

**CITY OF DOVER PLANNING COMMISSION**  
**JULY 16, 2018**

The Regular Meeting of the City of Dover Planning Commission was held on Monday, July 16, 2018 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Ms. Edwards, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Eddie Diaz and Mr. Julian Swierczek. Also present was Mr. Willie Alexander. Speaking from the public were Ms. Bonnie Pennington, Mr. Charles Jackson, Mr. Roy Sudler Jr, Ms. Carmen Hardcastle, Mr. John Marble, Mr. Vance Thorpe and Mr. Harold Mack.

**APPROVAL OF AGENDA**

*Dr. Jones moved to approve the agenda as submitted, seconded by Ms. Edwards and the motion was unanimously carried 9-0.*

**APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 18, 2018**

*Mr. Holt moved to approve the Planning Commission Meeting minutes of June 18, 2018, seconded by Mrs. Welsh and the motion was unanimously carried 9-0.*

**COMMUNICATIONS & REPORTS**

Mr. Hugg stated that the Annual Meeting of the Planning Commission which we typically hold in July that includes the election of the Chairman and Vice Chairman will be scheduled for a future meeting once the appointment process for Commission members has been completed. He believes that happens at the next Council meeting.

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, August 20, 2018 at 7:00pm in the City Council Chambers.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on June 25 & 26, 2018 and July 9 & 10, 2018.

**OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS**

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

**OLD BUSINESS**

- 1) Requests for Extensions of Planning Commission Approval:
  - A. S-16-14 Lidl Grocery Store at North DuPont Highway and Kings Highway NE – Request for a one-year extension of the Planning Commission approval granted on July 18, 2016 of a Site Development Plan application to permit the construction of an approximately 36,185 S.F. retail grocery store and associated site improvements. The project is to include a Parcel Consolidation Plan to re-subdivide the six parcels on site into three and abandon the unimproved right-of-way known as Midland Road. Construction would

involve demolition of all existing buildings on site. The property consists of 6.95 acres (7.275 acres prior to right-of-way dedication) and is located on a site bounded by North DuPont Highway, Maple Parkway, and Kings Highway. The property is zoned C-4 (Highway Commercial Zone) and IO (Institutional and Office Zone) with all site improvements to occur in the C-4 zone. The owners of record are Davis H. Wood, Wells Fargo Bank NA, and Kings Highway Land Partners, LLC. The equitable owner is Lidl US Operations, LLC. Property Addresses: 122, 136, 140 and 162 North DuPont Highway and 321 Kings Highway NE. Tax Parcels: ED-05-068.18-01-20.00-000, ED-05-068.18-01-21.00-000, ED-05-068.18-01-22.00-000, ED-05-068.18-01-23.00-000, ED-05-068.18-01-24.00-000 and ED-05-068.18-01-25.00-000. Council District 2. *Approved: Consideration of Area Subject to Tree Planting Requirement*

**Representative:** None

*Dr. Jones moved to approve S-16-14 Lidl Grocery Store at North DuPont Highway and Kings Highway NE for a one-year extension, seconded by Mr. Baldwin and the motion was unanimously carried 9-0.*

- 2) Update on Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28)

Mrs. Melson-Williams stated that Planning Staff is still working with trying to confirm the two individuals that had previously served on that Subcommittee. Hopefully, they will have something for the Planning Commission in August one way or another.

### **NEW APPLICATIONS:**

- 1) C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street – Public Hearing and Conditional Use Review of Application to allow an existing one-story structure to be utilized as an annual membership club serving members and their guests. The property consists of 0.15 +/- acres. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of North Kirkwood Street, between Cecil Street and Mary Street. The owner of record is Pride of Dover Elks Lodge 1125. Property Address: 217 North Kirkwood Street. Tax Parcel: ED-05-076.08-05-02-20.00-000. Council District 4.

**Representatives:** Mr. Willie Alexander, Exalted Ruler of the Pride of Dover Elks Lodge #1125

Mrs. Melson-Williams stated that this is a Conditional Use Application titled Pride of Dover Elks Lodge for the property located at 217 North Kirkwood Street. This is subject to public hearing this evening. The request is a Conditional Use Plan to establish an annual membership club at this location. There is an existing building on the site. This application originally slated in late 2017 but was first deferred at the request of the applicant and then ultimately has been scheduled for this evening's meeting. With the application, they hope to utilize the existing one-story structure as an annual membership club serving members and their guests specifically for the Pride of Dover Elks Lodge. The property is zoned RG-1 (General Residence Zone) and is

located on the east side of North Kirkwood Street between Cecil Street and Mary Street. The site was identified during a project undertaken by the Planning Office regarding “Non-Conforming Uses in Residential Districts”. At that point in time, it had been functioning as a Clubhouse under the appropriate Public Occupancy permits that were necessary; however, it came to the Planning Department’s attention in December 2015 that there were ultimately some issues at the Lodge. It came to the attention of the City through information from the State of Delaware Division of Alcohol and Tobacco Enforcement that there were some issues regarding the liquor license and the serving of alcohol at the facility. Ultimately, that resulted in the City revoking the ability for the location to be open as a Clubhouse which then made it a non-conforming use and the City required that the operations cease; that direction was given in January 2017. The Public Occupancy permit for the use as a Clubhouse was inactivated and the building has been vacant since that point in time. This evening, this is considered a new application to establish a use in that existing structure. By our *Zoning Ordinance* that use would be an annual membership club serving members and their guests. That is specifically how the term is listed in the Code. The applicant submitted a map diagram that highlights the location of the building and there is also additional information submitted about the surrounding neighborhood in the form of a letter. Then a packet of information was received that was titled “Pride of Dover Re-opening” that goes through the activities of the Lodge that they hold, the types of activities that they would hope to do at this location and some information about how they intend to establish a visitor/guest book sign in procedure at the facility. The site is in a residential area. The adjacent uses are primarily one family residences. With this Conditional Use, there are specific considerations that the Planning Commission must look to such as whether the proposed project is appropriate in the scale and type for the immediate neighborhood. Our DAC Report details those types of things to consider when looking at Conditional Uses including things such as accessibility for emergency response, harmony of location, size and character and looking at when in residential areas, the nature and intensity of operations. With Conditional Use applications, the action is just with the Planning Commission. The Commission has the final say from a procedural standpoint. They can require that the Conditional Use Permit undergo periodic review to ensure that it is meeting the established conditions that the Commission establishes.

