either at the State level or could the City of Dover regulate that? Responding to Mr. Witham, Mrs. Townshend stated that the City can't regulate the quality. They can only regulate the time, place and manner. She is not sure if that was addressed in the State. She does know that they have to put the strength; if it's 5mg, 10mg, or 20mg on the packaging. She doesn't know how that works for the flower. It seems to her that that's harder to figure out in that.

Mr. Witham stated that some states are now looking into that to try to regulate the level of HTC in marijuana because they find that high levels are extremely dangerous. There are studies that show that the crime rates go up, the DUI rates go up. They have been going up ever since Colorado and some of the other states have allowed general recreational marijuana to exist in the states. The rates just continued to go up; so, he was just wondering whether there was any thought in that area? Responding to Mr. Witham, Mrs. Townshend stated that she is not aware. Again, at the local level they are preempted from regulating that aspect. She is not sure, but she can certainly find out from the Commissioner's Office. She has read quite a bit about some of the effects of the higher content stuff that isn't necessarily good.

Mr. Witham stated that given his background, he has seen the worst. The other question that he has is he understands that Ordinance #2024-30 would permit the use of retail marijuana stores in a C-4 (Highway Commercial Zone). He noticed that both of the Ordinances that pertain to this don't mention at all courthouses. Courthouses in this City are located just off The Green. There is the Kent County Courthouse and the new Family Courthouse going up on Governors Avenue. Both of those courthouses are going to have programs in courts involving the use of drugs which will be prohibited from their standpoint. There is no mention of court houses. Are they covered in some other area? They should be viewed as the same thing as the substance abuse treatment center. Responding to Mr. Witham, Mrs. Townshend stated that it is something certainly that could be added.

Mr. Witham stated that he was informed by one Council member that there was a provision in those Ordinances that would exclude the establishment of retail stores, cultivation, and manufacturing so many feet from the courthouse, but he didn't see it. Responding to Mr. Witham, Mrs. Townshend stated that she had not heard that discussed but again, that is something that you know where they are and we could easily identify them. From a practical perspective for today, she doesn't think it's an issue except the current Family Court. Once the Family Court moves it's not, but the current Family Court could be within a distance of C-4 (Highway Commercial Zone). It could be something that could be done through an amendment. But she thinks the courthouses, with the exception of Family Court, tend to be located in the Downtown Area.

Mr. Witham stated that he thinks the Superior Courthouse and the new Family Courthouse would be in the area of which we call the Downtown Development zone. Responding to Mr. Witham, Mrs. Townshend stated that the current ordinance does prohibit it in the Downtown Area. That was one of the things that came up on multiple occasions throughout the process and ultimately, the Survey showed that a majority of the people who responded did not think it should be Downtown. At this point, there was not the desire from Council to amend the drafts that they brought forward to do that.

Mr. Witham stated that he can assure them that members of the judiciary, if they knew about this, they would probably be concerned about this. He thinks that it is something that he would recommend that Council address if they want to adopt such an ordinance. Responding to Mr. Witham, Mrs. Townshend stated that Mrs. Melson-Williams can correct her if she is wrong but she would suggest that if there are recommendation that you want to make to Council to amend, to include that in a motion.

Mrs. Melson-Williams stated yes, with looking at both of these Ordinances, if there are proposed as amendments. You have kind of mentioned the question of places of worship, which that gets difficult in our Code because they are more generally referred to as places of public assembly and then the courthouses. You could certainly make a recommendation to add to the Supplementary Regulations an amendment that would specify a distancing requirement from those two types of uses.

Mr. Witham stated that the other question that he has is that there appears to be no requirement of odor control technology for retail stores. Why is that? Responding to Mr. Witham, Mrs. Townshend stated that the research that they did and the areas that they found odor complaints were really on the cultivation and manufacturing. In the stores, you are not allowed to use it. Certainly something could be added but it's typically sealed and not out in the open.

Mr. Witham stated that this facility is closed now but the Central Delaware Committee on Substance Abuse Control operated the Kent County Counseling Center just off of Walker Road. They were a treatment center and one of the complaints that were made to him years ago was that they would treat people and people would light up right outside the store. The whole area would be permeated with the smell of marijuana. So, that was a retail establishment so why would that not occur if we allow retail stores in Dover? Responding to Mr. Witham, Mrs. Townshend stated that under the State Law and under the State Regulations, you cannot consume

onsite. She smells it too; she is not pretending like she was born yesterday. But under the Law, you cannot consume it on the premises and you cannot consume it in a publicly accessible place. If people are smoking it on a street corner whether it's near the retail or wherever it is, that's not allowed. She thinks the practical matter to his point is what do you do about it because the Police are busy. They have a lot of other things.

