

**CITY OF DOVER PLANNING COMMISSION
SEPTEMBER 16, 2024**

The Meeting of the City of Dover Planning Commission was held on Monday, September 16, 2024, 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. Lewis, Mrs. Maucher, Mrs. Denney, Mr. Baldwin, Dr. Jones, Mr. Reaves, Mrs. Welsh and Mr. Witham. Mr. Roach was absent.

Staff members present were Mrs. Dawn Melson-Williams, Ms. Katherine Oehmke, and Mrs. Kristen Mullaney.

APPROVAL OF AGENDA

Dr. Jones moved to approve the Agenda as submitted, seconded by Mrs. Welsh and the motion was carried 8-0 with Mr. Roach absent.

APPROVAL OF MEETING MINUTES OF AUGUST 19, 2024

Mrs. Maucher moved to approve the Planning Commission Meeting Minutes of August 19, 2024, seconded by Mr. Baldwin and the motion was carried 8-0 with Mr. Roach absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, October 21, 2024, at 7:00PM in the City Hall Council Chambers.

Mrs. Melson-Williams provided an update on the regular City Council and various Committee meetings held on September 9 & 10, 2024.

Mrs. Melson-Williams stated that as noted in previous months, we do have a series of job positions that are open. We are looking for staff in the Code Enforcement Section and also in the Planning Office as well. We will soon have a Planner I position that is also open because Ms. Oehmke will be leaving the City next week. Please bear with the Planning Office. Thanks to Ms. Sharon Duca, the Assistant City Manager who is hanging out in the audience tonight for ongoing administrative help with our overall Department. It is much appreciated.

Resolution honoring the service of Mr. Chris Cooper to Planning Commission

Resolution

Whereas, Chris Cooper, became a member of the City of Dover Planning Commission on September 13, 2021, and has served with diligence and distinction in this capacity as an advocate for sound land use planning in the public interest; and,

Whereas, Chris Cooper has played a role in ensuring fundamental fairness and careful forethought in the planning and development of the Capital City through his service on the Planning Commission; and,

Whereas, Chris Cooper completed his term of service on the City of Dover Planning

Commission on July 15, 2024.

Now Therefore Be It Resolved That, the City of Dover Planning Commission does hereby express its sincere appreciation to **Chris Cooper** for his faithful and diligent service to the Citizens of the City of Dover as an active member of the City of Dover Planning Commission and extends its very best wishes to **Chris Cooper**.

Mrs. Denney moved to approve the Resolution for Mr. Chris Cooper for his services to the City of Dover Planning Commission, seconded by Mrs. Welsh and the motion was carried 8-0 by voice vote with Mr. Roach absent.

Mr. Witham thanked Mrs. Maucher for her service as Chair for four consecutive terms. He also thanked Mrs. Denney for her service as Vice-Chair. He thanks Mr. Roach and Mrs. Welsh who have agreed again to serve on the Architectural Review Oversight Subcommittee. He congratulated the rest of the members of the Planning Commission. This responsibility is enormous at times. You are often complimented for your work but the public needs the service of good, qualified people. He thanks them all for agreeing to serve. It would also like to congratulate Mr. Lewis on his membership on this Commission. Hopefully you will enjoy it and if not, at least find it very interesting.

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

NEW APPLICATIONS

AX-24-01 Lands of Byler Investments, LLC at 139 Acorn Lane - Public Hearing and Review for Recommendation to City Council of an Annexation Request and Rezoning Request for a parcel of land totaling 14,494 SF+/- located at 139 Acorn Lane. The property is currently zoned RS-1 (Residential Single Family Zone) in Kent County. The proposed Zoning is R-10 (One Family Residence Zone). The property is located on the west side of Acorn Lane between South Hancock Avenue and Shadybrook Drive. The annexation category according to Dover's 2019 *Comprehensive Plan* is Category 1: High Priority Annexation Areas and the land use designation is Residential Medium Density. The property owner is Byler Investments, LLC. Property Address: 139 Acorn Lane. Tax Parcel: ED-00-068.19-01-23.00-000. Proposed Council District 3. Ordinance #2024-28. *The First Reading of this Annexation Request was completed on August 12, 2024. Public Hearing before the Planning Commission is scheduled for September 16, 2024 and City Council on October 14, 2024.*

Representative: None

Mrs. Melson-Williams stated that this is Annexation Application AX-24-01. It is a Request for

Annexation as noted. It is the Lands of Byler Investments LLC and the property is located at 139 Acorn Lane. The image on the screen gives us a street view of the location. It is on the west side of Acorn Lane. There is a house back through that vegetation that you see on the street view. Currently, the property is zoned as RS-1 (Residential Single Family Zone) which is a Kent County zoning classification. They are requesting a zoning of R-10 (One Family Residence Zone). With any Annexation Application, first we have to look at our *Comprehensive Plan*. The *Comprehensive Plan* identifies this property as Category 1: High Priority Annexation Area. As you can see here, its adjoining properties, those that are surrounded in the teal blue color on the screen, are properties that are already in the City. The one with the red box is the subject property. The *Comprehensive Plan* also looks at the appropriate land use category for all properties, including those proposed for annexation. For this property, the land use category is Residential Medium Density. With that land use category of Residential Medium Density, there are variety of residential zoning districts that it could be considered for. The applicant has requested R-10 (One Family Residence Zone) and that is a zoning district that matches up with the land use category of Residential Medium Density. For this project, they did note that the utility services for the project were reviewed by the City's Utility Committee of City Council. She will note that the property is currently served by the City of Dover Electric. They have been in contact with the City's Department of Water/Wastewater and are dealing with a connection of those possible services of water and sanitary sewer. That is actually the reason why they are seeking annexation. It is to gain those services due to current issues with an existing well and septic on the property.

In looking at this, Planning Staff is recommending approval of the Annexation Request at 139 Acorn Lane with the rezoning to R-10 (One Family Residence Zone). It has a single family detached dwelling on the property as well as a detached garage unit; so, that use does fit within that zoning district. Once in the City, they would be expected to abide by the City's regulations regarding land uses. Tonight, the Planning Commission is going to be looking at a series of three criteria in making their recommendation regarding the Annexation and zoning of the property. In our DAC Report, they include the Code excerpt from the *Zoning Ordinance* found in Article 10, Section 5.36. The three main criteria are listed as A-C and those criteria include whether the use permitted by the change would be compatible with the existing uses and zones in the area concerned. They find this property along Acorn Lane where there is other single-family houses as well as some residential neighborhoods on the east side of Acorn Lane. Item B is whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of the location. As noted, they are already on City Electric and water and sewer are available to this location. Criteria C is whether the proposed change is in accordance with the City's *Comprehensive Plan*. She did note that the *Comprehensive Plan* identifies this as a Category 1: High Priority Area for Annexation and then also its Residential Medium Density land use category. The remaining parts of the Development Advisory Committee Report includes information from our other DAC members. They all have no objections to the proposed Annexation and/or Rezoning. Some of them offered advisory comments as to next steps for a particular project. Tonight, the Planning Commission will be making a recommendation on this application. Your recommendation would be forwarded to City Council and City Council will be the one to make the final decision regarding Annexation and Rezoning.

Mrs. Melson-Williams noted that the applicant was not present for the meeting. He did sign the application and was also present at the Application Development Advisory Committee Meeting.

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

Mrs. Maucher moved to recommend to City Council approval of AX-24-01 Lands of Byler Investments, LLC at 139 Acorn Lane as it meets the three criteria identified as one, being compatible with existing land uses; second is that there is sufficient infrastructure and public services available; and third that it is consistent with the Comprehensive Plan. It is additionally identified as a High Priority Annexation Area. The motion was seconded by Mrs. Welsh and the motion was carried 7-0 with Mr. Roach absent and Mrs. Denney abstaining. Mrs. Maucher voting yes; based on reasons in her motion. Mr. Lewis voting yes; based on previous statements. Mr. Baldwin voting yes; it fits the existing land use. Dr. Jones voting yes; for the reasons previously stated. Mr. Reaves voting yes; for reasons previously stated. Mrs. Welsh voting yes; for reasons stated in the motion. Mr. Witham voting yes; this application does meet the criteria A-C. The City of Dover would want to annex areas directly adjacent that the City could provide adequate services and those services are being requested.