There is no particular parking requirement for annual membership clubs. There is space for one vehicle onsite. There does not appear to be any bicycle parking on the site; however, there are sidewalks in this neighborhood including across the frontage. Currently, they have City of Dover trash collection utilizing the containers that the City can pickup for such a small-scale building. In the DAC Report, Planning Staff has provided some updates that would be necessary to the Plan Sheet and all documents would need to reflect any action taken by the Planning Commission this evening. Those include needing to evaluate the number of trees on the property which it is required to have three. There may be some existing trees in the back of the property that can satisfy that requirement. On Page 6 of the DAC Report, the Planning Staff has made a series of recommendations suggested as conditions of approval for this project in regards to the Conditional Use. The Planning Office specifically suggests the following conditions for a Conditional Use permit for the use of the existing building as an annual membership club serving members and their guests. At this time the Planning Staff is recommending with the re-opening of the club, not to include the service of alcohol at this time. The service of alcohol requires a series of improvements for the fire protection systems of the building in order to be able to serve alcohol under the City’s provisions setting aside any State regulations and procedures related to

having an alcohol license at the facility. Staff is recommending the re-opening but not to include the service of alcohol. The other item that Staff is recommending is that if they in the future would wish to provide the service of alcohol that it be a new application back to this Commission to expand that Conditional Use permit so that they may deal with the service of alcohol and the associated activities related to building improvements, management and the acquisition of any kind of license for that. The additional Staff requirements are that they would need to adhere to the occupant loads established by the Fire Marshal's Office. They are recommending that one bicycle parking space be established so that a bicycle can be adequately parked at the site and that this Conditional Use permit be periodically reviewed should the Planning Commission find it satisfying to grant it approval. That periodic review should be established one year from the Planning Commission action. The DAC Report goes on to include comments from the other regulatory agencies including the City's Public Works Department and Electric. The Office of the Fire Marshal has provided comments; a number of them are advisory in nature should they pursue liquor licensing in the future. There are no comments from DelDOT and the Kent Conservation District has no objection as there is no real earth-moving activities required with this project. To the Planning Commissioners, this is a Conditional Use permit. Staff is recommending approval subject to a series of conditions to establish an annual membership club within this existing building that was built a number of years ago for the specific purposes of a Lodge facility.

Ms. Maucher stated for the record that she is President of the Dover Elks Lodge which is part of the Benevolent and Protective Order of the Elks. It's an unrelated entity but it has a similar name.

Ms. Edwards questioned with Staff's recommendation of opening of the facility, what is the monitoring process if they are not allowed to serve alcohol? Responding to Ms. Edwards, Mrs. Melson-Williams stated that with the establishment of an annual membership club, there would be a Public Occupancy Permit that is required through the Office of the Fire Marshal. That places the building subject to inspections for that Permit. Of course, the service of alcohol anywhere in the State has State Licensing requirements so some of the monitoring could be done at the State level.

Mr. Hugg stated that he thinks that is correct. The City would not as a matter of course, be monitoring this sale or consumption of alcohol. That falls clearly under the Division of Alcohol and Tobacco Enforcement of the State. They would respond probably both upon complaint and periodically to determine that there wasn't any legal activity going on. Our inspections would be limited to regular compliance with occupancy and fire safety issues.

Mr. Holt questioned if this club currently meets now and roughly how many members are in this club? Mr. Hugg stated that he thinks that is a question to be directed to the applicant when they make their statement.

Ms. Maucher questioned what the tax status of the property is? Responding to Ms. Maucher, the applicant indicated its 501c3 status.

Mr. Alexander stated that he has to agree because that is what Staff came up with. Every black

organization from the Elks to the Masonic to the Legion, they are all in black neighborhoods. If you go around closing all of them it is going to be a bad and sad day. He appreciates what Staff has done to allow them to open.

Mrs. Melson-Williams stated that Mr. Holt has asked if you have been currently meeting and what are the approximate numbers of your Lodge? Responding to Mr. Holt, Mr. Alexander stated that they have been meeting at Demco behind Wawa located on Court Street. The daughters meet at Luther Towers.

Mr. Tolbert questioned if all members met at that location? Responding to Mr. Tolbert, Mr. Alexander stated yes.

Mr. Tolbert further questioned how many members are present during a meeting? Responding to Mr. Tolbert, Mr. Alexander stated that they always have a quorum which is at least seven people.

Mr. Holt stated that it is a service club and he wonders what types of projects the club participates in. Responding to Mr. Holt, Mr. Alexander stated that they have back to school for the kids, they have eye glasses for the older people, and a lot of stuff for the young people.

Mr. Tolbert questioned how many people they think would be in attendance at the facility should they open it again on any given evening? Responding to Mr. Tolbert, Mr. Alexander stated that their highest attendance was on a Sunday night but it won't be like that anymore. On any given day there would probably be 45-50 people. He thinks that the Fire Marshal said that they were allowed to hold 103 people.

Mr. Tolbert questioned how long the Lodge has been closed? Responding to Mr. Tolbert, Mr. Alexander stated since 2017 for 1.5 years.

Dr. Jones questioned if Mr. Alexander would speak to the recommendation that there be no alcohol served at least initially? She asks that question because she is aware of this facility. How would you operate and what would be your focus? Responding to Dr. Jones, Mr. Alexander stated that they would have the kitchen open and they would have projects and stuff like that. He thinks that they might be able to survive until they refocus some things and see what they can do in the future.

Dr. Jones stated that it states that they would control guests. Guests would sign in. Have you given any consideration to the number of guests to be permitted per club member? Responding to Dr. Jones, Mr. Alexander stated that each member would be allowed five guests that would have to have a card and the member would have to sign a book. If it needs to be refocused and let each member have three guests then they can do that; whatever works for this Commission they will work with.

Dr. Jones questioned what they see as the role of guests? What do you see guests being involved in? Responding to Dr. Jones, Mr. Alexander stated that they will be upstairs eating and socializing.

Mr. Holden questioned what weekly events they envision holding at the facility? Responding to Mr. Holden, Mr. Alexander stated that it would depend on other Lodges like Wilmington coming down to support them along with Cambridge and Easton. It's a Tri-State; it's Delaware, Maryland and Washington D.C. All of those Lodges would be coming to support them and try to make them viable and whole again.

Mr. Holden questioned if those would be weekly events or would those be determined as time went on? Responding to Mr. Holden, Mr. Alexander stated that as time went on.

Mr. Holden questioned if they envision planned events that happen every week, whether it is a membership meeting or other things? Responding to Mr. Holden, Mr. Alexander stated that membership meetings are the 1<sup>st</sup> and 3<sup>rd</sup> Monday night of every month. The Daughters meet the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of every month.

Ms. Edwards questioned what the intended hours of operation would be considering that there are no events planned right now? What would the hours of operation be until you have some organized plan of events? Responding to Ms. Edwards, Mr. Alexander stated that they would be closed by at least 12AM and everybody will be out of there.

Ms. Edwards further questioned if that would be the time for every night of the week? Responding to Ms. Edwards, Mr. Alexander stated no, this would be for just Friday and Saturday. They have never been open every night of the week.

Mr. Tolbert questioned if parking has been a problem in the past at this facility. He is raising this question because the facility is located in a residential community and from what he can see there is little or no parking at the facility. Responding to Mr. Tolbert, Mr. Alexander stated that Irish Mike's has no parking either, but that place is full every weekend. They park on Mary Street because there is nobody there. They park over by the Reserves.

Mr. Tolbert stated that he raised the question because they are in a residential neighborhood and if you have a number of people then they would have to park wherever they could and that may or may not be a problem in the area. Also, during Mrs. Melson-Williams' overview, she made mention that you were to have bicycle parking. Responding to Mr. Tolbert, Mr. Alexander stated that they can do that. As Mrs. Melson-Williams said, they have four dumpsters there. They can take one of the dumpsters away and make it a bicycle parking area.

Dr. Jones questioned how many members do you currently have? Responding to Dr. Jones, Mr. Alexander stated that there are twenty-five members and the Daughters have nineteen members.