Mrs. Denney stated exactly. It is almost like they are not laws, they are suggestions and it's really just about the attitude of people when it comes to obedience. She is old and if it was a law and you had her father, you obeyed the law. By Big Lots there is the Lutheran Church right there on the highway. Responding to Mrs. Denney, Mrs. Townshend stated that she is not sure the actual distance, but again, based on the current draft which was amended to include the exemption from the distancing to allow for the conversion; that is something that came about through the process.

Mrs. Denney stated that at one time there was a little preschool in that Lutheran Church. To her, that's a school. Any place where children are being taught is a school, but she realizes that is not written in the laws necessarily. Responding to Mrs. Denney, Mrs. Townshend stated that if it's a licensed daycare center then that would be get picked. But again, by virtue of exempting compassion center conversions from the distancing, that would be one location where that would happen.

Mrs. Denney stated then perhaps about allowing that conversion, we shouldn't be doing that. Perhaps we should not allow it and then we protect the children. Responding to Mrs. Denney, Mrs. Townshend stated that is certainly something that they could recommend to Council. That's what this process is for.

Mr. Witham stated that he appreciates Mrs. Townshend's presentation but he has another question. As he understands from her presentation, the State Law on this subject is not going to allow a driver who is driving to use marijuana. Is that correct? Responding to Mr. Witham, Mrs. Townshend stated yes, it also doesn't allow passengers in the car to be using it in the car. Again, she thinks even before it was legal, we have all observed otherwise.

Mr. Witham stated that he is sure that was because a majority of our wonderful police officers would use the smell of marijuana as one aspect of probable cause to stop a driver driving. But by prohibiting that, it makes their job a little bit easier.

Mrs. Maucher asked how the distancing is determined for these buffers. Is that pulled out of the State Law? What is the basis for the 250 feet, 500 feet, and one mile? Responding to Mrs. Maucher, Mrs. Townshend stated that it is not in State Law. There is no distancing requirement in State Law. This was based on discussion with City Council Committee of the Whole to have some distancing but they also wanted to make sure that once you applied the distancing that it wasn't a defacto prohibition. So, we looked at different scenarios and what distancing did to whether or not it would be viable. So, that's how we got to where we are.

Mrs. Maucher stated that hypothetically if you applied these to these instances, how many potential sites would be available? Responding to Mrs. Maucher, Mrs. Townshend stated that she

thinks very few. Basically, you see what a mile is. You could theoretically get at the most four to five if that one dot moved. Again, that is theoretical. Once you look at available space. Then with the issue of distancing, they said the building footprint of where the marijuana use is. So, if it's one retail space in a larger building, you are looking at the building footprint. You are not looking at that tenant space. She thinks that they looked at it and thought, theoretically you might be able to get four. But the likelihood to be able to get four without allowing it other than on Route 13 and Bay Road is really difficult. The other thing, it's only C-4 (Highway Commercial Zone). It doesn't include the shopping center zones. For instance, you've got Blue Hen Corporate Center and Bay Court Plaza. They are both zoned Shopping Center. They both have a lot of available retail space, but they aren't zoned C-4 (Highway Commercial Zone).

Mr. Reaves stated that he has a question with regards to the cultivation. Does the Ordinance mention anything about container farming? Responding to Mr. Reaves, Mrs. Townshend stated that it does not. But both under the Ordinance and under the State Regulations, she doesn't know how they would be able to meet the odor control in particular and the ventilation. There are a lot of things that she thinks would be difficult to meet in the context of container farming. She suspects that there is also National Fire Prevention Regulations that come into play that it would be very difficult to do in that type of environment. Even though it is not addressed, it certainly could be.

Mrs. Denney stated that was an excellent question. It never crossed her mind.

Mr. Reaves stated that from a business perspective that people grow. This is not for sale or use or anything like that, but just from a business perspective. There is a growing movement of container farming in which people can have a successful business because as Mrs. Denney said with regards to the medicinal purposes, there is a need for production. With the land use space, container farming is a viable option for a lot of different uses. Responding to Mr. Reaves, Mrs. Townshend stated that the other thing that the State Regulations have is they have very stringent security requirements.

Mrs. Welsh questioned that in regard to the C-4 (Highway Commercial Zone) and the comment that you just had, Mrs. Townshend, about the retail spaces in the Bay Court Plaza and Blue Hen Mall being retail spaces but not C-4 (Highway Commercial Zone). Is it available to them to put a restriction on the ability for them to request a Rezoning to C-4 (Highway Commercial Zone) in the future? Responding to Mrs. Welsh, Mrs. Townshend stated that she is going to defer to the Chair because her guess is that he has got a lot better background on being able to condition not allowing a request.

