

**CITY OF DOVER PLANNING COMMISSION**  
**MAY 17, 2021**

The Meeting of the City of Dover Planning Commission was held on Monday, May 17, 2021 at 7:00 PM as a Virtual Meeting using the phone/videoconferencing system WebEx due to Delaware's Declaration of the State of Emergency for COVID-19. The Meeting Session was conducted with Chair Mrs. Maucher presiding. Members present were Mr. Hartman, Mr. Baldwin, Mrs. Lord, Mrs. Welsh, Dr. Jones and Mrs. Maucher. Mr. Adams, Mr. Roach and Mrs. Malone were absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek, Mr. Jason Lyon and Mrs. Kristen Mullaney. Also present were Mr. Troy Adams, Mr. Edward Larrivee, Mrs. Joan Larrivee, Mr. Morgan Shank, Mr. Daniel DeMott, Mr. Dominic Balascio, Mr. Doug Barry, Mr. Greg Rishel, Mr. David Grayson, Ms. Dana Dunphy and Mr. Alex Schmidt. Speaking from the public were Mr. Brian Mahoney, Mr. Collin Faulkner, Mr. Isaac Morris, Deakin James Ebert, Ms. Deborah Brinkley, Mr. Ronald Harmon and Mr. Tolano Anderson.

**APPROVAL OF AGENDA**

*Mrs. Welsh moved to approve the Agenda tonight, seconded by Dr. Jones and the motion was unanimously carried 6-0 with Mr. Adams, Mr. Roach and Mrs. Malone absent.*

**APPROVAL OF MEETING MINUTES OF APRIL 19, 2021**

*Mrs. Welsh moved to approve the Planning Commission Meeting Minutes of April 19, 2021, seconded by Mr. Hartman and the motion was unanimously carried 6-0 with Mr. Adams, Mr. Roach and Mrs. Malone absent.*

**COMMUNICATIONS & REPORTS**

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, June 21, 2021 at 7:00PM.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on April 26 & 27, 2021 and May 10 & 11, 2021.

Mrs. Melson-Williams stated that they have had some questions about the status of virtual versus in-person meetings. They are still unsure at the present time, what that may hold for their June meeting and moving forward so Planning Commission members please stay tuned. At a minimum, they will be at least in virtual. There may be opportunities to move back into in-person meetings depending on the considerations of the provisions in the Governor's Order that may be in effect at the time.

**OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS**

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

**OLD BUSINESS**

## 1) Requests for Extensions of Planning Commission Approval:

C-19-06 Calvary Baptist Church of Dover at 2285 Forrest Avenue - Request for One-year Extension of Plan Approval granted by the Planning Commission in July 2019 for a Conditional Use Site Plan Application to permit the construction of a place of worship and associated site improvements at 2285 Forrest Avenue for the Calvary Baptist Church of Dover. The subject property is 75.51 acres +/- and is located on the south side Forrest Avenue west of Dover High Drive. The property is zoned R-10 (One Family Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The owner of record is Calvary Baptist Church of Dover Inc. Property Address: 2285 Forrest Avenue. Tax Parcel: ED-05-075.00-01-06.00-000.

**Representative:** Mr. Troy Adams, Mountain Consulting

Mrs. Melson-Williams stated that the Planning Office and hence the Planning Commission is in receipt of a letter Request for Extension of this application. This was a Conditional Use Site Plan for the development of the property at 2285 Forrest Avenue which is Calvary Baptist Church. On the screen is their original concept that went through the Planning Commission review back in July 2019. That original approval is good for a period of two years, during which time they are to work through the revision process and seek all agency approvals. They have been working at that and their letter actually notes a number of things that they had the opportunity to work through. So, they are in that Check Print process and making progress there. They are seeking a One-year Extension of their plan approval in order to finalize their plan and get ready to commence construction.

Mr. Adams stated that he agrees with everything Mrs. Melson-Williams just stated. They are excited about this project and they are very close. They plan to begin construction this summer. They are in the process of the second round of plan sets to be submitted to DelDOT and also the official submission to the Planning Office as well. They have submitted a Building Permit in April 2021; so, they are well on their way but they just need extra time to clear things up.