Dr. Jones stated that as you move your plans forward, should approval be granted, then you might need to look at the number of guests per member. Responding to Dr. Jones, Mr. Alexander stated that there is never going to be all of those people there at the same time. They are going to have someone there counting them as they come and when we get to the limit then whatever guests aren't in they won't get in there.

Mr. Roach stated that he is concerned because the Commission has asked several times what

type of events they plan to have and on what type of consistency. You are saying that there might be events that you actually do get to capacity but he really didn't hear any statements in regards to what type of events you would have with 103 people there. Responding to Mr. Roach, Mr. Alexander stated that they will have to sit down and decide that now since alcohol is gone. What they envisioned is for those people who are from Easton, Cambridge and Washington D.C. would bring whatever they want to socialize with. They are going to bring their own stuff unless they have no alcohol in the building at all.

Mr. Holden questioned how would the potential for members to bring their own alcohol into the facility be governed or not governed by the City? Responding to Mr. Holden, Mrs. Melson-Williams stated that she can't pretend to know the State Alcohol Beverage Control regulations; however, from a City standpoint, with any place of assembly that starts to have the service of alcohol you get into a number of things from a fire protection standpoint. That may also include the BYOB option as well. Those numbers are fairly low that trigger a full sprinkler system for the building which this building does not have.

*Mr. Tolbert opened the public hearing.*

**Ms. Bonnie Pennington – 200 North Kirkwood Street Dover, DE 19904**

Ms. Pennington stated that Mr. Alexander told the Commission that they only park on two streets and that is a lie. They park from Kirkwood Street and Cecil Street all the way to Mary Street and all around the neighborhood on their grasses. They park everywhere. Her concern with the alcohol is if the Commission gives them the opportunity to open, they might not serve it but what about the people coming. They might drink it at the car before going into the club. He sat here and said they had a sign in sheet when they were open a couple of years ago but they got busted for lying. They only let so many people sign in and then they got caught with a lot of people who didn't sign in. They have more than fifty people in that building because she lives on the corner and she has seven bullet holes in her house from this club. It starts in the club and ends out in front of her house. In 2006, she hadn't even lived there for one year and a man got shot in front of her house and died from the Elks Club. She is going to fight this tooth and nail because she does not want that club open. She has a handicapped grandson who lives in her house and he cannot walk. When bullets fly they have to hit the ground. It is uncalled for, for them to have to live in a residential neighborhood and have her stuff shot up. Are they going to pay for it? No. Does she have the money to replace that? No.

**Mr. Charles Jackson – Kirkwood Street Dover, DE 19904**

Mr. Jackson stated that when he was young back in the late 1970's, he would go to the Elks. As years went on, things have changed. We have a problem with gun fire now and fighting out in the street. One of the problems is that they may not buy the alcohol from the Elks but they bring their own alcohol. Next thing you know, it gets late in the evening and there are fights and gun fire. When we first started the issue with the Elks, they met with them and they asked if they would do a little more to get control of what's going on. They suggested creating a relationship with the Police to kind of monitor what's going on at a certain hour, but they were told that when they come out of the Elks and get on the curb, it is not their responsibility. If they worked with the neighbors on this problem, they may not have been here. They want to be safe. One of his neighbors was in his house sitting in the kitchen and he got up from where he was sitting and

there was a bullet that came through the window. If he would have stayed in the chair for a few more seconds he may not be here now. They need someone to make an effort to control what is going on because taking the liquor license from them doesn't stop the drinking and carrying on the way they are doing.

Mr. Tolbert questioned if Mr. Jackson was speaking for himself or for a community organization? Responding to Mr. Tolbert, Mr. Jackson stated that they have a Kirkwood Street Neighborhood Watch and he is speaking for them.

**Mr. John Marble – unknown (owner of several properties in area)**

Mr. Marble stated that he has been here before. He wants to thank each of the Commissioners for serving in their respected positions and for steering our City through these times with the economic slowdown, with the Downtown Development and Habitat for Humanity, and the revitalization. He applauds the Commission for that. The reason he wanted to say that is because he has been here before and he has done Minor Subdivisions for promoting homeownership. He is a businessman in the community. He owns nine rentals across the street from the Lodge. They are low income rentals. Sometimes there are problems with domestic things but it's not criminal. He just wanted to say that he was involved with Habitat for Humanity for six years; he was the Building Committee Chairman. He helped spearhead the rebuilding of this street. About eighteen years ago he was down here with Mr. Christmas, Mr. Pitts, Mr. Salters and various others. They had a go-around in this Chamber and nothing had changed. He was accused of things that he was deeply offended by. We are racially integrated in this community. His wife's mother lived at 218 North Kirkwood Street in 1953 along with her bother. It is a mixed neighborhood; it is not a primarily black neighborhood, whatever that means. From a business standpoint, he has got some information here about crime and neighborhoods. When you have establishments such as this going on it really does not help what the general plan is for a community. You have Irish Mike's which is in a commercial district where there is parking areas. There is a parking garage coming. You have a Downtown area which is a commercial district. This is a residential district. He partnered with the City and State; he was the first person to receive the Downtown Development District Incentive on Mary Street. He used his own money and his own savings to build a beautiful 1,500 square foot home that he could not even sell. You don't even have to go to the neighborhood to found out what's going on; the Police calls and gun shots. Everybody said they loved the house but people don't want to buy it. We just read that there was gun fight last night. He ended up having to break even on the house which he doesn't mind because he knew that he was doing the better thing. You come around the corner and you see that house plus the Dover Housing Authority houses that they built there; you look like you are entering a development but you are entering Kirkwood Street. Things have improved and that is what they are trying to do. He likes the idea of no alcohol. He likes community centers and things of that nature and people getting involved. If they would put a stipulation that there would never ever be alcohol there then he would vote for it to be open. They could have prayer group; they could do all kinds of things. The alcohol is out of control. They are blocking the driveways and there are bottles thrown at people. Chief Mailey gave them a report showing that as soon as they closed up, crime stopped 80%. The statistics are there. You need to revitalize yourselves; maybe change the name. He thinks that he could prove that you are affiliated to the Elks; they are an organization. He thinks that the two lodges have something in common over history because way back when there was segregation and ugly things like that. Blacks were not allowed in white Elks Lodges back in the



day. He does not remember that; he loves all people for who they are no matter what color they are.

**Ms. Carmen Hardcastle – 121 North Kirkwood Street Dover, DE 19904**

Ms. Hardcastle stated that she is a retired educator. She is the daughter of the late Dr. James C. Hardcastle. She grew up at 121 North Kirkwood Street. She retired three years ago and she came back. The first week that she was home she heard gun fire. She didn't hear all of that when she was growing up and she had to hit the floor. The incidents report from 2006 to 2015 is from just the Elks Club. She doesn't have a problem with the Elks; she used to go the Elks when she was growing up. Her concern is not inside the Elks; her concern is what goes on after the Elks closes. They have asked them to hire security for when it closes or someone from the Police Department to monitor what's going on after it closes to get the people to move because they park in front of her house and fights start. She has bullet holes in her house also. She doesn't like hitting the floor on the weekends; she doesn't even want to come out of the house on the weekends when they open. They shouldn't have to live like this. Now she sees people walking down the streets, kids are playing and people are walking up and down the streets. It's a big difference now. People are taking their kids to the playground that they have on Mary Street. She didn't see this in the three years that she has been back home. If you do allow them to open up, between 12AM when they close and maybe 1AM, have some kind of security there to move those people on because that is when the problem arises. They defecate on the side of her house. She has had some work done at her house and she had workers come and they came to the side and she couldn't believe it. They don't have to hit the floor at night time when they are open because they close and go home to their homes but they are not living on Kirkwood Street. They shouldn't have to hit the floor because of gun shots. She is not saying that it's because of them; it's because the Elks Club brings a bad element.