C-24-02 Luther Village IV: Planned Neighborhood Design - Senior Citizen Housing Option on Babb Drive - Public Hearing and Review of a Conditional Use Site Plan/Master Plan for the development of Luther Village Planned Neighborhood Design – Senior Citizen Housing Option consisting of up to 524 age-restricted apartment units in a total of nine phases. The Master Plan was previously established by Applications C-02-02 and C-13-03 and Luther Village Phases I, II, and III have been constructed. The plan for Phase IV consists of the construction of a three-story apartment building with 72 units (age-restricted) and associated site improvements. The plan also includes a Minor Subdivision to create a 2.79 acre+/- parcel for Phase IV from the overall 33.63 acre +/- tract. The property is zoned RG-2 (General Residence Zone). The property is located east side of John Hunn Brown Road and on the west side of Babb Drive. The owner of record is Martin Luther Foundation of Dover, Inc. Property Address: 101 Babb Drive. Tax Parcels: ED-05-077.06-02-90.00-000, ED-05-077.06-02-90.01-000, ED-05-077.06-02-90.02-000, and ED-05-077.06-02-90.03-000. Council District 2. *Consideration of Alternative Design Standards for PND: Building Setback from Property lines, Building Spacing, Building Height, Number of Stories, Average Number of Dwelling Units Per Building, Off-Street Parking Reduction. Waiver Requests: Partial Elimination of Curbing, Reduction of Bicycle Parking, Elimination of Rear Emergency Access. Subdivision Waiver Requests: Waiver of Requirement for Two Connections to a Public Street and Waiver of Requirement for Lot Frontage on a Public Street. Associated Applications: MI-24-06 Luther Village IV: PND-SCHO Concept Plan and C-02-02, C-13-03, S-03-07, S-07-10, MI-13-08, C-13-03 and C-19-05.*

Representative: Mr. Craig Lynch, Landmark Science and Engineering; Mr. Richard Murphy, President of the Board for Martin Luther Foundation of Dover

Mrs. Melson-Williams stated that this application is C-24-02 Luther Village IV: Planned Neighborhood Design – Senior Citizen Housing Option on Babb Drive. As noted by the Chair, this is focused on Phase IV which is both a Conditional Use Site Plan and Master Plan for this location. The opening picture was the view from Babb Drive of the complex. This location previously has had three phases of construction over the last twenty years. For the project itself,

as shown on the aerial view, they have applications dating back to 2002 when the first concept for development of this as a senior citizen housing complex was put forth. Since that time, three buildings have been built including an additional activity center. The buildings are apartment units. They are age restricted based on the type of application we are considering. The overall tract of land is just under 34 acres in total. The access is from Babb Drive and with each of the phases of construction, they have placed each phase on an individual parcel of land. So with this consideration of Phase IV, there will also be a Minor Subdivision Plan that would create that Phase IV Lot. Overall, the Planned Neighborhood Design – Senior Citizen Housing Option as shown here, shows a series of nine Phases. There are eight apartment buildings. In the past, it has been approved for up to a total of five hundred twenty-four (524) dwelling units. There is also some Activity Room Buildings that interconnect these Apartment Buildings and also a proposal for a Town Center Building in one of the other Phases. At this point, we have a total of one hundred forty-eight (148) dwelling units that have been constructed. Phase IV is focusing on a building that would provide seventy-two (72) dwelling units as an apartment style building. It is in the top center here on this image. It includes a parking lot specifically for it and is interconnected by an extension of the loop road which runs around the outer boundary of the project site. Access as noted, is from Babb Drive. That is in the lower left of the project area. Because it is a Planned Neighborhood Design-Senior Citizen Housing Option, over time they have had to re-up the Master Plan and that is one of the tasks this evening. As part of that, they are looking at a number of things overall for the Master Plan. Our Development Advisory Committee Report did run a tally of units by phase and parking spaces by phase. We can see here in this image of the architecture for Phase IV. It is proposed for a three-story building in brick, continuing the architecture that we currently see there in the complex of brick with windows on all elevations and some annotations to the roof with those dormer styles and turned gables. Also, we can see in this image a kind of covered entry to this specific building. With a PND – Senior Housing Option, we have to look at project density and whether that density is compatible. The Master Plan is depicted in this submission that will give a site density of 14.2 dwelling units per acre. That is with this Plan showing a total of 477 dwelling units for the entire site. As part of the PND, they are also asking for a number of the design standards to also be approved with some Alternatives. Those Alternatives deal with the requirements for parking, the requirements related to building setbacks from property lines, the building spacing, the number of stories and associated building height, and then the average number of dwelling units per building. Again, our Report has outlined what the requirement is and what they have requested. Some of these Requests are made to allow for the interconnection of buildings which means that they are going to end up with a 0 setback from a property line. We are also seeing them go to three stories in this instance. There are at least one of the Phases that has a four-story building. All of that puts a lesser footprint on the ground and allows the construction to go more vertical. Those Alternative Design Standards for the PND will have to be considered as part of your deliberations tonight. She will note that the zoning of the property remains as is. This would be no change to the zoning of the property which is currently zoned as RG-2 (General Residence Zone). The RG-2 (General Residence Zone) does allow for apartments but this process that they are moving through is a more specialized review process for its development.

Some of the other Waiver Requests associated with this project include a Waiver related to the Rear Emergency Access requirement. That is a requirement found in the *Zoning Ordinance* related to the ability to access the rear of the building. For a three-story apartment building, which means either a sixteen (16) foot alley or an eighteen (18) foot secondary fire lane. The Planning

Commission will make a recommendation on that Waiver and then that will be forwarded onto City Council Committee for Final Action. She will note that the Rear Emergency Access provisions can be met through a subgrade drivable surface and that is what has been implemented in other portions of this project. We will have to deal with that this evening. In other notes, the parking reduction was one of those Alternative Design Standards. Basically, in the past this has received a Waiver for a Parking Reduction. They are asking for the parking rate to be set at 1.15 spaces per dwelling unit is a little over 1 per dwelling unit. She thinks they can hear from the applicant a little bit more about how this facility works which is why they are seeking that reduction. It will allow for one parking space per dwelling unit and then there is additional parking that would be able to accommodate visitors and staff at the location. They have asked for a Waiver related to bicycle parking. While their project is showing to be compliant in Phases III and IV, some of the early buildings (Buildings I and II) do not include bicycle parking spaces as that wasn't a requirement of our Code at the time. But since we are looking at the overall Master Plan, we have got to calculate fully the bicycle parking requirement overall. With this area for Phase IV looking to be located on its own individual parcel, there are a couple of Subdivision Waivers that will need to be addressed. In this case, the Planning Commission makes a Recommendation and then City Council/Committee will actually take the Final Action. Those two waivers related to basically creating a lot for Phase IV and result in a request for elimination of the street frontage requirement. Our Code requires that lots have frontage on a public street and obviously Phase IV isn't along the frontage that this property has on Babb Drive or along John Hunn Brown Road. Additionally, the other Requests for Waivers related to that are because of the spacing and building setbacks. The other one that also comes at us from the *Land Subdivision Regulations* is that when a complex reaches the threshold of 150 dwelling units, then a second connection to the existing street must be shown. In the case of this project, the property has one access point that is a divided median access onto Babb Drive. However, the second connection that would be triggered by that 150 dwelling units isn't proposed until Phase V. In order to construct Phase IV, they will need a Waiver of that requirement of two connections of a public street. One of the waivers, she will be happy to report, is something that the Planning Office can grant and that is for the Partial Elimination of Upright Curbing. That has been approved by Staff and it is related to stormwater management and the loop road area of the project.

To wrap all of that up for you, your data pages are probably your best source of all of the series of Waivers. First, we have the considerations of Alternative Design Standards for the PND and that includes things related to the building setbacks, spacing and height and number of dwelling units per building as well as an off-street Parking Reduction. The Waivers requested that the Commission will need to act on are the Reduction of Bicycle Parking and the recommendation related to the Elimination for Rear Emergency Access and then the Subdivision Waivers related to two (2) Connections to a Public Street and the requirements for having a Lot with Frontage on a Public Street. In those cases, they will be making a recommendation that will move onto City Council. The Development Advisory Committee Report includes information from all of our other participating agencies related to utility services, the Office of the Fire Marshal, DelDOT, and with the Kent Conservation District also providing comments. Those are all included by reference and then there are copies of the Waiver Request letters from the applicant.