*Dr. Jones moved to approve C-19-06 Calvary Baptist Church of Dover at 2285 Forrest Avenue for a One-year Extension, seconded by Mrs. Welsh and the motion was carried 6-0 by roll call vote with Mr. Adams, Mr. Roach and Mrs. Malone absent. Dr. Jones voting yes; she is certainly in favor of seeing this project come to fruition as it has been a while in the making. Mr. Hartman voting yes; they have been making good progress. They had to deal with 2020 like the rest of us; so, it should be approved. Mr. Baldwin voting yes. Mrs. Lord voting yes; for reasons previously stated. Mrs. Welsh voting yes; the project seems to be coming along very well and it looks like a beautiful facility. Mrs. Maucher voting yes; for reasons previously stated.*

**NEW APPLICATIONS**

AX-21-02 Lands of Edward C. and Joan N. Larrivee at 115 Fox Hall Drive – Public Hearing and Review for Recommendation to City Council of an Annexation Request and Rezoning Request for a parcel of land totaling 1.131 acres +/- located at 115 Fox Hall Drive, Dover. The property is currently zoned RS-1 (Residential Single Family Zone) in Kent County. The proposed zoning is

R-20 (One Family Residence Zone). The property is located on the north side of Fox Hall Drive and approximately 1600 feet west of Kenton Road. The annexation category according to Dover's 2019 Comprehensive Plan is Category 1: High Priority Annexation Areas and the land use designation is Residential Low Density. The owners of record are Edward C. and Joan N. Larrivee. Property Address: 115 Fox Hall Drive. Tax Parcel: ED-00-076.05-01-01.00-000. Proposed Council District 1. Ordinance #2021-08. *The First Reading of this Annexation Request was held on April 12, 2021. Public Hearing before the Planning Commission is scheduled for May 17, 2021 and City Council on June 14, 2021.*

**Representatives:** Mr. Edward Larrivee, owner; Mrs. Joan Larrivee, owner

Mr. Swierczek stated that this is an Annexation Request for the property at 115 Fox Hall Drive. This property is seeking annexation into the City of Dover as the homeowners have indicated that they are looking to do some home remodeling projects and would like to connect to the City of Dover services; mainly water and wastewater. The City of Dover does not do that for properties located outside of City limits anymore. This property is currently zoned RS-1 (Residential Single Family Zone) in Kent County. It is seeking to be zoned as R-20 (One Family Residence Zone) under the City of Dover's zoning regulations. It is considered a Category 1: High Priority Annexation Area as identified in the 2019 Comprehensive Plan. That is due to primarily because this is an enclave in the City of Dover. Its land use designation in the 2019 Comprehensive Plan is as Residential Low Density which is conducive with that R-20 (One Family Residence Zone) designation. This is not seeking any type of new development, but its simply to annex the existing single-family home into the City of Dover. No City services have noted any type of objections.

*Mrs. Maucher opened a public hearing.*

**Mr. Brian Mahoney – 104 Fox Hall Drive Dover, DE 19904**

Mr. Mahoney questioned if this is typical now? If he was not connected to the City of Dover water and wastewater, would he have to annex into the City in order to connect to those services? Responding to Mr. Mahoney, Mrs. Melson-Williams stated depending on where the property is, it may require you to annex into the City to be served by City services. If the property is identified in our Category 1: High Priority Annexation Area as part of our Annexation Plan for the City, then yes it would be required to annex before getting those services.