Mr. Witham stated that he can't make a comment about future applications, but it would be a legitimate question of the Planning Commission and the Commissioners to ask a question if someone wants to rezone their property to C-4 (Highway Commercial Zone) or some other zone that would permit cultivation, manufacturing or sales of marijuana. They can make an inquiry about the purpose of the Rezoning. It certainly would go under into the nick so to speak, as to whether it should be allowed.

Mrs. Townshend stated that you can't really preempt the ability for somebody to request.

Mr. Witham stated that that triggers another question in his mind. He thinks that the adoption of these Ordinances would allow the transportation of the product from agricultural marijuana to the store, correct? Responding to Mr. Witham, Mrs. Townshend stated yes, and that is also very tightly regulated in the State Regulations.

Mr. Witham further asked if that was so a person using his private vehicle could transport several pounds of marijuana. Responding to Mr. Witham, Mrs. Townshend stated that would not be allowed.

Mrs. Denney asked if it would be like a “Brinks” car operation. Responding to Mrs. Denney, Mrs. Townshend stated that is her understanding in the conversations that she has had with the Commissioner’s Office. Each piece of plant will have a barcode, and it will be tracked so at no point would they “put this in your car and take it.” It is all very monitored from the time that it is germinated to the time that it is sold.

Mr. Witham opened the public hearing.

Mrs. Cynthia Christiansen – 714 Carol Street Dover, DE 19904

Mrs. Christiansen stated that she has been a resident of Dover, DE for 60+ years. This is not her first time here. If you have read any minutes from any previous Committee Meetings or Council Meetings, you know what her position is. She is a retired school teacher for 43 years but she is substituting full time. She is concerned about the location of a retail store anywhere near Route 13 or a housing development. It bothers her that the cultivation is 750 feet and schools, hospitals, and daycares is only 500 feet. That doesn’t make sense to her because these children are outside breathing the air and they should have clean air. If it’s near a store that is selling marijuana, whether they have it sealed that does not prevent them from smoking on the way home or smoking it in their car. Right now, she can’t go anywhere in this City on the highway, in neighborhoods or even her own neighborhood and drive down the street without smelling a dead skunk and there is not a dead skunk on the road. She knows that the cultivated marijuana is supposed to be different and a higher grade but there is still going to be that smell. There are still going to be people driving and dropping their kids off at school. She knows for a fact because she has opened doors of cars and she can get a contact high. A contact high can be given to a child. She has had students come in with a contact high in Dover schools. They are contact high not because they are smoking but because they are sitting in a car or at their home and their parents are smoking around them. They don’t know any different until about 9:30 or 10:00AM and they come off of that contact high. What happens at the end of the day? They get right back in that car and we can’t do anything as teachers or administrators. They have already tried. It’s because the laws are not really written. She thinks the cart has been put before the horse. “You shouldn’t” or “you are prohibited.” They don’t know what that word is in any place in Dover especially at a concert. Let’s say that is different because that is supposed to be controlled but anywhere outside. For a football game, no you are not allowed to have drugs or marijuana in a stadium but you can sit in the car in the parking lot and smoke up and the air comes right to us. This bothers her greatly. It bothers her to the point where she looks and sees Dewey Beach, Rehoboth, Fenwick Island, Bethany Beach, all of the party towns said “absolutely no.” If you think about it, she thought they would be the biggest ones to pass it, but they said no. The Rossi

Group was hired by City Council and she has questioned this through the whole process. She has heard nothing but positive; there is nothing negative. Dr. Vendetti commented twice at meetings and she said that she called other places in the country asking for them to tell her how things are with just marijuana. One place said, "if you have a nice town, don't do it." This is what bothers her because she has lived here all of her life and she loved her City. She loved it when she used to smell chocolate from General Foods and she loved when we smelled chicken from Richardson and Robbins. Now, we smell marijuana everywhere. How can the Police enforce this? She even asked the head czar of the Marijuana Department if he was going to give more money to towns and cities that are going to say yes. He just looked at her and shrugged his shoulders. She knows what the answer is; absolutely not. And that 15%, who knows where that goes. They are probably looking to make a lot of money. The thing is, your Police Department cannot do it. They can't even pull over somebody that they assume is smoking. Yes, they are driving and smoking. If anyone drives up or down Route 13 or down Governors Avenue, you don't have to be a rocket scientist to know that someone in the car in front of you is in there smoking because your car is going to smell like it. As a taxpayer, as a teacher, and as somebody who just had a brand-new baby granddaughter born last Thursday, do I want her to stay living in Dover? Yes, because it's close to me. Do I think they will? Probably not, if we keep doing what we are doing. It's not building up; she thinks we are building down.