Mr. Lynch stated that this is a mission of the Martin Luther Foundation of Dover. As Mrs. Melson-Williams has mentioned, they have been carrying on for several decades now. Obviously, if it was

their prerogative they would build out as fast as they could, but they are not setup in that way. They are setup for affordable housing for senior citizens in the community. There is a giant need for this which was elaborated on at the previous (City) Council Meeting. There seemed to be a lot of backing by Council already. To hit a couple of points for your consideration with the Waivers and PND Considerations, a lot of the building setbacks and spacing and those issues are created by the fact that for funding reasons and grants, the properties that are being assessed and built as individual units need to be on their own individual parcel. In order to be eligible for grants and funding for Phase IV, we can't have it be on the remaining 20 plus acres of residual land. That is really a driver for having each building be on a single phase. In keeping in the spirit that they have already put forth in having the community sense for the residents, having those interconnected activity areas is very important to their mission and this continues that. The connection between the two buildings will be open on the lower level and then have an exercise room and break room on the second and third level. So it will continue to pull in some of the outdoor amenities that they have already established with the inside corridors that residents have in the hallways. The building height, number of stories, and the average number of units per building are kind of tied together. As Mrs. Melson-Williams mentioned earlier, it is in keeping with the character of the campus already and it allows for more outdoor space and less pavement to be on the site in that regard. Off-street parking reduction is consistent with the use and the fact that it is senior housing. A lot of the residents are taking public transportation to wherever they need to go and with the nature of the units, there is typically not more than one person per unit. So, that is in keeping with the parking that has already been established on the site. As Mrs. Melson-Williams mentioned, the Planning Office has already okayed the Partial Elimination of Upright Curbing. For the reduction in bicycle parking, there is already bicycle parking on the site that is under-utilized. They plan to give a code compliant bicycle parking area for this phase that they are proposing now. There was not any previously given in Phases I and II but this, in keeping with use, is adequate to provide it in Phase IV. Depending on certain funding allocations, there may be plans to install that for Phases I and II as well. The Waiver requirement for two connections to a public street is kind of the one that is in the grayest area for consideration. The Master Plan considered having two entrances by Phase IV initially, but as you can see on the main overall Plan, the spine road that connects sort of the left half of the site and the right half of the site will not be constructed in this Phase. You will essentially be creating a closed loop if you install this (second) entrance. You would drive farther down Babb Drive, take a left into the development and immediately take another left and go back towards the first entrance and then cross that entrance again. It just might cause confusion or some other unnecessary circumstances. That (second) entrance, in his estimation, does not fit with the reasoning that is in the Code. He understands that with the more units, you can't have everybody funneling to one intersection in one entrance. This actually would not only funnel them to the same entrance but in a roundabout way, that might be confusing or leave someone doing something that they didn't intend to. It was less of a want to not meet the Code but more of a desire to do something that made more sense for the property.

Mr. Murphy stated that in regards to the bicycle parking right now, in the seven projects that they have, they've got about 50% resident use of personal vehicles. So, only about 50% of our residents have a personal vehicle. That's why they are looking for the reduction in parking to 1.15 spaces per unit. As mentioned on the spacing of the buildings, it is important to us that the buildings are interconnected so that the seniors can travel and visit other seniors in another building without having to go out into the weather. As indicated, they use a lot of public transportation and there is

a bus stop right on Babb Drive next to our entrance.

Mrs. Maucher stated that there was some notation about the Elimination of the Rear (Emergency) Access and Staff indicated that there might be some alternatives that you could consider. Has that been done yet? Responding to Mrs. Maucher, Mr. Lynch stated that the Plan that they have put forth to the Commission today is Code compliant with the State Fire Code. For the additional requirement from the City to create that rear access lane, they are speaking with the City's Fire Marshal's Office to look at some other alternatives. The one that Mrs. Melson-Williams was mentioning is in-lieu-of a paved surface. You could put sort of stone underneath that grass can grow through then sort of that lattice structures which they would work with the Fire Marshal's Office to see how they could make that work. Given how the campus is spatially and how you could access the rear of the building without needing to put that fire lane in, they were just asking to consider that.

Mr. Murphy stated that the other advantage to not having to put that rear access lane in, as Mr. Lynch said, is fairly reasonable access (exists) without that. Once that fire lane is in there, we can't put anything on top of it because it needs to be clear for the fire trucks or other emergency vehicles. In other words, it's things like raised garden areas for the seniors. That's a prime location for that because it's right at the rear of the building and they can exit to one of the rear entrances and go out there to tend to their gardens and then come back in. If not, then they have to make it a little bit more remote. As Mr. Lynch stated, it is doable but our preference would be to not have to put that Rear Emergency Access in.

Mrs. Denney stated that she had a question related to that fire lane. Can you help her understand the mean age of the residents in Luther Towers? Responding to Mrs. Denney, Mr. Murphy stated that their Director has advised him that the average age is about 70.

Mrs. Denney stated that she retired a long time ago but her field was medicine. She has a great concern when she saw the request for that Waiver. We all know the older that we get, the slower we move. Then it's for the more fire equipment that can pull right up to that building and get those men helping those senior citizens get down, especially when the fire alarm goes off and you are not allowed to use the elevator. She is thinking that from her perspective, that's really not good safety-wise (to eliminate). When she first read this, she thought "those things are up to the Fire Marshal" and you should just let that sleeping dog lay but she does have a lot of concern about that not being a fire lane. Do you have any alternative ideas? Responding to Mrs. Denney, Mr. Lynch stated that besides paving it or putting in the stone lattice structures, there is not going to be much that would stand up to that heavy equipment. They would be able to get in and out without it, but it would just be up to the Martin Luther Foundation to then repair the damage.

Mrs. Denney stated that she knows that there are certain types of parkable turf. We have also seen those. She has seen many engineers come up with some very creative ways to do parkable turf, but we also know that fire equipment is heavy. She realizes what you are saying and as you are answering the question and thinking that would be a good place for garden boxes, to her, she is thinking that would be a good place to leave wide open for emergency equipment. Again, it really gives her a great deal of concern because it is difficult for some people to get around. She is 75 and she still gets around pretty well; that does give her pause.

Mr. Witham asked what would be in the increase in terms of traffic into the community as a consequence of constructing Phase IV? You obviously must have an experience as to what the traffic flow is right now on the previous phases that are constructed. Responding to Mr. Witham, Mr. Lynch stated that it is his understanding that it won't really increase the maintenance burden. Your maintenance staff is already top notch. From a staff perspective, he doesn't know that it has much of an impact, maybe one to two additional staff members. Obviously, the residents have about a 50% vehicle rate; so, at 72 units, it would be 36 additional vehicles. The trips per day for this use is probably lower than your typical one who is getting up and going to work every day or something of that nature. They are very similar in size and use. It's probably an additional 1/3 more if you split up the first three phases. It would be similar to that.

Mr. Witham stated that he heard there was a bus stop. Is there just one bus stop for all phases and is that enough to serve all of these residents? Responding to Mr. Witham, Mr. Murphy stated that there are other transportation modes. They have their own bus that they use to take residents to doctor appointments, on shopping trips, and that type of stuff. They can schedule with that van that runs throughout the week.

Mr. Witham stated that perhaps Staff can tell him, does this type of construction with the type of residential units that you are constructing, would this normally require a Traffic Study or not? Responding to Mr. Witham, Mrs. Melson-Williams stated that Babb Drive is a City street as is the immediate roads connecting to it. The project, as part of our Development Advisory Committee does go to DelDOT and they have asked some questions about what the traffic generation is. Some of which may have been addressed years ago when this project first came to fruition back in 2002. But the City would not require a Traffic Impact Study. She thinks there are a number of options once you leave this site about how you move away from it, but they will have to be working with our colleagues at DelDOT regarding any requirements that they may have for looking at this. This always gets a little difficult when the first street off the project site is a City street which then may lead to a DelDOT street network. The closest DelDOT roads in this case are going to be S. Little Creek Road and then ultimately getting to Bay Road and S. DuPont Highway connections there. So, the initial reaction is no, the City wouldn't require a Traffic Impact Study. They think that probably from a DelDOT perspective, there are a lot of options before you interact with the DelDOT street.

Mr. Witham stated that he thinks they mentioned that the average occupancy for each unit currently at Luther Village. Is it one or one and a half? Responding to Mr. Witham, Mr. Lynch stated one.

Mr. Witham stated that it would correspond with the fact that you have a reduced need for bicycles, motor-scooters, or other modes of transportation. Are all of the buildings going to be connected? Responding to Mr. Witham, Mr. Murphy stated that these four will be and then the next four will be connected when they are built. There will be no internal connector between the two fours because the loop road will split between the two developments.

Mrs. Maucher stated that back to the Rear (Emergency) Access, you said there was alternative access that you thought might be adequate. Is that from the front and from the side? Could you describe that a little bit better? Responding to Mrs. Maucher, Mr. Lynch stated that his statement

was that the areas behind and to the side of the building will be accessible. They won't be excessively steep or made of some other material that the equipment couldn't get to. Not considering design alternatives, just in the absence of the fire lane itself being engineered, there is no reason to believe that emergency equipment couldn't get there.