**Councilman Roy Sudler, Jr.**

Councilman Sudler stated that he would like to take this moment to share something that he received. It's very disturbing but it's not too bad. *(Councilman Sudler shared a message from his cell phone from a constituent on January 3, 2018 stating to keep the Elks Club closed permanently.)*

**Mr. Harold R. Mack - unknown**

Mr. Mack stated that he doesn't think that it's about ethnicity; it's not about color. He was talking about a trend and a timeframe. As far as shootings, that is community policing. We are talking about community policing that should be occurring in the Dover district. We are talking about an organization that has been around and has been a trend for those people at one point who could not have social clubs and things of that nature. It's not about the black and white issue; it's about the pride in that organization. The other side of that is that Delaware is a transient State. It's bringing in other types of personalities. He is prior law enforcement himself with over thirty-one years so he sees a lot. Community policing and crime mapping that they see that they are coming from New York, Philadelphia and Washington D.C. Looking at these other residents who have been living there for so many years, it's not the Dover Elks Lodge that has caused these shootings and murders. It's the other transient people who are coming in and bringing other behaviors. This is why Delaware is in the state that it's in today. He knows because they just lost a Correctional Officer Steven Floyd and they talk about the inmate clients

who come into their community. When the gentleman spoke about the crime that is occurring, it's not the Elks Lodge. This Lodge has done numerous things for the community. On April 8, 2016, he gave this Commission something that went on record about the activities that they asked about. It was a two-page docket that said what they do quarterly, weekly and monthly and what they have done for the community. Some of that stuff has went to pass and some people have put it to rest. It is about community treating people like people and this is what this whole thing is about. It's not about selling property and the value; it's about bringing the value back to the people who live in the community who trust it.

**Mr. Vance Thorpe – unknown**

Mr. Thorpe stated that he is the Chief Antler for the State of Delaware. He has been a member of the Elks for fifty years. He has been Exalted Ruler of two Elks Lodges; Wilmington and Newark and now he is in Dover. The Elks is about community service; however, the way they raise most of their funds is through the sale of spirits. They have other ways of making money and they are still about doing community service, civil liberties, conservation of self, helping the needy and mainly they focus on scholarships for students that may never get the chance to go to college. This is the major function that they try to do. He's traveled to Elks Lodges all over and he has never been turned away from an Elks Lodge when he shows his card. They receive him, give him the upmost hospitality and treat him like a human being. IPOENW has made preparations to try to work together because we are all doing the same work. The Masonics now have packs and they are working together because they all do the same work. They should be about community service to those that are most unfortunate and may never get a chance to go to college without the support and help of the Elks. They aren't about socializing; they are about community service and this is the main function that they should be under. They went astray with some rulers that got in and didn't do what they were supposed to do just like anything else. They are supposed to be about community service and they have never went against the Constitution of the United States. They try to make things better and unfortunately some things do get worse.

Mrs. Melson-Williams stated that she does have to reference something in order to put it in the record. Included in the Planning Commissioner's packets were copies of correspondence that was received regarding the application that had been submitted to the Planning Office prior to tonight's meeting. They include a series of emails. There is an email from a Mr. Benjamin Black of 213 North Kirkwood Street. He expresses his concerns about the re-opening of the facility. That was an email dated December 2, 2017. It was sent to Councilman Sudler and also to Mayor Robin Christiansen. There is a second email from a Mr. Travis Thompson who lives at 226 North Queen Street. That is an email dated December 6, 2017 that is expressing concerns about activities in the area. There is an information document that was forwarded to the Planning Director by Mr. Roy Sudler via email from December 7, 2017 with the request that it be provided to the Planning Commission in regards to the application. (Note: Councilman David Anderson requested that this information on 217 North Kirkwood Street be made part of the record for the conditional use request. The Request was made by motion at the Parks Recreation and Community Enhancement Committee Meeting of February 13, 2018.) It's some statistics from the Dover Police Department covering timeframes in 2016 and 2017. It's a series of charts and bar graphs.

*Mr. Tolbert closed the public hearing.*

Mr. Alexander stated that he thinks the gentleman misunderstood him earlier. It wasn't about color or race. He was just trying to give the history of how blacks try to help each other out and the only place they had was in a black neighborhood. It wasn't anything about black and white. He is sorry if anyone took it that way. He also said in the beginning that the capacity of that building was 103 people; he didn't not say 50.

Mr. Holden stated that he thinks with any Conditional Use and as Code directs, the applicant is required to show that their application is in compliance with public health, safety, welfare and convenience of the local public and in harmony of the character with the local area. He thinks that they have heard a lot of comments from the public over strong concerns from historical issues. They have seen some information from the Police that addresses the apparent correlation of those issues that seem to follow along with the public's statements. He doesn't think that they have heard from the applicant, an acknowledgement of those issues nor a path to address them.

*Mr. Holden moved to deny C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street for the reasons stated above, seconded by Ms. Edwards and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; for the reasons stated in the motion. Mr. Roach voting yes; due to the concerns from the community in regards to the parking and the crime in the area once the club was closed. Ms. Edwards voting yes; as a Rotarian and immediate Past President of a Rotary Club she understands the importance and how critical community organizations are to the community but based on the reasons previously stated and the outpouring of concern from the community she is inclined to approve the motion as stated. Mr. Holt voting yes; he feels sorry for the Elks because he thinks that they do a good job but they are kind of between a rock and a hard place and the hard place is that they have had peace and tranquility in the area and they can't have it the way things are at this present time. Mr. Baldwin voting yes; he understands that the Elks do good work; however, after listening to the neighbors and past history he thinks that it's perhaps just in the wrong location. Dr. Jones voting yes; she is concerned that we were not able to get additional specific information regarding community service. She is very familiar with the Elks and she just thinks that there could have been a better presentation to talk about the connection between the services of the Elks and the community. Mrs. Welsh voting yes; she agrees with what Mr. Holden and Dr. Jones said about more information regarding the specifics of the organization such as things like what specific hours they intended to have meetings and what times the meetings would have ended. Those types of specific details she thinks would have helped a lot for giving the information as to their service to the community. Ms. Maucher voting yes; for reasons previously stated and community organizations do a lot. It would have been good to hear that you recognize the problems that you have had and what you can do aside from not serving alcohol to address some of the concerns of the community going forward. Mr. Tolbert voting yes; unfortunately, the presentation that was presented to the Commission was overwhelmingly negative about all of the problems that have occurred in a residential area where this facility is located. Although they have had a good record of doing community and public service, that was not brought out in this hearing. The presentation did not cover all that needed to be covered given the history and the record of the Elks Lodge. He is compelled to vote in favor of the motion and he would hope with all of his heart that you do not stop, that you continue to try to make the Elks what you intended for it to be. Alcohol is never a good thing unless it is absolutely controlled.*