Mr. Bill Winters – Mitten & Winters LLC at 117 W Loockerman Street Dover, DE 19904

Mr. Winters stated that he owns a business at 117 W Loockerman Street and he is a Dover resident located at 133 Walker Road Dover, DE 19904. He spoke to City Council months ago. He has some concerns about the Ordinance but first he has a question either for the Commissioners or Mrs. Townshend. Assuming the Ordinance passes and there is a retail location opened which he is against. If it is passed by the Commission and it is passed on to Council. Is there a limit to the quantity of marijuana that somebody can buy when they enter a facility? Can they go in like if they go into a liquor store and buy as much as they want or is there a limitation to the quantity at any one time? Responding to Mr. Winters, Mrs. Townshend stated that under House Bill 1 which is the first of the two marijuana bills, you are limited to a personal use quantity which is no more than one ounce per person. She doesn't know for sure that you can't buy any more than that but you can't load up like you can at the Costco Liquor Store or anything.

Mr. Witham stated that he thinks from his standpoint, the way he would interpret that is that you are limited to personal use only. If you go in there try to buy a pound or two of marijuana and you get in your car you are going to get stopped.

Mr. Winters stated that some of this is going to be repetitive repeating what Mrs. Christiansen said but he has followed this pretty closely. He has seen what some of the towns in Sussex have done. Dewey said they didn't want it because they have enough issues with alcohol. In Newark, Commissioners decided that they didn't want it on Main Street because of the University being there and the excessive use that could possibly happen with a college campus. Fortunately, at least with the Ordinance that you currently have set up, there won't be any retail within the Downtown area. But we do have the Del State University Campus which is three blocks from Downtown. You are faced with a very difficult decision on whether to approve this or not. Dover has some of the best parades in the State. It's amazing what they do with parades. This past St. Patrick's Day, they had a phenomenal parade. Loockerman Street was packed with people. His

office is right across the street from the old Dover Hardware was and there is open space there now. After the conclusion of the parade, they had a DJ playing out there and our office was open on that Saturday because it was tax season. The music was great; however, the amount of marijuana being smoked out on the street was amazing. We had to have a couple of people leave our office because of the smell that permeated our office. Mrs. Christiansen is right, you go anywhere around Dover and you are going to smell marijuana. He and his wife regularly drive through Silver Lake Park on bike rides and the amount of consumption there on a regular basis is amazing. So, if we are already saying that it's problem, he can't imagine what it's going to be like if we approve this in our City right now. It's going to be a big issue to deal with and how are the police going to deal with it if somebody's doing public consumption, do they arrest them? Do they take the time to take them to the station and then they are going to get released right away? That's the whole concept right there; he doesn't know how that's going to work. All he knows is that the Commission has a very difficult decision to pass along to the City Council. There is no revenue coming to the City of Dover for this provision; so, what benefit is it to our community? He doesn't see any.

Mrs. Nicole Chick – 510 Kirkwood Highway Wilmington DE 19805 (virtual)

Mrs. Chick stated that she had discussed a while back with Council President Anderson an Ordinance that he put forth on June 11, 2024 that businesses already in existence that apply for a retail license could obtain a waiver of the residential buffer restriction by obtaining signatures of approval from the residents. Her question is where does that stand currently and if it is still being considered? She would ask that we ensure the amendment says something like business owners and not just businesses because someone owning an existing hemp business for instance, liability wise likely isn't going to apply with the exact business names and risk the liability there. They would apply as a new business that would sell marijuana instead. If the amendment has already been voted on, could she know who voted for and against it? If it's still under consideration, she just wanted to say that an existing medical dispensary or a compassion center shouldn't qualify for an exemption to the zoning requirements if hemp stores can't equally get the same treatment. Responding to Mrs. Chick, Mrs. Melson-Williams stated that she believes that there were discussions in the City Council Committee of the Whole regarding potential amendments; however, that amendment was not voted upon or released from Committee as part of the proposed Ordinance packages for consideration here.

Mrs. Townshend stated that there was language and there were two kind of conceptual amendments: the one that Mrs. Chick mentioned and then the one that would address conversion licenses was the other. We put them both in Ordinance format and there was no action on the one that you mentioned. For the one that you mentioned, the way that you characterized it would not have allowed for your business to obtain a license anyway. Looking at the objective, they drafted something that would have allowed it as a Conditional Use in the C-2 (Central Commercial Zone) and that Draft Amendment did not move forward.