Mrs. Welsh stated that you are saying there would be access but it's not going to be paved and it's not going to have the lattice structure, correct? Responding to Mrs. Welsh, Mr. Lynch stated that it wouldn't be demarked. His comment was regarding the ability for the emergency vehicles to get to the rear of the building in an emergency. It's would not be hindered by any sort of landscaping or steep hills or anything like that, that might cause them more harm or hindrance to get to the rear of the building.

Mrs. Welsh stated that she is still understanding that there is no substructure basically that would support the weight of the vehicle. Responding to Mrs. Welsh, Mr. Lynch stated that close to the building it would probably be pretty compacted by the structure of the building.

Mr. Murphy stated that you would be able to drive a fire truck there and the fireman would have ready access to it. The thought process there is that the building is going to be fully sprinklered. The need for them to have access for the fire truck to the back of the building is less. The firefighters can still easily access that portion of the building to get people out it just wouldn't have their fire truck in the back of the building.

Mrs. Welsh stated and possibly no ladder, correct? Responding to Mrs. Welsh, Mr. Murphy stated no, no ladder truck.

Mr. Witham opened the public hearing.

Ms. Priscilla Carter – Luther Village 101 Babb Drive Dover, DE 19901

Ms. Carter stated that she lives at 101 Babb Drive. When she (Mrs. Denney) said there were people who were 70 years old, there are people that at 80 and 90 up in there. She just wants to make sure she understands because she is new at this. She wants to understand how they are going to connect this other building to get into the building. Responding to Ms. Carter, Mrs. Melson-Williams stated that you can drive around the on loop road and the loop road right now, gets you to Building 3. Their project would actually extend that loop road. Then there is also a connection point from Building 3 that would connect to Building 4. It's kind of probably at the end of one of the hallways. Building 3 is an "L" shaped building and one of its end points would connect to Building 4. The Phase IV would use the entrance that is currently from Babb Drive onto the property to reach the loop road.

Mr. Witham closed the public hearing.

Mrs. Maucher stated that they need to approve the Alternative Design Standards for PND: SCHO, correct? Responding to Mrs. Maucher, Mrs. Melson-Williams stated that is correct.

Mrs. Maucher moved to recommend approval to City Council for C-24-02 Luther Village IV: Planned Neighborhood Design - Senior Citizen Housing Option on Babb Drive inclusive of the

three sub-bullets which are the reduction in building setbacks, building spacing reduced to accommodate enclosed connections, and the increase in building height, number of stories, and average number of units. She would also recommend approval of the Request for Reduction in Parking, approval of the Reduction of Bicycle Parking, and to include the Waiver Request for the Elimination the Requirement for Two Connections to a public Street, and also finally the Waiver Request for the Street Frontage for the Parcel.

She understands that there is some angst about the rear access. She's not sure if that one needs to be pulled out and voted on separately. Responding to Mrs. Maucher, Mrs. Melson-Williams stated that it is up to her, if she wants to include that in the overall motion or if she wants to act on that separately.

Mrs. Maucher stated that she would prefer to act on that separately.

Mrs. Melson-Williams stated that Mrs. Maucher ran through all of the Waiver Requests but in regards to the Conditional Use Site Plan/Master Plan for Phase IV and this project, what action are you suggesting? Responding to Mrs. Melson-Williams, Mrs. Maucher stated that she recommends approval of that.

Mr. Witham asked for clarification on what they are removing from the motion to be for separate consideration. Responding to Mr. Witham, Mrs. Maucher stated that she wanted to pull out the Elimination of Emergency Rear Access and vote on it separately.

Mrs. Maucher moved to recommend approval to City Council for C-24-02 Luther Village IV: Planned Neighborhood Design - Senior Citizen Housing Option on Babb Drive inclusive of the three sub-bullets which are the reduction in building setbacks, building spacing reduced to accommodate enclosed connections, and the increase in building height number of stories, and average number of units. She would also recommend approval of the Request for Reduction in Parking, approval of the Reduction of Bicycle Parking, and to include the Waiver Request for the Elimination the Requirement for Two Connections to a public street, and also finally the Waiver Request for the street frontage for the Parcel, and to remove the Waiver for the Elimination of Emergency Rear Access in order to vote on it separately, seconded by Mrs. Denney and the motion was carried 8-0 by roll call vote with Mr. Roach absent. Mrs. Maucher voting yes; based on DAC comments in the Staff Report and also recognizing the urgent and desperate need for this sort of housing in the City. Mr. Lewis voting yes; thank you to the applicant for being here and presenting what you are doing and the progress that is being made already. Mrs. Denney voting yes; this project is one that we need more and more of in our community. She thinks that it is a good plan overall despite her feelings about the back which is not included in this (motion). Mr. Baldwin voting yes; based on the aforementioned statements. Dr. Jones voting yes; she would just like to say that those are wonderful facilities. She has been to several events there. Very well designed and very well kept; so, thank you so much for all of your efforts. Mr. Reaves voting yes; for reasons previously stated. Mrs. Welsh voting yes; she agrees with some previous comments by Dr. Jones. It seems to be a well thought-out design. It is definitely a needed residential area for the area. She believes that the designer did a great job with the presentation and the design of the facility. All in all, it is a very favorable addition to the community. Mr. Witham voting yes; based on the DAC comments and both the oral presentation by Staff tonight as well as the written presentation to the

Commission in the documents themselves. It seems to him that this is a great movement forward given the fact that we have a desperate need for this type of housing in this community. He does want to point out that although he supports the motion itself, there are remaining questions that have to be considered by the applicant as they go forward.

Mrs. Maucher moved to approve the Request for the Elimination of Rear Emergency Access for the apartments and that it be approved based on DAC comments and the Staff Report.

Mr. Witham stated that the Staff Report doesn't indicate that (meaning approval). It recommends the additional discussion with the City's Fire Marshal. Responding to Mr. Witham, Mrs. Maucher stated that based on the Staff Report and the oral discussion from the applicant this evening about access and consideration, she will vote that it be approved.

Mrs. Welsh stated that she would like to clarify if she understands the motion. Responding to Mrs. Welsh, Mrs. Maucher stated that the motion is to approve the Waiver Request for the Rear (Emergency) Access. She would think that if the motion was to deny it and that was approved, then she thinks there would have to be another vote.

Mrs. Welsh asked if she is saying to approve it in accordance with the DAC comments as well as the presentation from the applicant this evening. She read the DAC comments to say "further discussion with the Fire Marshal." So that is what you are saying, is that you are encouraging further discussion with the Fire Marshal's Office; is that correct? Responding to Mrs. Welsh, Mrs. Maucher stated no, the motion is to approve the Waiver Request.

Mr. Witham asked if it would be more appropriate to defer action until after there is discussion with the Fire Marshal. Would you be willing to amend your motion? Responding to Mr. Witham, Mrs. Maucher stated that is a fine idea. We could table action on this Waiver Request until the next meeting if that is sufficient time for the applicant.

Mrs. Maucher moved to defer consideration of the Waiver Request for the Elimination of the Rear Emergency Access until the Planning Commission Meeting of October, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote with Mr. Roach absent. Mrs. Maucher voting yes; just to allow the applicant and the Fire Marshal to have further discussion about that Rear Access. It is a concern. She pulled out that Waiver Request because she didn't want to see the full application fail in the event that something couldn't be done. Mr. Lewis voting yes; having said that and knowing that he will be out of the country for the next meeting, when you say that it was doable to do it, he would lean on doing it. You build these things with the hope that you never have to use them. He is in favor of having it. Mrs. Denney voting yes; she would like to hear more information from the Fire Marshal's Office. As she thinks everyone understands, her fear is that trying to get that many seniors out of the building. Suppose the fire is towards the front of the building and they have to get out from the back. Frankly, in her history of medicine and dealing with many, many seniors, kitchen fires happen. Put a pot on the stove and go to the bathroom and then think, "I meant to get this out of the closet." The first thing you know is a fire happens. Sprinklers are great but they don't move people and they don't separate the smoke from the people. Again, we are talking about seniors. Mr. Baldwin voting yes. Dr. Jones voting yes; due to concerns that have already been expressed by other Commissioners. Mr. Reaves voting yes; until the next

meeting. Mrs. Welsh voting yes; hoping that a solution will be worked out that will be safety conscious for everyone's concerns. As Mr. Murphy said, we don't want to have to use it but that is something that there needs to be there as a safety factor just in case we ever do need it. Mr. Witham voting yes; based upon the comments of the Commissioners and based upon the recommendations of Staff and the written comments.