- 2) Series of Text Amendments to the Zoning Ordinance: The three sets of Text Amendments are grouped into Proposed Ordinance #2018-06. They are available on the City's website [www.cityofdover.com](http://www.cityofdover.com) under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>. The Planning Commission will conduct a Public Hearing on each Text Amendment for recommendation to City Council. The Final Reading/Public Hearing at City Council is scheduled for Monday, August 27, 2018 at 7:30pm.
- a. MI-18-05 Text Amendments: Addition of IPM3 Zone (Zoning Ordinance, Article 3 §20 & 24, Article 4 §4.16, Article 5 §8, and Article 12) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, principally Article 3 §20 - Industrial Park Manufacturing Zone. The proposed ordinance adds a new subsection 20B for the IPM3 Zone (Industrial Park Manufacturing Zone- Industrial Aviation and Aeronautics Center). The new zone is an industrial zone focused on permitting businesses in aviation and aeronautics-related industries. Changes are also made to the City's Bulk Standards and Performance Standards to ensure the new uses will be covered under those standards.

**Representative:** None

Mr. Diaz stated that there are three sets of proposed text amendments. They are all going to be part of the same Ordinance update to the *Zoning Ordinance* if recommended, when they go to City Council next month. The first amendment is the proposed addition of an IPM3 Zone to the *Zoning Ordinance*. This designation would be similar to the existing IPM and IPM2 zones and that would be a zoning primarily focused on industrial parks. It would be different in that this is titled to be the Industrial Aviation and Aeronautics Zone which would be a zone focused mainly on aircraft and aviation related uses. The reason for adding this zone to the *Zoning Ordinance* was concerns by the runners of the Civil Air Terminal in Dover and hoping to do some development of the Kent County Aero Park that is next to them to build industry in that area. If this zone designation is successfully added to the *Zoning Ordinance*, they would follow up this process with a Comprehensive Rezoning to rezone some properties in that area to the new zoning designation in order to ultimately develop that industrial park with aviation and aeronautics related uses. The zoning designation includes a number of provisions designed to basically make it easier for developments of that type to be in the zone; things like a reduction in the typical tree planting requirement because trees can attract birds and other wildlife that may interfere with aviation uses. The Text Amendment contains a full list of the changes that are proposed for that zone.

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

Ms. Maucher questioned if it would have been possible to amend an existing ordinance rather than creating a new one or was the detail that was required so sufficient to require a new ordinance? Responding to Ms. Maucher, Mr. Diaz stated that during the discussions that they had with the representatives of the Kent County Aero Park, there were a number of options that

were discussed at the beginning. One of them was amending the existing Industrial Park zones to allow aviation related uses but in the end they thought that they don't want to open the other industrial parks in the City to these types of uses because they are really supposed to benefit from proximity to the Civil Air Terminal and the Air Force Base itself. That is why they thought that a new zoning district would be the most appropriate course of action.

*Dr. Jones moved to recommend approval to City Council for MI-18-05 Text Amendments: Addition of IPM3 Zone (Zoning Ordinance, Article 3 §20 & 24, Article 4 §4.16, Article 5 §8, and Article 12), seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments and he thinks the potential economic benefit for our regional footprint is impactful. Mr. Roach voting yes. Ms. Edwards voting yes; for reasons previously stated. Mr. Holt voting yes; due to Staff comments and the work that they put into it. Mr. Baldwin voting yes. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; for the reasons previously stated. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for all of the reasons stated and this change is absolutely needed.*

- b. MI-18-06 Text Amendments: Replacement of Maximum Parking Requirement (Zoning Ordinance, Article 4 §4.15 & §4.16, and Article 6 §3) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance* in Article 4 and Article 6 to remove the existing maximum parking standard and replace it with new impervious cover (lot coverage) limitations where excessive parking lot size is of particular concern in commercial and industrial zones. The existing standard sets maximum parking for any use at 125% of the minimum required. Under these Text Amendments, this standard would be replaced with lot coverage limitations for the C-3, C-4, RC, IPM, IPM2, and M Zones, all of which currently lack any such limitations.

**Representative:** None

Mr. Diaz stated that this text amendment is intended to address a provision in the *Zoning Ordinance* that has been a frequent concern of developers and also a frequent request of relief at the Board of Adjustment. The current *Zoning Ordinance* has a maximum parking requirement. The *Zoning Ordinance* sets for pretty much all uses, a minimum parking requirement that is based on things like square footage or number of employees or apartment units. It is a greatly varying list of possible things determining what that number is but there is also a maximum parking requirement that is set at a uniform 25% over the minimum. While this amendment has been intended to combat the proliferation of extremely large parking lots that often are not filled to capacity, the Ordinance has caused problems especially for very small businesses that have greatly reduced flexibility due to the 25% over limit. For instance, if you have a business that requires ten parking spaces they are only allowed to build an additional two spaces before hitting the maximum. Because this Ordinance has not been really functioning as intended, they propose to replace it with a new way to control the size of very large parking lots and that is to institute a maximum impervious surface coverage for a number of the zones in the City. Particularly, it is for the more intensive commercial zones where such an impervious surface coverage requirement did not previously exist. It is different for each of the zones but it would be in the 65% to 85% maximum lot coverage for the zones that do not previously have this designation.

They believe that this will work towards controlling the parking lot size problem.

Ms. Edwards questioned how we currently determine the amount of impervious surface and if we remove that and replace it with a maximum lot coverage, what would the new calculation look like? Responding to Ms. Edwards, Mr. Diaz stated that the current lot coverage is determined by adding up the total square footage of all impervious surfaces on the property; so it includes the buildings, the parking lot and any sidewalks. For residential properties, it includes driveways, patios, etc. It does include gravel areas if the property is legally able to have those. The intent is that by putting a limit on maximum lot coverage for these zones that did not previously have any that the developers will have to basically make a balance between the building, the parking lot and other impervious surface areas. If they wanted to have a bigger parking lot, then they may need to have a smaller building. Those considerations previously, often did not come into play when developing the intensive commercial zones and industrial zones such as the C-3, C-4 and the IPM Zones.

Ms. Edwards further questioned how we now determine the number of parking spaces? Is it based on square footage of the building? Is it based on the number of people who are going to occupy the building or the number go businesses that occupy a building? How do we determine that now? Responding to Ms. Edwards, Mr. Diaz stated to determine the minimum parking that is required, there are a variety of ways that are used. In most cases, it is based on the square footage of the building or the number of employees who are employed in the building; whichever is greater. There are also a number of specific uses that are listed in Article 6 of the *Zoning Ordinance* that have their own parking requirements that are specific to that use.

Ms. Edwards questioned how we would determine the new amount of parking space? Responding to Ms. Edwards, Mr. Diaz stated that the way to calculate the minimum number of parking spaces would not change under this Ordinance.

Mr. Holden questioned if this creates new and/or increase in the allowable lot coverage ratios? Are we bumping up numbers that were previously a less percentage of maximum allowable lot coverage? Responding to Mr. Holden, Mr. Diaz stated that this Ordinance is introducing maximum lot coverages for zones that did not previously have any maximum lot coverages. For instance, for the C-4 Zone the previous maximum lot coverage was not specified. By specifying a specific lot coverage, they can assume to be reducing the maximum lot coverages from previously allowed 100%.