Mr. Witham stated that the bottom line is that presumably the not approved Amendment is not before this Commission. It is not being considered.

Mrs. Melson-Williams stated that there was no Amendment in short that came out of Committee to us for consideration by the Planning Commission in regards to a possible hemp store provision

in the Ordinance.

There was technical difficulty with the sound through WebEx.

Mrs. Chick typed in the chat if someone could forward her the status of that Amendment. Responding to Mrs. Chick, Mrs. Melson-Williams stated that that Amendment was never released from Committee as part of the Ordinance package.

Mrs. Chick asked through the chat if Mrs. Melson-Williams could repeat herself. Responding to Mrs. Chick, Mrs. Melson-Williams stated that the concept for that Amendment related to hemp stores was not part of the package that was released by the Council Committee of the Whole. It was discussed she believes, at one of their earlier meetings this summer but ultimately was not made part of the proposed Ordinance that was released for consideration.

Mr. Witham stated that it is not before this Commission. Responding to Mr. Witham, Mrs. Melson-Williams stated that is correct.

Mrs. Chick asked through the chat who voted against it. Responding to Mrs. Chick, Mrs. Melson-Williams stated she doesn't believe that it was ever brought forth formally as an amendment at that Committee. The City Clerk's Office would have the meeting minutes for those Council Committee of the Whole Meetings where it was discussed.

Mr. Witham closed the public hearing.

Mr. Witham stated that they have before them a Petition for Text Amendments for recreational uses of marijuana in the City of Dover. Under Article 10, Section 5 they must evaluate these factors for proposed Ordinances #2024-29 and #2024-30. To get this matter moving forward, there are three options. The first option is to prohibit, recommending that the City Council deny adopting these Ordinances in whole. The second option is to permit as requested by these Ordinances before us. The third option is to approve with exception and/or recommendations for improvements.

Mrs. Denney stated that she thinks it's pretty evident here to everybody from the beginning of this that in her perfect world, we would just go with Option 1 and prohibit it completely for non-medical uses because once again, she managed an orthopedic surgery practice. She has seen many people with injuries. She has happened to have been married, have her children and she is now widowed but she was married to a sailor and Vietnam left a lot of people with issues. She does see a medical necessity, but her feeling is if they decide not to prohibit it completely, just keep it out on the highway in a very restricted area. But her preference would be to do what they were brave enough to do in Sussex County. She remembers when her kids were young, there was a slogan "Just Say No" and that's where she would love to be.

Mr. Witham stated that he believes that the Planning Office had found that the proposed Ordinances were consistent with the aims and principles of the *Zoning Ordinance* and the *Comprehensive Plan*. Is that correct? Responding to Mr. Witham, Mrs. Melson-Williams stated that any time you are looking at a Text Amendment, the *Zoning Ordinance* has two criteria that

are prescribed for you to evaluate those Text Amendments. This is found in the *Zoning Ordinance*, Article 10 Section 5 and when considering a proposed Text Amendment, we have to issue whether or not the change is consistent with the aims and principles embodied in the Ordinance as to the particular zone concerned and whether the Amendment is consistent with the aims of the *Comprehensive Plan* for the City. As part of the DAC Report on Page 5, Planning Staff along with our consultant have responded to those criteria. In finding that when you generally look at cultivation, manufacturing and testing, those types of uses are allowed in the M (Manufacturing Zone) and the IPM (Industrial Park Manufacturing Zone) because those zones permit the manufacturing and industrial processing of goods. They also allow for research and testing labs. The cultivation, likewise when you look at the A (Agricultural Zone), is something where you find crop harvesting as permitted use. Then looking at marijuana retail stores, in looking at the C-4 (Highway Commercial Zone) that is a zone that allows for retail and that is a zone where they would expect to find higher intensity and likely auto dependent uses in that zone. It's considered a higher intensity type provision. The Ordinance as proposed does provide those Supplementary Regulations where we find the requirements for distancing, the things that the City as a municipality is allowed to control related to time and place. For the second provision related to the *Comprehensive Plan*, they included in their Report some notations about specifically looking at where the Land Use Category of Commercial High Intensity areas are. That is found in the DuPont Highway (Route 13) and Bay Road corridors and there is a statement there about what the makeup of those types of corridors is. And then additionally, there is some discussion in the Land Use of Employment Centers where they should be providing sufficient land area for industrial purposes and whether that is existing facilities, new facilities, or revitalizations of older industrial sites. With those statements, they found that it would be consistent with the aims and principles of the *Zoning Ordinance* basically for similar type uses; however, given that it's marijuana then adding additional restrictions to it as well as how those areas from a land use perspective are described in the *Comprehensive Plan*.