C-24-03 Church of the Nazarene Building Addition at 1430 McKee Road - Public Hearing and Review of a Conditional Use Site Plan for a building addition for a total size of 9,707 SF to the Place of Worship (Church) building. The subject property is zoned R-8 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property totaling 2.72 acres is located at the southwest end of the cul-de-sac section of McKee Road. The owner of record is Washington Advisory Board Church of the Nazarene. Building Address: 1426 McKee Road and Property Address: 1430 McKee Road. Tax Parcel: ED-05-067.00-01-17.00-000. Council District 1. *Waiver Request: Partial Elimination in Upright Curbing.*

Representative: Mr. Kevin Minnich, Minnich Engineering Inc.

Ms. Oehmke stated that this is a Conditional Use Site Plan for the Church of the Nazarene at 1426 McKee Road. This is zoned R-8 (One Family Residence Zone) which allows for churches as a Conditional Use. This is an addition so it's increasing their footprint; therefore, increasing their non-conformity or their Conditional Use need. This property is 2.72 acres. It is owned by the Washington Advisory Board-Church of the Nazarene. The existing building (footprint) is 1,846 SF. The total square feet of the new building will be 9,707 SF. They have requested a Waiver for partial elimination of upright curbing. This property was annexed in August 1969. Depending on what records you look at, it was built anywhere from 1970 to 1987. You can see on the screen that it is in the COZ-1 (Corridor Overlay Zone). That is the green swipe that you see across the screen. It covers most of the property and it's zoned R-8 (One Family Residence Zone). All of the properties around it are also zoned R-8 (One Family Residence Zone) which is a residential zone of roughly 8,000 SF for each property. The two green circles that you see on either side of the property indicate a vacant building. Those are residential buildings that are just not occupied currently. It's in the COZ-1 (Corridor Overlay Zone) which has some more stringent design requirements. The maximum setback from the main road is only fifty feet. The entrance requirement is 24 foot wide. There is a parking lot landscaping requirement of 25% in the landscaped islands and peninsulas within the parking lot itself. The landscaping needs to be 12 feet between the parking lot and the building. The building needs to also be surrounded by sidewalk so people can walk freely between the parking lot and the building. The landscaping also has to be provided on the non-frontage of each side of the property. It needs to have some windows on the front facing of the building. She showed a view from Google Streetview of the current entrance. It looks like it has an entrance and an exit. There is a re-vamp of this in the Plan. This is the rendering of the side of the building and you can see the red line showing where the existing building is. It is a large addition. It's covered in a metal roof, and it has a nice front porch. What you don't see in this drawing is that they also have in the Plan a wheel chair lift. You can see on the left side of this drawing, that is where the existing building is. It's a pretty significant addition. The impervious coverage is only going from 11.7% to 17.8% because it is a rather large property. R-8 (One Family Residence Zone) does allow for 35% coverage. You can see from the floor plan of the basement that it's including some office spaces, some bathrooms and some gathering places.

The kitchen in the lower right hand corner is existing, it is a warming kitchen. There are offices for staff, coatrooms, etc. The next slide shows the property as it exists right now. You can see that there is some parking at the back and some handicapped parking along the sides and up to the front entrance. That is a slight variance from the COZ-1 (Corridor Overlay Zone) but this property was annexed before the zoning took place so it is grandfathered in. The next slide shows the proposed plan. They have added parking at the back and you can see that there are these permeable pavement blocks at the back end of the property. At the back end of the property, you can see with the green line that's where the woodlands are existing so it allows for water drainage into the woodland areas.

Mr. Minnich stated that he has read through the DAC Report and they feel that they can meet any requirements that are in that Report. He met with DelDOT by a virtual meeting for a Pre-application Meeting. They did go over the entrance because the entrance is in need of some repair. He thinks with the improvements to the site that the entrance condition will get better. They discussed what would be required at the entrance. They would channelize the entrance a little better and also put some frontage sidewalk along there with a connection to the new building location. They did look at that. They have some testing going on for the pervious pavement for the Kent Conservation District in the Stormwater Regulations. Staff did a great job picking out all of his typos from one sheet to the next; he feels like it is all doable. They have some changes to make to the Landscape Plan. There were some things that they didn't see as far as buffering.

Mr. Reaves asked if this site was directly on McKee Road. Responding to Mr. Reaves, Mr. Minnich stated that it's on the portion that dead-ended. When you go past the church building, you are maybe a couple of properties from where it cul-de-sacs. It is on the old alignment of McKee Road. He thinks that they made note that a couple of the properties are vacant next to the church.

Dr. Jones asked if there was another church right near there. Responding to Dr. Jones, Mr. Minnich stated that there is, it's two properties down.

Dr. Jones asked if they were vacant. Responding to Dr. Jones, Mr. Minnich stated that they are not vacant. The property adjacent to us is.

Dr. Jones stated that given the expansion on the current facility, she surmises that the congregation is expected to really grow or they are hoping that it grows. Responding to Dr. Jones, Mr. Minnich stated that they have already grown and that's what the problem is and now they need the room. There may be someone online from the church that could answer that question.

Mr. Witham asked if the parking lot was going to be expanded. Responding to Mr. Witham, Mr. Minnich stated yes.

Mr. Witham stated that this may have been said already but how is it going to be expanded? How many additional parking spaces? He assumes that it would be enough to cover the growth of the church. Responding to Mr. Witham, Ms. Oehmke stated that the current parking lot has thirty-six (36) spaces including two (2) handicapped spaces and the proposed parking lot contains fifty-five (55) spaces with two (2) handicapped spaces which exceeds the requirement.

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

Mrs. Welsh moved to approve C-24-03 Church of the Nazarene Building Addition at 1430 McKee Road inclusive of the waivers which she believes that since it's upright curbing, it has been approved by the DAC, seconded by Dr. Jones and the motion was carried 8-0 by roll call vote with Mr. Roach absent. Mrs. Welsh voting yes; she believes it's a very well done design and it seems to be very necessary for the continued association of the church. Mr. Lewis voting yes; for reasons previously stated and thank you Mr. Minnich for being here tonight and good luck with the project. Mrs. Maucher voting yes; based on DAC comments. Mrs. Denney voting yes; she thinks it's a needed project. She is always happy to see when our different religious facilities are expanding within our community. She thinks it's well thought-out and well-planned. Mr. Baldwin voting yes. Dr. Jones voting yes; it is a welcomed addition to that area. Mr. Reaves voting yes; for reasons previously stated. Mr. Witham voting yes; based on the DAC comments and based upon the presentation of the applicant, it looks like it's a needed development for Dover.

S-24-13 Flex Use Facilities Commercial Warehouse Business Park - Public Hearing and Review of a Site Development Plan Application for the construction of Phase 1 consisting of a 54,000 SF Flex Warehouse and site improvements. Later proposed phases of the project involve construction of a 42,000 SF Flex Warehouse, and a 123,750 SF Flex Warehouse (a total of 219,750 SF) with site improvements. The property is zoned M (Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone): Accident Potential Zones I & II and Noise Zone A. The property consists of 19.74 acres. The property is located on the north side of Lafferty Lane approximately one quarter mile west of Horsepond Road. The owner of record Devreco, LLC. Property Address: 350 Lafferty Lane. Tax Parcel Number: ED-05-077.16-02-05.00-000. Council District 2. Waiver Request: Partial Elimination of Upright Curbing. For Consideration: Performance Standards Review Application. For Future Consideration: Tree Mitigation Plan (Tree & Woodland Planting).

Representative: Mr. Kevin Aydelotte, Parker & Associates; Mr. Brett Davis, Dover Industrial (virtual); Mr. Travis Martin

Ms. Oehmke stated that this is the Flex Use Facilities Commercial Warehouse Business Park. It is a Site Development Plan on the north side of Lafferty Lane approximately a quarter mile west of Horsepond Road; addressed as 350 Lafferty Lane and owned by Devreco, LLC. We are getting this application presented in phases; this will be Phase I. Phase I will be approximately 7.5 acres. It is zoned M (Manufacturing Zone) and in the AEOZ (Airport Environs Overlay Zone): Accident Potential Zones I & II. There is a very small section of the Noise Zone A. On the screen is the map of the site. The pink or purple that you see is the area that we are considering this evening. Of the three buildings, we are considering the first building which is 54,000 SF and the two stormwater ponds. It will also include parking for the first building and part of the second building. They have requested a Waiver for Upright Curbing. The Tree Mitigation is going to be for Part II for the woodlands area that they are working on with Kent Conservation District at the back end of the lot. They have also provided a Performance Standards Review Application due to the Manufacturing Zone. The two stormwater management areas will collect the water on both sides of the property. There are three dumpster areas for the whole Plan, one for each building. There

are three bike racks, again, one for each building. There are sidewalks connecting all three buildings to the sidewalks along the frontage of Lafferty Lane. On the far right side, there is a small building for Frito Lay that was a Plan from 2022. It has a shared entrance off of Lafferty Lane for both Frito Lay and these three buildings. This was part of a larger plan that was reviewed by the Planning Commission and DelDOT for that entrance. This parking summary at the top is for the whole Plan. Phase I which we are looking at tonight, includes one hundred thirty-one (131) spaces. The next slide showed renderings of the spec buildings. There are doors and windows on the front sides and then loading docks at the back.