Mr. Holden stated that the IO and CPO Zones did have previous maximum lot coverages. Responding to Mr. Holden, Mr. Diaz stated that is correct.

Mr. Holden stated that as he understands this, the maximum allowable parking spaces now is really just limited by how much of that lot coverage percentage an applicant wants to utilize for parking. Responding to Mr. Holden, Mr. Diaz stated yes, that is correct.

Mr. Holden stated that he thinks the maximum parking spot limitation was driven in some part to protect against a big box store or others from creating a sea of parking that might be desired to create easy parking and easy access to a store where from an aesthetic or other standpoint; we

don't necessarily want seas of parking in the City. His concern here is that you can get around any of that by just buying more land and putting a sea of parking around it. Did we consider an approach to take the 125% to 150%? It makes him a little uncomfortable in his view to remove a maximum for any extent practical purpose. Is there another approach that was considered? Why go this route? Responding to Mr. Holden, Mr. Diaz stated that when they first started having this discussion, they did talk about increasing the maximum allowed parking from that 25% ratio to a higher one or potentially introducing a tiered system, for instance, if your business requires a very small amount of parking spaces it would be a higher allowed maximum. For instance, the ten spaces that he previously mentioned could go up to 200% and then when you get to like twenty-five spaces it could go down to 150%. The problem with that was that it created sort of pinch points in the tiers where if you were required just one parking space more or one parking space less than the maximum you allowed would be drastically different. For that reason, they thought that it would be best to scrap the maximum all together and look for a different solution.

Mr. Holden stated that it is a challenge but he thinks that he would really much prefer to find if we had a tiered approach or a simple equation that related the parcel size or development size to account for those smaller lots. That 150% addition is only an additional half parking spot. If an application with a big box store wants a sea of parking, they just need to buy a parcel big enough to build a sea of parking and accommodate their store. How does this approach guard against that concern? Responding to Mr. Holden, Mr. Diaz stated that there is only so much developable land in Dover. The big open areas where one could potentially build a parking lot, there aren't as many as their used to be. If an applicant wants to buy land and demolish buildings specifically to build just parking; he is talking about removing productive uses specifically so that they can add to their parking area is going to be a business consideration that they are going to make. He doesn't know if that makes Mr. Holden more comfortable or not but he doesn't think that it's likely that they would do that.

Mr. Holden stated that there are large lots left. The lot on the south side of Home Depot for example, that's a big area. Those maximums were created at some point to guard against applicants that they had and the perception of some of the commercial businesses and the paving areas that we do have within those. He thinks that the reality is there that are some businesses may push there. He would like a tool that allows them some purview over that and he doesn't see a need why that can't be at the Planning Commission. At times, they have had applicants come and provide information from other stores that supports that their specific use really demands a specific amount of parking. He thinks that this group has been very open to those discussions. Increasing that ratio whether via tiered or via a simple equation that doesn't create those tier pinch points, gives us that ability without having to send the applicant to the Board of Adjustment which he thinks is negatively impactful for economic growth when you have that uncertainty. He thinks that the Planning Commission is typically very open to working with the applicant. He would really rather see this reworked in that fashion. Responding to Mr. Holden, Mr. Hugg stated that when they first considered this approach, one of the analysis that Staff did was to actually look at majority of the larger development projects that have occurred in Dover in the last four or five years and also the number of variances to the parking requirements that have come before the City for approval. These numbers were not picked out of the air; they were sort of tied back to what they are actually seeing applicants ask for variances to actually develop. The difficulty that we have is rather is 125, 150 or 160 or whatever the number is, it's an

extremely arbitrary number that as soon as you set it you have an exception that has to be granted because it creates that particular use difficulty. It seemed to them that there were really kind of two objectives here. The first one was to address this issue of if you have a doctor's office and the Code says you have to have ten spaces and the maximum that you can have is 12.5 then you probably still don't have enough parking. Doctor's offices and those kinds of uses have sort of peaks and valleys and high turnover and may very well need twenty-five parking spaces. A bakery may not need that kind of turnover. Coming up with a standard or set of percentages or maximums seemed to be pretty much unworkable. The other objective was to put some of the decision making burden back on the developer and say you've got a choice now. You can't exceed 65% coverage so you figure out what makes the most economic sense. As Mr. Diaz said, that puts the choice of do they go for a lot of parking and end up with a much smaller building or do they go with a bigger building and modify the parking. Those kinds of decisions belong in the hands of the developers and the people who are doing the development. He doesn't think that it belongs in the hands of Staff to say that it says a certain number. This is one of the half a dozen or so major obstacles that he heard fourteen months ago when he came on board from the development community. They said that Staff was trying to put a box around some of these decisions that either didn't fit and made them come back here and ask for a waiver for their parking or just created some difficulties that didn't seem to aid in economic development. It's always a challenge to figure out what kind of approach works best. Starting with what has been the actual experience over the last five years with a variety of development projects is how they came up with these 65% and 75% limitations. It's probably the realistic approach to making these kinds of decisions rather than saying you can't have more than 125% of something.

Ms. Edwards questioned how this amendment affect existing businesses? In Mr. Hugg's example of the doctor's office who may need twenty-five spaces but only has twelve. How does this amendment effect existing businesses or is this just strictly for new construction? Responding to Ms. Edwards, Mr. Hugg stated that this would be proactive. If an existing business is already under that limitation like any other they come back and go through the approval process again and modify their plan. For new businesses, this would give them that flexibility. There is just a handful of these that really create issues because they have doctor's offices, restaurants and certain kinds of businesses have very high parking peaks. At 3PM in the afternoon there is nobody parked there, from 5-9PM there are people parked everywhere and at 9PM there is no need for parking so that standard just doesn't work well as an absolute.

Ms. Maucher questioned if Staff had reviewed this with the development community and do they seem satisfied that these percentages would work for them to avoid issues going forward? Responding to Ms. Maucher, Mr. Hugg stated that this proposal has been shared with a number of the developers and the people that were involved in the group that he put together when he first came on board to look out how to solve this problem in an effective and efficient manner. He thinks that some of the engineering community generally feels much better working with figuring out 65% impervious cover because they can manipulate how they use the lot and how they deal with stormwater and other things as opposed to trying to fight to get to an artificial number or come in with a variance.

Mr. Tolbert stated that if this amendment is approved it will give the Planning Office more flexibility in parking requirements.



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

*Ms. Maucher moved to recommend approval to City Council for MI-18-06 Text Amendments: Replacement of Maximum Parking Requirement (Zoning Ordinance, Article 4 §4.15 & §4.16, and Article 6 §3) to give more flexibility in the maximum number of parking spaces, seconded by Mrs. Welsh and the motion was carried by 8-1 roll call vote. Mr. Holden voting no; he thinks that they can accomplish the same thing via a method that does provide some maximums but with greater certainty to the development community. Mr. Roach voting yes; to give the Planning Staff the flexibility and the Commission is still able to vote on it when it comes to them. Ms. Edwards voting yes; she presumes that if it's determined at some point in time in the future that this does not work as amended then they would take a look at it at that point. Mr. Holt voting yes. Mr. Baldwin voting yes; for reasons previously stated. Dr. Jones voting yes; for reasons previously stated. Mrs. Welsh voting yes; for reasons previously stated. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; it does provide some flexibility and if at some point in time they need to change it then it can come back before the Commission.*

- c. MI-18-07 Text Amendments: Vehicle Signs (Zoning Ordinance, Article 5 §4) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, Article 5 §4 intended to clarify what qualifies as a vehicle being used for the sole purpose of signage. Under the current Ordinance, vehicles are not permitted to be used for the sole purpose of signage. The Text Amendments would provide a list of criteria the City Planner can use to make a determination that this provision has been violated. It also specifies that vehicles in violation are to be moved to an area of the property where they are not visible or less visible.