*Mrs. Maucher closed the public hearing.*

*Mrs. Welsh moved to recommend approval to City Council on AX-21-02 Lands of Edward C. and Joan N. Larrivee at 115 Fox Hall Drive for annexation and rezoning as requested (Rezoning to R-20), seconded by Dr. Jones and the motion carried 6-0 by roll call vote with Mr. Adams, Mr. Roach and Mrs. Malone absent. Mrs. Welsh voting yes; it is appropriate for the Comprehensive Plan. Dr. Jones voting yes; it is in our High Priority Annexation Area. Mr. Hartman voting yes; based on the High Priority listing in the Comprehensive Plan and the zoning is consistent with the use. Mr. Baldwin voting yes; for the reasons stated. Mrs. Lord voting yes; for the reasons previously stated. Mrs. Maucher voting yes; as it is in the High Priority Annexation Area.*

SB-21-02 Lands of Fountainview, LLC at 100 Ridgely Street: Minor Subdivision Plan - Public Hearing and Review of a Minor Subdivision Plan to subdivide a property consisting of 7.3386 acres +/- into two parcels (Lot 1 and Lot 2). Lot 1 is to be 3.5429 acres +/- and encompasses the east side of the property including an access easement area extending from the northern stub of Ridgely Street. Lot 1 only has a street frontage of 40.12 feet on Ridgely Street. Lot 2 is to be 3.7957 acres +/- and encompasses the western residual portion of the property with frontage on Ridgely Street and on unimproved segment of Fulton Street. The subject property is located at the terminus of Ridgely Street and north of Fulton Street. The property is zoned IPM (Industrial Park Manufacturing Zone). The owner of record is Fountainview, LLC c/o Morgan Shank. Property Address: 100 Ridgely Street. Tax Parcel Number: ED-05-076.08-01-01.01-000. Council District 4. *Waiver Requested: Subdivision Waiver to Reduce Required Lot Frontage Width on a Public Street. Previous Applications for development of this property included S-08-43 Warehouse Storage Buildings on Lands of Ridgely Street, LCC and S-00-19 Contractors Office & Storage Building on Lands of Bandurski; both plans are expired.*

**Representatives:** Mr. Troy Adams, Mountain Consulting; Mr. Daniel DeMott, Baird, Mandalas & Brockstedt; Mr. Morgan Shank, Fountainview, LLC

Mrs. Melson-Williams stated that the Lands of Fountainview, LLC is a Minor Subdivision application. The property is located at what is the terminus of Ridgely Street in the segment that is north of Fulton Street. If you are looking at the screen, Fulton Street is kind of at the bottom of the page and this is to the north of that. Ridgely Street comes up midway and that the area that is hashed is actually an existing easement that crosses north/south through the property. Their proposal is to divide this existing parcel of land which is at just over 7.3 acres into two lots. The first one being Lot 1 which is on the east side of that access drive and would include that access drive. There is a Lot 2 which is to be the western side of the property. Both of these lots are a little over 3.5 acres each. The zoning of the property would remain at IPM (Industrial Park Manufacturing Zone) and we have to look to those Bulk Standards for a conventional lot in the IPM (Industrial Park Manufacturing Zone) when looking at this Subdivision Plan. They are requesting one Waiver and it is for a reduction of the required lot frontage width on a public street. That is a provision in our *Subdivision Regulations*. With the proposed configuration of the two lots, Lot 1 basically ends up with a frontage at the terminus of Ridgely Street of just over forty feet; that is an existing condition there. The Lot 2 has the appropriate amount of frontage because it has frontage on Ridgely Street and then the unimproved section of Fulton Street that moves toward the railroad tracks. They are seeking a Subdivision Waiver which the Planning Commission will need to make a recommendation on this evening and then that Subdivision Waiver must be reviewed by City Council for their consideration and action on that. There are instances where a Subdivision Waiver can be sought when there are special conditions or formats of the property as long as it is not detrimental to public health, safety or general welfare. A lot of things that typically you are used to seeing with an initial subdivision such as this, should either one of the lots be developed in the future then it would be subject to some type of Site Development Plan Review which is where you would see more detailed provisions regarding access, sidewalks and landscaping. This Application does create two lots out of the existing property; it does not impede on either side to develop and Staff is recommending approval of the Waiver Request dealing with that reduction in the lot frontage width on a public street. With the easement that will be maintained, that is certainly an opportunity for better access to the Lot 1

area. That existing easement does have a number of utilities in it already and it serves to access property to the north so it would be in place during future development activity. The DAC Report does include comments from the other agencies. Most of them have no objections to the Subdivision Plan and they offer some advisory information regarding future development activity on the property. The applicant did submit a written Waiver Request and that was also included in your packet.