Mr. Aydelotte stated that he will let Mr. Brett Davis introduce everything and then he is here for any technical questions.

Mr. Davis stated that tonight is only about Phase I of this project. Please note that anything you are looking at on the site outside of that there is definitely a lot to work through, and it very possibly will not look like what you see in the latter phases. Whether good or bad, please note that those are definitely a sidebar conversation. What they are really going for tonight is this first building that is closest to Lafferty Lane. We have about 54,000 SF. It is a flex warehouse. They don't have anyone in stone yet but are just really looking to bring jobs to the area. We are settling on the property Wednesday of next week and financing is already in place. They would be building this spec so we would be taking a bit of a risk, but they are excited to get this project rolling. They heard some thoughts from Mrs. Melson-Williams and the rest of team; and that's why you are seeing a much more simplified plan. The one stormwater pond is already in existence, and you will note that there is a second pond being built in Phase I. The reason to do that is because they received a Site Readiness Grant from the State of Delaware and there is a very specific timeline. It requires that they do our site improvements essentially all at once. They are actually overbuilding the stormwater in anticipation that later they hope to build more buildings but that's just because it's really how the money works for the grant. It is also worth noting that with this Phase I they will have some additional paved area in the rear. One of the things that was brought up to us was having 18-wheeler parking. There is definitely enough pavement for that and then they've made sure that in the latter phases, they will also make sure that we have that. It is a pretty straight forward project. He will say that they are looking at pretty tall, clear span spaces. It can be chopped up anywhere from the smallest that they would like to do which is 5,000 SF and then as large as allowing one user to take the whole thing. It is worth noting that they will have fiber brought to the site as one as our businesses. They will be providing internet onsite and eventually throughout the area. They are super excited and would love to hear your feedback.

Mr. Martin stated that he had no additional comments. He thinks Mr. Davis presented things exactly as they intend.

Dr. Jones asked what a flex warehouse was. Responding to Dr. Jones, Mr. Aydelotte stated that it's a use that can be retail, office space, or warehouse distribution. It is not defined because they are looking to just bring jobs and tenants.

Mr. Davis stated to speak to what they are expecting, in their other complexes these are service businesses a lot of the time. Again, it's not clearly defined right now but this is designed as warehouse space. A great couple of examples, and they are not saying this is definitely what is

going there, but something like Travis Martin's business where it's an HVAC and plumbing business. They can utilize the warehouse portion and there might be a small office use but overall it's definitely somebody that is storing materials, moving them in or out, or has some need for large open space. This is not a strip center by any means. This is not going to be any of those types of uses. This is the light industrial style warehouse.

Mrs. Maucher stated that it's been a long time since she has been over in that area. What's the access to Lafferty Lane? Is it only off of South Little Creek Road? She thought that you could get to it off of Route 13 at one point. Responding to Mrs. Maucher, Mr. Aydelotte stated that he would have to look back at the map to see.

Mrs. Welsh stated that you can get there off of Bay Road. There is a light there too.

Mr. Witham stated that this application is only for Phase I, correct? Responding to Mr. Witham, Mr. Aydelotte stated correct.

Mr. Witham asked if they would be coming back before the Commission for Phase II. Responding to Mr. Witham, Mr. Aydelotte stated yes.

Mrs. Melson-Williams stated that the original submission was the layout of the entire site with the total of three buildings and that's how it started its review process. As part of the DAC review, there was a number of questions about the complete build out. So, the applicant chose to revise their Plan to focus on Phase I which is why it took us a little bit to finish up the Report because that happened right at the end. We are focusing on Phase I. If in their finalization of Phase I they need to come back for any of the waivers that they don't end up addressing, they will have to do that. But certainly moving into the later phases, there is potential for the Tree Mitigation Plans that may be necessary. We are going to ensure that Phase I is fully compliant with our Code, which right now, the only Waiver Request that was officially identified was the Partial Elimination of Upright Curbing. Because this is the M (Manufacturing Zone), it also has for your consideration that Performance Standards Review Application where they attest to that they will not have any of those "objectionable elements" list. Then any future development beyond Phase I is going to have to come back through the process here because there are a number of things to sort out.

Mr. Witham opened the public hearing.

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

Mr. Prebula stated that they fully support this project. Recently, they commissioned what they call the Rockport 2.0 Study which identified warehousing, logistics and manufacturing as the target industries within Kent County along with Dover to create jobs for the area and this project directly correlates with that. Also, anything that they can do to move this project closer forward to a completion date in order to increase our opportunities of attract businesses and creating jobs in the area is for the benefit of the City. With that being said, they ask the Commission to please support this project.

Ms. Jozelle Rowan – 392 Lafferty Lane Dover, DE 19901 (virtual)

Mrs. Melson-Williams stated that Ms. Rowan noted that they were here for this application. She

asked how long will Phase I take? Responding to Ms. Rowan, Mr. Davis stated that without making too many assumptions about the application process itself, their goal would be if they are able to start moving dirt and things within the next couple of months with a goal of being under full construction towards the end of the year. He is not trying to set in stone the application process, but if that is a realistic timeframe (60-90 days) then they would be looking at completing the first building probably sometime in Q3 of 2025.

Mrs. Melson-Williams stated that the second question from the same participant is, will any of the phases affect the houses across the street? She believes that there are some residences on the same side of the road just to the west of this location. Then there are some to the south closer to Horsepond Road, but she doesn't believe that there are any directly across the street from this location. Responding to Ms. Rowan, Mr. Davis stated that they did place a very dense tree line shown at the top of the map. To us, that is the only portion that would be visible from any neighboring residential property. The goal is to obstruct that view over time with a tree line. So the answer to the question is no, they have no goal. They are not adding any new cut-ins to Lafferty Lane. Most of what you are seeing in Phase I is all cleared areas and it will match a similar style to what is at the Frito Lay facility. It is not the same but they are both generally metal buildings and both one story so they will look very similar. It will be almost nearly identical to the other warehouse that is directly across the street. Their goal is to block any view and match the neighboring facilities.

Mr. Aydelotte added that as Mr. Davis stated, they do have pretty dense vegetation along the western edge of the property that adjoins the residential section. But also per the Code, there is an opaque barrier. We do also have 172 feet of 6 foot privacy vinyl stockade (fence) as well. The vegetation is part of the tree density so we didn't request that for mitigation but it would also satisfy the City's Code with the barrier as well.

Mr. Davis stated that the fence being the general physical obstruction so that we are not having anything into their property. Then eventually the goal would be for those trees to grow tall enough that you won't see the building. They are definitely taller than the 6 foot fence as you can imagine but over time, he believes that they can separate from the residential portion.

Mrs. Melson-Williams stated that Ms. Rowan noted in the chat "thank you for the responses and thanks for bringing more jobs."

Ms. Davis stated that their information is provided as part of this application and if Ms. Rowan has any further questions at all during this process or any concerns that come up from our construction, he will make that he provides her his cell phone number directly so that if anything comes up, they will make sure that they are able to be good neighbors.

Mr. Witham closed the public hearing.

Mr. Reaves moved to approve S-24-13 Flex Use Facilities Commercial Warehouse Business Park (Phase I) and also approve the Waiver for the Partial Elimination of Curbing, seconded by Mrs. Denney and the motion was carried 8-0 by roll call vote with Mr. Roach absent. Mr. Reaves voting yes; he approves this motion based on the reasons stated in the DAC comments and also the

presentation of the applicants. Mr. Lewis voting yes; for reasons previously stated and he wishes to thank the presenters both here and online. Mrs. Maucher voting yes; based on the DAC comments and she also recognizes the Performance Review Standards Application and she agrees with its content. Mrs. Denney voting yes; she thinks this is a great plan for this location and looking forward hoping that we will have many takers for the warehouse areas over there. Mr. Baldwin voting yes; for reasons stated. Dr. Jones voting yes; for reasons previously stated. Mrs. Welsh voting yes; for all of the reasons previously stated. Mr. Witham voting yes; based upon the applicant's presentation and also the DAC comments.