**Representative:** None

Mr. Diaz stated that this amendment regards signs that are placed on vehicles. He is sure everyone here has seen a vehicle that has a sign on it, whether it's a Domino's Pizza truck or a Comcast truck or a truck that has a banner saying please come this way to our business. There is currently in our Ordinance a provision that says that vehicles cannot be used for the sole purpose of signage; however, the Inspections Office has had trouble enforcing this provision in the past because there isn't a clear definition of what "used solely for the purpose of signage" really means. If you drive around the City today you can see a number of vehicles that move rarely or not at all that have logos belonging to nearby businesses on them. But it has not been easy to determine for certain that all of these vehicles are in fact being used for the "sole purpose of signage." The purpose of this Ordinance amendment is to give the Planning and Inspections Office some clarity and criteria on how to actually apply this requirement so that moving forward into the future they can make sure that they are able to enforce the Ordinance. The major part of it gives a list of criteria that the Planning Office can use to make determinations. There is also a Staff amendment on the table that has done some work to consolidate those criteria into a few more concise ones. It also clarified the number of criteria that would need to be met before a determination could be made. The Ordinance can be either recommended as it stands tonight or

recommended with inclusion of the Staff Amendment.

Ms. Maucher questioned if Staff could give them an idea of what problem this is meant to cure? Responding to Ms. Maucher, Mr. Hugg stated like that Thai Restaurant van parked in the parking lot with a one-way directional arrow on it saying "Thai Restaurant". That is clearly a vehicle being used for sign purposes; it never moves and it would make no sense if it were turned around in the other direction. When the mulch guy was on DuPont Highway near the Indian restaurant, there was a big van truck out there that said "Mr. Mulch". That vehicle never moved and it was clearly an advertising sign. The Cold Stone Ice Cream place had a van parked for a long period of time that never moved and was clearly being used as advertising. The former La Tolteca had a van box truck backed in at an angle clearly taking advantage of that issue. When he did a survey earlier in the year looking at this issue which was actually brought to his attention by a member of City Council, he thinks that there were 12 or 13 potential violations. They were really questions of is this vehicle being used solely for the purposes of a sign because they didn't have any real criteria. That said, does it go home at night, is it backed away from the highway at night time, is it moved around or do they make deliveries in it? It was very difficult to bring any kind of enforcement action. The desire was to provide some criteria so that there would be some basis for making that kind of determination; being equitable to other people who aren't allowed to have trucks with signs on them and have to meet sign requirements; and to avoid the proliferation of these kinds of vehicles up and down the highway. He does want to make the point for the record too that the Staff Amendment is a result of the discussions that took place at the Council Committee of the Whole Workshop. They received important input from that meeting to make sure that they were achieving the desire that they were hoping to receive but not penalizing people who had vehicles that had signs on them that were used in the regular course of business. Staff recommends the Amendment which is the version of the Ordinance that was recommended from the Council Committee of the Whole for consideration by the Planning Commission.

Mr. Holden stated that he appreciates this potential opportunity to address some of those issues that were just described. He wonders if they have thought of if the vehicles are parked in an identified parking spot. He can think of a few of these potential uses of a vehicle really kind of a sign first and only where they park a vehicle on a corner. He thinks is a safety concern but also isn't really an identified parking spot although it is within a lot where there is specified striping. Is there an avenue to or has there been some consideration of including a criteria item that would identify vehicles that are routinely parked in areas that are not specified striped parking spots? Responding to Mr. Holden, Mr. Hugg stated that where people are parking vehicles generally is subject to a number of provisions already in the Code that relate to where vehicles are parked. This particular issue has to do primarily with the question of business signage and the use of vehicles as a sign for a business. It is a much stricter focus.

Mr. Holden stated that he thinks of the staffing agency that is next to the deli on Governors Avenue just a couple businesses down from the Becker Morgan Group. They typically park the van with signage on it catty-corner right on the corner so that it's almost on top of the sidewalk. It's right on the backside of the historical Green and there certainly doesn't seem to be a striped parking spot there. Within the specific attempt to address vehicles being used as signs inappropriately, has there been discussion over adding criteria that would allow you to address

those if they were not parked in identified striped parking spots or is that not needed because of the other parking criteria within the City? Responding to Mr. Holden, Mr. Diaz stated that one of the criteria is that if a vehicle is parked so that its signage is currently displayed to the public when a more discrete parking space is available on-site, they would consider that pointing to that vehicle being solely used as signage. In the case that Mr. Holden mentioned with the vehicle cattycornered, it sounds like it is parked in a location specifically to be very prominently displayed to the public. Since there are parking spaces available on the lot that it could use then it should be using those instead of the cattycorner under this criteria.

Mr. Holden stated that he would suggest maybe adding a criteria that allows Planning Staff the discretion that if it meets one of the other criteria and is also parking itself in an area that is not an identified striped parking spot then it would give an additional criteria tool to address the issue that he thinks they are trying to address here. Responding to Mr. Holden, Mr. Hugg stated that he thinks that he understands what Mr. Holden is suggesting. That would not be a provision that would be in the vehicle sign provisions which is what this particular amendment solely addresses. There are existing requirements and Staff can certainly go back if some of them need to be addressed as well. He knows that you can't park in a manner that blocks the line of sight at an intersection and you can't park a vehicle on the grass. There is a whole series of parking related issues that perhaps they should take another look at but this particular issue was intended to deal solely with the applicability of the sign provisions and vehicles. He is not sure that this is the right section of the Ordinance to address some of those provisions of someone parking in a non-designated area or parking in a manner that blocks sight or creates a traffic hazard.

Mr. Holden stated that he thought it's another manner to reflect a vehicle being used specifically to be a sign and it would help if we are looking for tools or criteria that make that clear.

Ms. Maucher questioned if this is going to create problems for the small business that might have a vehicle for deliveries and they only deliver two or three times a day and the car doesn't go home, it stays at the place of business? In the Cold Stone example, they might do deliveries but not that frequently but when they do they want their signage on their vehicle. Responding to Ms. Maucher, Mr. Hugg stated that he thinks it actually does the opposite. He thinks that it clarifies the conditions under which those kinds of activities occur. One of the criteria is, does the vehicle move at all during normal business hours? There are numerous vehicles with business signs on them that are used for those types of purposes that are moved during the day and that clearly have a signage value but they are not being used solely for a sign. By having a criteria regarding if the vehicle moves during normal business hours, the operation of the business needs to reflect the fact that they are trying to separate out those vehicles that are backed into a space or backed up next to the highway and sit there. Clearly in some cases, they can become inoperable which there are other Code provisions to deal with that.