Mr. DeMott stated that he is here on behalf of the owner, Fountainview, LLC. They are the owner of 100 Ridgely Street and that parcel is further identified as Tax Parcel ED-05.076.08-01-01.01-000. On April 21, 2021, Mr. Adams filed an application on behalf of Fountainview, LLC for development with the City of Dover Planning Commission for a Minor Subdivision Plan located at 100 Ridgely Street. That application is designated SB-20-02. The application included the Application form, an Application for Mailing List, the Project Contact List, a Checklist for the Site Plan application, twenty-one full sets of plans, and a copy of the written Waiver Request for the reduction of the required lot frontage on a public street. On April 28, 2021, the Development Advisory Committee reviewed the application and he will discuss those comments tonight as part of his summary. There is some land use history on this project, and these are mentioned in the DAC comments, but there were previous applications for site development including a plan that is labeled S-08-43 for warehouse storage buildings on the land and a plan designated S-00-19 for a contractor's office and storage buildings on the lands of Bandurski. Both of those plans have expired, and the property currently exists as a vacant parcel. As you will notice from the Site Plan and the DAC comments, the existing configuration of the terminus of Ridgely Street and the existing access easement that continues north, divide this tract of land into two separate parcels. What this means is that the parcel is already physically separated by an access road; so, the approval of this Minor Subdivision will only formalize the existing division between the two parcels and will also allow for further development on each parcel that is located to the east and the west of that access easement which he believes that Mrs. Melson-Williams said will also include a number of existing utilities. The applicant, Fountainview, LLC is before the Commission this evening and they are requesting approval of the Minor Subdivision Plan to divide the property like Mrs. Melson-Williams said. The new division line is proposed along the western edge of the paved forty feet wide access easement. Lot 1 is to be 3.5429 acres and it will encompass the east side of the property including the access easement existing from the north part of Ridgely Street and continuing north. Lot 1 only has a street frontage of 40.12 feet on Ridgely Street and he will address the applicant's Waiver Request in a moment. Lot 2 is going to be approximately 3.2795 acres and that will be the western portion of the street with frontage on Ridgely Street and the unimproved segment of Fulton Street which includes some wooded area as well. The applicant provided proper notice to the property owners within 200 feet of the property ten days prior to the hearing date. The notice included the nature of the application, the time, the date, the place of the public hearing before this Planning Commission and it additionally posted public notice in the form of an advertisement published in the newspaper at least ten days prior to the hearing as well. They are requesting a Waiver from the 200 feet along the street frontage requirement to allow the width of 40.12 feet for Lot 1 as part of the Minor Subdivision Application. The purpose of the public street frontage requirement is to ensure that there is access created for the lots and that the purpose of the Bulk Standards ensures that lot sizes are appropriate for the development activity. Respectfully, we are requesting this afternoon that the Commission recommend approval for that Waiver as part of the Minor

Subdivision Application for three reasons. One is the compliance with the frontage requirements would cause an extraordinary and unnecessary hardship on the applicant. The grant of the Waiver is not going to be detrimental to public health, safety, or the general welfare and the grant of the Waiver is also not going to have any effect on nullifying the intent or the purpose of the official Zoning Map, *Zoning Ordinance*, the Development Plan or the Zoning and Subdivision Regulations as well. This parcel is uniquely configured with this access easement that divides the parcel already. The DAC comments also note that there could be a lot configuration that would give both of the lots the required width but doing so what result in a very unregular parcel and require street segment improvements and development. The DAC also comments that Lot 1 has 40.12 feet of frontage and also has over 400 linear feet of access easement included on the parcel so as a result, access to the public street is provided which is the specific purpose of the street frontage requirement. They believe that the 40.12 feet of street frontage allows for sufficient access to Lot 1 considering the access from the street terminus by the existing easement access to the proposed lots from Ridgely Street. And then there would also be an opportunity for construction of the unimproved segment of Fulton Street that would be part of any future site development plan review process. In accordance with the *Land Subdivision Regulations*, the proposed subdivision will otherwise comply with the Bulk Standards of the *Zoning Ordinance* including the minimum lot size of 2.58 acres, the front yard setbacks at 60 feet and rear and side yard setbacks at 40 feet. The applicant will address additional items that are listed under Section VII of the DAC comments and the applicant also has no objections. They are agreeable to all of the other DAC comments and will comply with any and all regulatory and agency requirements if this Minor Subdivision is granted with the requested Waiver. The applicant is also agreeable to all Staff recommendations for cross access easements if the Waiver is granted and understands the future evaluation of the existing access easements would or may be required at future site development of Lots 1 and 2.