S-24-14 Legislative Hall Parking Garage at 425 East Avenue - Public Hearing and Review of a Site Development Plan Application and associated Architectural Review Certification to permit construction of a new Parking Garage for Legislative Hall to be located at the corner of East Avenue/E. Water Street and Martin Luther King Jr. Boulevard South. The proposal includes a three-story, 127,500 SF Parking Garage with 344 vehicle parking spaces and other site improvements. The 5.28 +/- acre property includes an existing surface parking lot and an office/credit union building (to remain). The property is zoned IO (Institutional and Office Zone) and is subject to H (Historic District Zone). The property is located at the southeast corner of Martin Luther King Jr. Boulevard South and East Avenue/E. Water Street. The owner of record is the State of Delaware. Property Address: 425 East Avenue and existing building addressed as 150 E. Water Street. Tax Parcel: ED-05-077.10-01-02.00-000. Council District 2. *The project was the subject of HI-24-04 for Historic District Commission Review and Recommendation on the Architectural Review Certification and V-24-01 for Board of Adjustment Review and Approval of variances related to development in the Flood Hazard Area.*

Representative: Ms. Dana Dunphy, Century Engineering; Mr. Daniel Ridgely, Studio JAED

Mrs. Melson-Williams stated that this is a Site Development Plan and has associated with it, an Architectural Review Certification. That is because this property at the corner of Martin Luther King Jr. Boulevard South and its intersection with East Avenue is the location. It is zoned IO (Institutional and Office Zone) and also located within the H (Historic District Zone). The screen shows the overview shot of the property. The property is probably most familiar to people as the building that is currently on the property is the Del-One Federal Credit Union building along with some other office space in that building and then a surface parking lot area. The project proposes the development of a parking garage structure at the location of that surface parking location. The address of 425 East Avenue is what they have come up with for this property location. There has been some question because the Del-One Federal Credit Union building is 150 East Water Street. The street name is something that our Department of Public Works has been trying to sort out for this project. But overall, we are looking at a project to construct a Parking Garage structure. The existing office/bank building and its associated drive-thru will remain in place. She showed a graphic on the screen that shows the location of this. The arrows that are shown on the East Avenue side of the building demark where pedestrian and vehicle entry into the building will be. It will be from that East Avenue/Water Street portion; the short end of the building. Internally to the building is then where you would find the series of ramps that carry you up three levels and provide the parking areas. The parking really has two sections; one that will be secured parking and then one that would be general public parking. You can see from elevation views shown on the screen, the approaches to the building. It is a three story brick building. It follows in line with the predominate architecture that we see in the Capital Complex

of brick and the window patterning. In this case, is not into interior office space but into the parking levels themselves. This project because it's in the Historic District, it went to the Historic District Commission earlier this summer. As a result of that, there was a recommendation made regarding the Architectural Review Certification which is the process that a project goes through to ensure that in this case, new construction in the Historic District is meeting the *Design Standards and Guidelines* for the Historic District Zone. The Commission, when considering this, had the opportunity to look at the architecture of the building in great detail of the brick and the various building feature elements as part of it. The Historic District Commission did recommend approval of that Architecture Review Certification. They did have a minor comment related to what is located on the east side of the building where the proposed generator is. In this Plan view, it's in the upper right corner. The Commission had some comments about the enclosure wall and the associated fencing in that area. They specifically were interested in the brick wall around the generator and with the fencing, because it would be visible. The material choice for that fencing would need to be appropriate to the Historic District and recommended a type of more decorative fence rather than pursuing something along the lines of like chain-link for example. With this project, it also made a visit to the Board of Adjustment. This property is partially located within the Special Flood Hazard Area or what is known more commonly as the 100-Year Flood Plain. In our Report, they identified information about what our Code says about these flood hazard areas. If you are looking at this diagram image on the screen, one of the lines that looks almost like a topo line that clips the right hand corner of a surface parking area is the part of the location that is within the Flood Plain. This property has frontage on the St. Jones River so the eastern portion of this site is where we find it subject to the Flood Hazard Area. With the Board of Adjustment, they actually granted approval to two Variances related to the Flood Plain. One Variance allows a lesser reduction of impervious surface. Our Code requires any impervious surfaces that are currently, as part of a predevelopment condition in the Flood Plain, that that impervious surface level should be reduced. The Code also allows the Planning Commission to change that amount of reduction of impervious surface if only 33% or less of the property is in the Flood Plain. The Variance that was granted recognized the fact that 48.7% of this parcel is in the Flood Plain. They granted the ability for the Planning Commission to consider that reduction anyway. They have it in their Plan; so you can see that the building itself is not within the Flood Plain. There is a portion of what would be a surface parking lot related to service and security measures to the east and southern corner of the building that will remain in the Flood Plain. Portions of the existing parking lot are found in this area but they have tried to eliminate some of that pavement area. In fact, they are also seeking that Waiver for relief of the upright curbing in that area to continue some of these stormwater management ability for things to flow into the grassy area. Overall, we are dealing with a Parking Garage that is a total of estimated 344 vehicle parking spaces. They are providing bicycle parking spaces as part of the project. There is an opportunity for that along the exterior of the building. Their project will also be subject to tree planting requirements. There are some existing trees that will have to be relocated because of the project and replanted elsewhere but it appears that there is an approach to getting the required tree plantings with the project. Planning Staff did also recommend approval of the Architectural Review Certification for the project. As part of that, she will note that the building placement is one of the Alternative Design Standards that the Historic District Commission addressed. That allows the placement of the building much closer to the street than what the IO (Institutional and Office Zone) setbacks would set it up to be. The building in this case will be less than that ten (10) foot setback along

its two street frontages but it brings the building closer to the street. There is a brick sidewalk planned along those street frontages. Obviously, there will be improvements to that as part of this project. There is existing brick sidewalk in this area of the Capital Complex. Along with they will be making some pedestrian improvements to clarify where pedestrians should be crossing the streets in this area as this Garage is intended to serve Legislative Hall and then other buildings here in the Capital Complex. Tonight for the Planning Commission, they are looking at a Site Plan for review and then consideration for approval of the Architectural Review Certification. In regards to that, there was a separate Recommendation Report that was forwarded to you from the Historic District Commission meeting along with the minutes of the Historic District Commission meeting and the graphic set that they had for review.

Ms. Dunphy stated that they are here to talk about the Legislative Hall Parking Garage Project. As you can see, the area that they are proposing the garage to be placed on is the location of the existing parking lot that shares the parcel with Del-One. For the existing site, they have the determination that the address is 425 East Avenue. The existing use of this lot right now is the existing parking lot as well as the Del-One Credit Union. There is water, sewer and electric available to the site. As part of this project, with the Parking Garage being on top of the parking lot. There are a force main line and a sanitary sewer line that is currently under the parking lot that they are working through relocating. They have been in contact with the City as well as the County and have started the process of re-designing that to relocate those lines. With the proposed Parking Garage, they are proposing new brick sidewalks along East Avenue as well as Martin Luther King Jr. Boulevard. They are doing the relocations of the sanitary sewer line and the force main lines. They did request a Waiver for the Partial Elimination of Curbing along the outer edge of the existing parking lot that will be permeable pavement now and also along a portion of the drive aisle from the Del-One drive through area to the back lot that will be used for Del-One and the Capital Police. Internal to the Parking Garage, there is a total of approximately 338 spaces. 248 spaces are for the public. Then there are 87 restricted for the Legislators; they will have their own entrance which is the northern entrance and it will be restricted. The southern entrance is for the public access. There will be 6 ADA spaces. They will also have 5 ADA van spaces as well as EV charging spaces. She showed a few architectural renderings for the site of the new Garage on the screen, showing the restricted entrance, the public entrance as well as the vestibule area.

Mr. Lewis asked how flexible those spaces are that she enumerated with the public and the EV. Is there the potential to add more EV spaces if necessary if the need arises or are they pretty much set in stone? Responding to Mr. Lewis, Ms. Dunphy stated that she is going to pass that question to the architect.

Mr. Ridgely stated that the parking count is pretty fixed at this point. It has been designed in great detail. For the EV stations however, what they are doing is they have designed the power infrastructure to accommodate many EV stations within the building. However, the implementation of those EV stations is considered a future item so that's not in the scope currently. When the building is built, that will be something that the State is going to consider as a future project to install those.

Mrs. Maucher asked if the restricted parking is only for when they are in session or are those all

of the time? Responding to Mrs. Maucher, Mr. Ridgely stated that the area that is designated for Legislators is restricted all of the time. You need a special electronic key to get in.

Mr. Witham asked how many public spaces there would be again. Responding to Mr. Witham, Ms. Dunphy stated approximately 248 spaces.