Mr. Michael Lewis stated that he might be looking at this from maybe a different perspective. He hesitates to make assumptions but he may be one of the younger people sitting here. Somebody mentioned Bay Court Plaza before but he is old enough to remember the Pink Elephant store that was there. He believes that it had a drive through window and that was an alcohol facility. He mentions that as just an example of how things evolve, how things change, how as a culture and society we move on from things from time to time. He appreciates the fact that Council submitted these proposed Ordinances and they followed pretty closely with what the Survey results were. More than 2,200 people filled out the Survey and they have seemed to narrowly follow what the majority of the Survey respondents wanted. 58-42 was the overall percentage breakdown as far as allowing some uses with the restrictions in general; allow was the 58% and prohibit was the 42%. He thinks the Ordinances do a fine job of capturing the mood and the result of the survey. The surveys can't obviously be our end all but when they presented the, the public had the chance to weigh in and they did on this issue. He would support more surveys being sent on other issues. To him, this marijuana issue isn't in the top 10 or 15 of issues facing Dover but that is a discussion for another day. From his perspective, he thinks the Ordinances do a good job of capturing what the mood and the wishes of the survey respondents are. He would support the permit with restrictions side of things. If there are no other comments, he would put forth a motion to approve but he doesn't want to jump the gun.

Mr. Witham asked what exceptions or restrictions would he suggest. Responding to Mr. Witham, Mr. Lewis stated that he would be just in favor of adopting Ordinances #2024-29 and #2024-30 as stated but he assumes that they have to do one at a time.

Mr. Michael Lewis moved to recommend approval to City Council for Ordinance #2024-29 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances as presented.

Mrs. Melson-Williams stated that Mr. Lewis moved to recommend approval to City Council to adopt Ordinance #2024-29 as presented. This is the one that focuses on manufacturing, cultivation and testing. We are looking for a second on that motion to move into discussion and/or a vote.

Mrs. Maucher seconded the motion.

Mr. Witham stated that his thoughts would be directed to Mr. Lewis. Would he be amenable to an amendment to the motion to include the requirement that City Council improve the proposed amendments to include a distance requirement from any and all public courthouses within the City of Dover? Responding to Mr. Witham, Mr. Lewis stated yes.

Mrs. Melson-Williams stated that if the motion maker is accepting of the amendment, is there a distance that they want to specify? Responding to Mrs. Melson-Williams, Mr. Witham stated that he would suggest, like the other distance requirements of the other public facilities, which is 750 feet.

Mrs. Denney stated that she doesn't think that it belongs in Dover and most definitely not in Downtown Dover.

Mrs. Welsh stated that she concurs with Mrs. Denney.

Mrs. Melson-Williams stated they need to address the amendment. You had the motion maker agree to that. Is the second also amenable to that amendment? Responding to Mrs. Melson-Williams, Mrs. Maucher stated yes.

Mr. Lewis moved to recommend approval to City Council for Ordinance #2024-29 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances and adding a requirement for a 750 feet distancing requirement from courthouses, seconded by Mrs. Maucher.

Mrs. Melson-Williams stated that the amendment would be added to the section of Lines 90-94 where that distancing is listed and then also again on Line 129-133. That would capture all of the manufacturing, testing, and cultivation.

Mr. Witham asked if that would be for retail also. Responding to Mr. Witham, Mrs. Melson-

Williams stated that retail is not discussed in this one. There are basically three sections where that (amendment for distancing from courthouses) would need to be added. That includes 165-170 as well where the distancing is listed.

Mr. Michael Lewis moved to recommend approval to City Council for Ordinance #2024-29 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances and adding a requirement for a 750 feet distancing requirement from courthouses, seconded by Mrs. Maucher and the motion failed with 4-5 by roll call vote(4 in favor, 5 against the motion). Mr. Lewis voting yes; for reasons previously stated. Mr. Roach voting yes; for reasons previously stated. Mrs. Denney voting no; if we approve manufacturing, next thing you know they are going to be fighting to sell it where they grow it and manufacture it. Mrs. Maucher voting yes; based on reasons stated in the motion. Mr. Baldwin voting no. Dr. Jones voting no; for her there are still areas that have been unaddressed and there seem to be some that are unenforceable. Mr. Reaves voting yes; for reasons previously stated. Mrs. Welsh voting no; for reasons stated by Mrs. Denney and Dr. Jones. Mr. Witham voting no; he frankly doesn't see how the adoption of these Ordinances would further the economic development goals of Dover for the sales, cultivation and manufacturing in this federally illegal drug which is still illegal under Federal Law. It is a Schedule II drug that has never been approved through the federal government although the State does allow it. It's just problematic for the State and for the City. Second of all, we draw no income. The City gets no part of the 15% tax on marijuana yet the cost of public services to monitor, regulate and police the growing, dispensing and sales of marijuana is going to cause an increase in public funds being expended. And although it does meet the technical requirements of a proposed amendment under the zoning law, our zoning law doesn't direct the type of retail sales that we promote in this community. Obviously, this is a retail sale or manufacturing of an item that is very problematic and controversial. He doesn't think the Zoning Ordinance or the Comprehensive Plan ever contemplated this.