Mr. Holt questioned if there anything that you would give somebody that objected some of the things in this Ordinance? Maybe they have some reason for that sign on that vehicle. Is there an opportunity for them to come before the City or this group and express their concerns on why they feel that their sign is necessary? Responding to Mr. Holt, Mr. Hugg stated that the administration of this Ordinance would fall under the Code Enforcement section and if someone was cited then there are appeal mechanisms for seeking recourse to that situation. He doesn't

think that we need to specify that here since it is already provided for elsewhere in the Ordinance. Clearly, the idea here is that Code Enforcement Staff now has the opportunity to not have to make a hard judgment call on whether the vehicle is being solely used for signs or not.

Mr. Tolbert stated that all businesses pretty much have their names on their vehicles. He is thinking of one business in particular; the businesses that rent furniture. They have several vehicles and there are always vehicles parked near their facility. Even if they have vehicles moving, there are always vehicles parked near their facility and you would have to make a determination whether it's being used solely as a sign. When you have more than one vehicle there is always going to be vehicles parked near the facility. There are a number of businesses that have more than one vehicle that are parked near their business. You would have to make a determination whether it was a sign or an operable vehicle and that may be problematical at times. Responding to Mr. Tolbert, Mr. Hugg stated that is the intent of this modification to this Ordinance is to provide some criteria to help make that decision. There are businesses where the vehicles don't necessarily move everyday like people who do catering and things of that nature. A vehicle may sit for 3 or 4 days until the weekend when they have a catering job. Right now, there is no real criteria to help make a decision and what they are trying to do is provide some guidance for addressing those issues.

Mr. Tolbert stated that the way this amendment is written, will it help alleviate the problem? Responding to Mr. Tolbert, Mr. Hugg stated that they believe that it will because they believe that it will allow them to identify and address those vehicles that are clearly being used for signs without imposing an additional burden on others.

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

*Mr. Holden moved to recommend approval to City Council for MI-18-07 Text Amendments: Vehicle Signs (Zoning Ordinance, Article 5 §4) inclusive of Staff Amendment Number 1, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments. Mr. Roach voting yes; for the reasons previously stated. Ms. Edwards voting yes; for the reasons previously stated. Mr. Holt voting yes; for the reasons previously stated. Mr. Baldwin voting yes. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; per the discussions tonight. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; Staff gave them a thorough understanding of what this amendment is intending to do.*

## **NEW BUSINESS**

- 1) MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept – Update on the Meeting Task assigned to Staff by Planning Commission at June 18, 2018 regarding the request for Consideration by Planning Commission of an Architecture Concept for townhouse units and an Architecture Concept for single family detached dwellings (in a 55+ community format) with a request for removal of alleys within the Eden Hill Farm TND: Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record Eden Hill Residential, LLC. Property Address: area southeast of

intersection Wemyss Road and POW-MIA Parkway. Tax Parcels: areas on map ED-05-076.04. Council District 2.

**Representative:** None

Mrs. Melson-Williams stated that this item was part of the agenda in June 2018 where the Eden Hill Farm Residential District brought for the Planning Commission's consideration, a couple of architectural concepts related to the townhouse units and a proposal for some single family detached homes in a 55+ community format that would also seek to remove alleys in that Residential District. After a lengthy discussion at the Planning Commission meeting last month, the Planning Commission in their motion indicated that Planning Staff should meet with Ryan Homes prior to this meeting to discuss the application. They actually met with Ryan Homes and representatives on their design team on Monday, July 9<sup>th</sup>. They have a path forward that involves what Planning Staff can consider through an administrative process and that is focusing on the townhouse area of the community. There are some lot conversions from other unit types to townhouses that Staff can review through an Administrative Plan review process. With the discussion ultimately relating to the southern portion of the project where they hoped to do the 55+ community, they came to the conclusion that it in fact will need to be a formal application to the Planning Commission with a full Public Hearing in order to present a Revised Implementation Plan for that area of that TND Residential District. Along with that would be any proposed changes or amendments to the *Comprehensive Design Standards Manual* also known as the Pattern Book in order for them to present the concept that they hope to build in that area. Staff has met with them as requested by the Commission and she thinks that all sides have a clear understanding of the potential paths forward. At this point, it would be their burden to submit either administrative plans for review by Planning Staff or a future formal application to bring back before this body.

Dr. Jones questioned if the builder is on board with the path forward that was discussed at the meeting. There were some pretty definite statements made at the last Planning Commission meeting. Responding to Dr. Jones, Mrs. Melson-Williams stated that they met with representatives of the builder and the potential owner of the development. She is not aware if they are contractually obligated to the project at this point but Staff provided what the path forward would be to do something other than what is the recorded plan that is currently on file with the City.

Mr. Tolbert stated that the spokesman at the last meeting was very adamant about what they won't do so he doesn't know where we are with this application at this point.

Mr. Holt questioned if they think the applicant will come back before the Commission and give us an idea of what their plans are? Responding to Mr. Holt, Mr. Tolbert stated that they have heard Mrs. Melson-Williams' update and they can formally accept that update and wait to see what happens beyond this.

*Dr. Jones moved to accept Report update on MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept, seconded by Mrs. Welsh and the motion unanimously carried 9-0 by voice vote.*

- 2) Project for Dover's 2019 Comprehensive Plan
  - a. Update on Project Activities
  - b. Evaluation of 2008 Goals and Recommendations

Mrs. Melson-Williams stated that Staff has been working on the *2019 Comprehensive Plan*. They are getting very close to 100% participation by this board. The Historic District Commission is also very close to having 100% participation in the evaluation of the 2008 Goals and Recommendations. If you have not done the online survey that has been active for almost 4 weeks, please do so. They have done some outreach related to housing. Information on the real estate market was heard last week at Economic Development Committee. There was a discussion with that and Staff will be doing some follow-up. They did have the meeting in June with the educational people focusing on economic development. Staff at this point, is really trying to focus on their assigned chapters because they very shortly need to be writing like crazy.

Mr. Diaz stated that they have 287 survey responses as of this morning.

Mr. Hugg stated that they are going to cut the survey off at the end of July. The Central Delaware Chamber of Commerce volunteered to do a burst survey distribution for them last week so he expects to clear the 300 mark quickly. They are getting a lot of good response from across the community by age and incomes and those kinds of things. They will start analyzing that information in early August and Staff will be doing some map exercises to look at the existing plan and identify areas that they want to think a little more about or perhaps do a little more analysis on. They are making great progress.

Ms. Edwards questioned how we are getting the survey out to the public? Responding to Ms. Edwards, Mr. Diaz stated that the survey has been distributed a number of ways. They put physical paper copies in numerous City locations including the Library, the Pitts Center, the Customer Service Department at Weyandt Hall and City Hall. They also released it by news on the City's Facebook page and it's been echoed by a number of organizations. The currently plan also for their final push is to advertise it on Dover TV.

Mrs. Melson-William stated that you can get the link to the survey from the City's website [www.cityofdover.com](http://www.cityofdover.com). Through the Planning Office section there is a page that is specific to the *2019 Comprehensive Plan*. You will see some basic information about the project and it includes the survey link and there is also an email address to send messages to.

**Meeting adjourned at 9:22 PM.**

**Sincerely,**

**Kristen Mullaney**  
**Secretary**