Mr. Witham asked if those spaces were going to be open 24 hours a day. Responding to Mr. Witham, Mr. Ridgely stated no, the interior of the building will be closed at certain hours but they are actually finalizing how they are going to do that. There will be a parking attendant on staff within the building. There is an office right next to the public vehicle entrance that's on the south side or the bottom right as the rendering shows it. That entrance will have two overhead doors, one for entry and one for exit. Those doors can be closed so that the facility can be closed.

Mr. Witham stated that as you know, parking in this area has always been an issue because of the number of government offices including Court facilities that exist in this area. Although he is aware of the fact that there is a new Family Court Building that is going up just southwest of the Kent County Courthouse, that building is placed on a parking lot that was in existence prior to that construction. The Courthouse itself lost a lot of parking spaces. He speaks with some degree of experience given his background. Has the State considered the fact that, and he would urge the State to consider this, is to work out an MOU at some point with the Courthouse. Speaking as the Resident Judge, which he used to be, the Resident Judge is in charge of the Courthouse. Because of the fact they have a number of jury's that come on a regular basis, we always have problems with parking. That is why he asked about the public spaces. He urges something to be worked out with the Courts with respect to some use of the public spaces if that's possible. Responding to Mr. Witham, Mr. Ridgely stated thank you that is noted.

Mrs. Welsh stated that while she was reading the proposal and with the discussion tonight just now about the parking lot being closed at certain times, she believes that in the Report it said that it is basically going to be closed when the Legislature was not in session which is approximately 6 months. Has there been any consideration about security when it's not in use? She has a little glimmer of concern about vandalism to the facility. It is a beautiful design and it looks great with Legislative Hall. She thinks it's totally in tune with the historical feel of the Capital Complex. She is just thinking about something that is not attended to for 6 months. Responding to Mrs. Welsh, Mr. Ridgely stated that is a great question. They have spent a lot of time thinking about security here. They are going to have a full security system with cameras and the egress doors will have no hardware on the exterior. One of the challenges that they had to face architecturally was in order to be a parking garage, there is a minimum open area requirement for the building. What you see here with the windows, there will actually not be glazing in most of those windows. They will look like a window with muntins and the trim and all of that but behind it will be a wire mesh for security and safety. The muntins will be reinforced with steel cables to prevent vandalism. They appear to be a Federalist style window but they are actually open air. Regarding security, Capital Police is across the street and they will have 24/7 monitoring of the interior of the facility. They will have a parking attendant on staff at all times when it's open.

Mrs. Welsh stated that the window idea is kind of clever and she likes that idea. Responding to Mrs. Welsh, Mr. Ridgely stated thank you. They had to come up with some clever ideas to keep it in context. Parking garages are typically built of pre-cast concrete but they are applying the

brick within the manufacturing process of that pre-cast and then they are adding detail like the decorative cornices and synthetic slate roofing and trim around the entrances to match the context of the Federalist style.

Mrs. Welsh asked if the exterior walls were going to be pre-fab concrete with a brick motif on the outside. Responding to Mrs. Welsh, Mr. Ridgely stated that was correct.

Mrs. Maucher that Legislative Mall can be reserved for special events. Again, the parking issues and having a perfectly good parking structure closed and not available for events (is a concern). She would presume that the Credit Union customers would be using that as well since you are taking part of their parking. She just wonders how it is intended to work. Responding to Mrs. Maucher, Mr. Ridgely stated that he and Ms. Dunphy are not very involved in the operation that will take place after it's built. Their jobs are to design it. But their understanding is that the public will be exactly that; for public use. When the doors are open, on the public side there is not designed an arm that comes down and you have to pay inside. It is actually free.

Mr. Lewis asked if the Legislators would be required to park in there. Responding to Mr. Lewis, Mr. Ridgely stated that he doesn't believe that they are required to but there will be some advantages to parking in there. There is a second project which the Commission will see in the coming months where they are designing an addition to Legislative Hall. Part of that project is an underground tunnel that connects this building to Legislative Hall.

Mr. Lewis stated that he asked that is because if they were to be required to park there, that would leave a lot of open spaces where they currently park. There are labeled diagonal spaces on Martin Luther King Jr. Boulevard North that would open up that whole road.

Mr. Witham stated that he suspects that the underground tunnel will be a great incentive for them to use the parking garage. Responding to Mr. Witham, Mr. Ridgely stated that he suspects that he is correct.

Mr. Witham opened the public hearing.

Mr. Ryan Dunphy – Delaware Senate – 411 Legislative Avenue Dover, DE 19901

Mr. Dunphy stated that he has nothing to add, he just wants to thank Ms. Dunphy and Mr. Ridgely on all of their work on this project. They look forward to hopefully moving this project forward and thanks the Commission for their time.

Mr. Witham closed the public hearing.

Mrs. Welsh moved to approve S-24-14 Legislative Hall Parking Garage at 425 East Avenue as presented. It is a much needed facility and the design is flawlessly incorporated into the design of the Legislative Hall. She is very pleased to see that and she hopes it's done down to the miniscule brick as it's proposed. She would also like to comment that the project was subject to HI-24-04 of the Historic District Commission's review and recommendation on the Architectural Review Certification and V-24-01 for the Board of Adjustment review and approval as noted.

Mr. Witham stated that he assumes Mrs. Welsh's motion includes approval of the variances

related to the development in the Flood Plain area. Responding to Mr. Witham, Mrs. Melson-Williams stated that the variances were granted. It basically allows for the Planning Commission to except a lesser amount of reduction in the impervious surface coverage.

Mr. Witham asked if it should be part of this motion or a separate motion. Responding to Mr. Witham, Mrs. Melson-Williams stated that it can be part of this motion for the Architectural Review Certificate, your motion would need to include the Final Action on that. She thinks Mrs. Welsh referenced the action taken by the Historic District Commission, but the Final Action on an Architectural Review Certificate in this case is the Planning Commission.

Mr. Witham further asked if they were going to add on the Waiver of the area. Responding to Mr. Witham, Mrs. Melson-Williams stated that there are two Waivers related to area. One is really tied into the Architectural Review Certification which allows the placement of the building closer to the street frontage than the typical setback in the IO (Institutional and Office Zone). The other one is related to the impervious surface that will remain in the Flood Plain area. She thinks that if you are referencing their Application as presented, that would be accepting both of those.

Mrs. Welsh moved to approve S-24-14 Legislative Hall Parking Garage at 425 East Avenue as presented. It is a much needed facility and the design is flawlessly incorporated into the design of the Legislative Hall. She is very pleased to see that and she hopes it's done down to the miniscule brick as it's proposed. She would also like to comment that the project was subject to HI-24-04 of the Historic District Commission's review and recommendation on the Architectural Review Certification and V-24-01 for the Board of Adjustment review and approval as noted, seconded by Mrs. Denney and the motion was carried 8-0 by roll call vote with Mr. Roach absent. Mrs. Welsh voting yes; for reasons stated in the motion. Mr. Lewis voting yes; he would like to thank the presenters for this rendering they provided. It is very helpful in imagining the project and thank you to Staff for their diligence for getting us the information as quickly as possible. Mrs. Maucher voting yes; based on DAC Comments. Mrs. Denney voting yes; this is a well-planned and well thought-out project and it's rewarding to see that this will be coming here. Mr. Baldwin voting yes. Dr. Jones voting yes. Mr. Reaves voting yes; for reasons previously stated. Mr. Witham voting yes; based upon the DAC Comments plus the information heard today from the applicant. He thinks that this is a wonderful project and the design is superb. It is well within the Historic District and he is sure that this design will give the other projects a standard to follow in terms of the looks and presentation.

NEW BUSINESS

Annual Meeting of the Planning Commission (Nomination and Election of Officers and Appointments to Subcommittees)

Mrs. Melson-Williams stated that on the Agenda there was an update on the appointment of the Architectural Review Oversight Subcommittee of the Planning Commission, specifically the update on the design professionals. There were two individuals suggested as design professionals to join the appointed Planning Commission members on this Subcommittee. Planning Staff did reach out to Dr. RJ Chandler and Ms. Sarah Keifer in regards for an opportunity for them to serve as design professionals on that Subcommittee. She has heard back from Dr. Chandler who

said yes so she can report that he is interested in continuing to serve. She will report in the future when she hears back from Ms. Keifer regarding that. At this point, it is really an update. Those are the people that the Commission members suggested as part of the action taken at the August meeting.

Mrs. Welsh moved to approve the appointment of Dr. Chandler to the Architectural Review Oversight Subcommittee, seconded by Mrs. Maucher and the motion was carried 8-0 by voice vote with Mr. Roach absent.

Meeting adjourned at 10:03 PM.

Sincerely,

Kristen Mullaney
Secretary