Mrs. Melson-Williams stated that it is probably best if there is a motion in the affirmative to say no and prohibit if that is your vote in order to clarify that.

Mrs. Denney stated that the motion failed so it dies, and someone can make a new motion. Is that the better way? Responding to Mrs. Denney, Mrs. Melson-Williams stated yes.

Mrs. Denney stated that she would be happy to make a motion, but she isn't sure if we want to add anything.

Mrs. Denney moved to recommend denial to City Council for Ordinance #2024-29 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances, seconded by Dr. Jones.

Mrs. Denney stated that if there is something happening in the universities for testing or researching, she doesn't want to prohibit that so she's not sure what to do with that. Responding to Mrs. Denney, Mrs. Townshend stated that testing in the context of this Ordinance is testing under the licensing program. It wouldn't prevent academic research.

Mrs. Denney stated that with that understanding her motion still stands.

Mrs. Denney moved to recommend denial to City Council for Ordinance 2024-29 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for cultivation, manufacturing, and testing facilities and compassion centers by amending Dover Code of Ordinances, seconded by Dr. Jones and the motion was carried 5-4 by roll call vote (5 in favor and 4 against the motion to deny). Mrs. Denney voting yes; she thinks that it's to the benefit to us and to our children and grandchildren. She feels that it's necessary to protect them as much as we can and to protect our City which is the capital city of the State that started the Nation and she hopes that others follow our lead. Mrs. Maucher voting no; the State has determined that it is a legal product and has set up regulations for it. This is for cultivation, manufacturing and testing for it, and she thinks it's reasonable. If it's not allowed here, it's going to occur somewhere else in the State and you are not insulating Dover from any of that material coming into the City. Having it in the City, she thinks, gives us additional protections rather than a free for all. Mr. Baldwin voting yes. Dr Jones voting yes. Mr. Reaves voting no; because this is a business proposition, this is not distribution or sell. This is the manufacturing, cultivation, and testing. This is just like a normal business that would be producing anything in Dover and would potentially sell it to different facilities. This product is legal in the State and he doesn't think that they should be prohibiting this business opportunity. Mrs. Welsh voting yes; for reasons stated in the motion. Mr. Lewis voting no; he can just add with firsthand experience that there is plenty of academic research that takes place at the Firefly Music Festival. Mr. Roach voting no; he agrees with Mrs. Maucher and thinks it is handicapping us. We are the capital of the State. It is legal in the State of Delaware so to prohibit the manufacturing and testing and things of that nature, it just seems not logical. If it's legal in the State, to not be able to manufacture here is not doing anything but putting us behind times; behind everybody else that already has it in their City. It is actually counterproductive and he really would urge people to not do that. It is putting us behind the times by doing it anyway because the whole State is legalized. It just doesn't make sense to prohibit it here. It is actually putting us in a worse place than it is a better place. Mr. Witham voting yes; the passage of this Ordinance will do nothing to improve the City of Dover. The reasons that he set forth in the previous motion will apply here. We draw no revenue from this. The only way to force the State to give us revenue is to deny the cultivation, manufacturing and transportation, and the retail sales of marijuana. If we don't deny these motions, we are just asking for trouble.

Mrs. Melson-Williams stated that the recommendation on Ordinance #2024-29 to City Council would be that Ordinance is not adopted and that there should be prohibition of manufacturing, testing, and cultivation.

Mr. Witham stated that the next Ordinance that needs to be addressed is Ordinance #2024-30.

Mrs. Melson-Williams stated that just to remind you, proposed Ordinance #2024-30 is the Ordinance that was set up with provisions related to retail marijuana stores with limitations in being established only in the C-4 (Highway Commercial Zone) and then a series of Supplementary Regulations for their operations.

Mr. Witham moved to recommend denial to City Council for Ordinance #2024-30 Text Amendments to the Zoning Ordinance pertaining to recreational marijuana land use and zoning for retail marijuana stores and provisions for compassion center conversions by amending Dover Code of Ordinances for the reasons that he stated earlier and for the reasons that Mrs. Denney stated, seconded by Dr. Jones and the motion was carried 5-4 (5 favor and 4 against of denial) by roll call vote. Mr. Lewis voting no; the Ordinance as proposed gives a pretty narrow window to anything potential retail establishment. Plus, we have already stated in this meeting how denying this would put the one compassion center that we do have in jeopardy which does serve for a medical marijuana purpose. Mr. Roach voting no; he agrees with the reasons previously stated. Mrs. Denney voting yes; for reasons she stated throughout this meeting. She thinks that we don't need to legalize one other opportunity for people to drive intoxicated, act out intoxicated, get in fights at sporting events and she enjoys taking her grandchildren down to Silver Lake. They went there for homecoming photos and her grand-daughter went to the house and had to spray her dress because she smelled like marijuana from going to have a picture for homecoming taken by the lake. Mrs. Maucher voting no; again, the State has determined this to be a legal product. The Ordinance had put sufficient limitations on where and buffers for these types of businesses. Not allowing this retail sale in the City is not going to prevent people from bringing it into the City. You are talking about consumption issues, not sale issues. Mr. Baldwin voting yes; for reasons stated. Dr. Jones voting yes; in her mind and experience it is already out of hand and to try and bring it under control with these Ordinances with some things that are still unclear and unenforceable. Mr. Reaves voting no; for reasons stated previously. Mrs. Welsh voting yes; for reasons as noted by Dr. Jones. Mr. Witham voting yes; for the reasons that he stated earlier. In addition to that, his experience as a drug court judge tells him that this is a bad move for Dover. 80% of all of those people who came through his drug court program all had a marijuana issue. Four of them died from the use of marijuana. With the State unable to control and manage the high THC levels that this State has along with the entire country, the death rate is going to continue to rise. Our children are getting marijuana whether they like it or not. One of the reasons why people don't come down to Dover is because he is convinced that they don't want to fight the marijuana traffic or other drug traffic as well. This is not good for Dover.

Dr. Jones stated that she wanted to thank our consultant for breaking this down for her because the presentation helped her to understand more of what was presented and helped her to see some things that she did not see. The other thing that she thought of during the whole presentation is we protect our kids from cigarette smoke in restaurants, schools, and wherever we go. As Mrs. Christiansen indicated and we all know, she can't tell you how many times she has almost had a contact high. That is not the reason that she voted against it. She just thinks there are some things that need to be cleaned up.

Mrs. Welsh stated that the presenter did a fantastic job in itemizing the situation for us and giving us good information as to what exactly was being covered by all of these amendments. It was great to see Mrs. Ann Marie Townshend again.

Mr. Roach stated that he definitely appreciated the presentation but he also just wants to put it in a perspective that again, it's legal in the State. By us preventing it from here, we are not increasing the chances of us "protecting our kids". Because again, if it's legal in the State, now you are increasing their chance of having to go out of the City to be able to purchase it. This

decreases the chances of the things that everybody is saying that they want to prevent like driving under the influence of THC and things of that nature rather than going two minutes up the street for recreational use. If you want to do it, you are going to access it regardless of whether you prohibit it or restrict it from the City. It is not stopping. It is a legal action in the State. Again, he understands everybody's thought process and he respects everybody on this Commission but he thinks that it is counterproductive in regards to the mindset of wanting to protect people. Again, you can get cigarettes at age 18. He doesn't like second-hand smoke and smelling like cigarettes no more than smelling like marijuana but people are allowed to smoke in certain places. That's the reason why there are restrictions, and the prohibitions are going to be at certain places. He just really feels as though, again, like alcohol; kids are not supposed to drink until they are 21 years old, but they do it anyway. We can do whatever we can to try to "protect our children" by putting this bubble around Dover but if it's a State legalized substance, there is no stopping it from getting here anyway. To be able to have it to at least where it is being able to be purchased somewhere locally and manufactured locally so therefore, you have safeguards and things of that nature to be put in place for our kids to be protected. If our children want to use it, they are going to use it regardless because it is legal in the State.

Mr. Witham stated that he thinks they all respect each other's opinions. He thinks that as long as the State is putting a 15% tax on marijuana, marijuana is always going to be cheaper if you buy it from a drug dealer on the street. So, he doesn't think it's going to change any life at all just to legalize it.

Mrs. Melson-Williams stated that the Commissioner's actions tonight will be summarized in a Recommendation Report on those Ordinances that they will transmit to City Council. City Council will take up these two Ordinances at their December 9, 2024 meeting. They have their own public hearing and final action regarding those Ordinances.

NEW BUSINESS

Meeting adjourned at 9:29 PM.

Sincerely,

Kristen Mullaney
Secretary