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

*Mrs. Welsh moved to recommend approval to City Council for SB-21-02 Lands of Fountainview, LLC at 100 Ridgely Street: Minor Subdivision Plan inclusive of the DAC comments that would require cross access easements among Lots 1 and 2 and other parties served by the access drive and the Waiver Request for the width of the required lot frontage on a public street, seconded by Mr. Hartman and the motion was carried 6-0 by roll call vote with Mr. Adams, Mr. Roach and Mrs. Malone absent. Mrs. Welsh voting yes; it is appropriate for the request. Dr. Jones voting yes; for the reasons previously stated. Mr. Hartman voting yes; he agrees with Planning Staff's recommendations and the DAC Report. Mr. Baldwin voting yes; based on Staff's recommendations. Mrs. Lord voting yes; based on reasons previously stated. Mrs. Maucher voting yes; based on the DAC Report and Staff recommendations.*

C-21-04 Bay Pointe Apartments (One Building Concept) at 1080 and 1106 Bay Road - Public Hearing and Review of a Conditional Use Site Plan Application and associated Lot Consolidation Plan to permit the construction of one Multiple Dwelling-Unit (Apartment) Building as a three-story 54,105 SF building with 54 apartment units and associated site improvements. The proposed Apartment building requires Conditional Use review in the C-4 zoning district. The three existing lots to be consolidated total 3.302 +/- acres and are zoned C-4

(Highway Commercial Zone). The property is located on the southwest side of Bay Road at the intersection with Lafferty Lane. The owner of record is Patel Hospitality Properties. Property Addresses: 1080 and 1106 Bay Road and an unaddressed parcel. Tax Parcel Numbers: ED-05-086.00-01-18-00-000, ED-05-086.00-01-19.00-000, and ED-05-086.00-01-20.00-000. Council District 2. *For Consideration: Active Recreation Plan. Previous Application C-20-05 Bay Pointe Apartments (Two-Building Concept) was denied by the Planning Commission in December 2020.*

**Representatives:** Mr. Greg Rishel, Pennoni & Associates; Mr. Doug Barry, Pennoni & Associates; David Grayson, Project Team; Dominic Balascio, Owner's Representative

Mr. Swierczek stated this is an application for a Conditional Use Site Plan for Bay Pointe Apartments, a One Building project. This is at the intersection of Bay Road and Lafferty Lane. You may remember that a somewhat similar concept had come before the Planning Commission in November 2020 that was for two separate buildings with a drive aisle and Active Recreation configuration. This has been revised due to comments that have been received from that application. This is a One Building concept with a circular drive. It is involving three separate parcels at the moment so part of this application will also be seeking to consolidate the three lots into one single lot. The building is to contain fifty-four (54) total dwelling units. The applicant has provided information that it is currently planned to provide forty-eight one bedroom apartment units and six two bedroom apartment units. They did provide an architectural rendering. Planning Staff did note that while the plans have not yet been finalized, the rendering doesn't seem to exactly line up with the plans submitted but as noted, that is still ongoing review. The key difference as well from the two building concept before is that they have revised the Active Recreation Area. It is required per Code that based on a unit count of fifty-four units, they would have to provide a minimum of 10,000 SF of Active Recreation Area. They have submitted plans that show an access of 13,000 SF. Some of the features that they specifically identified is a gazebo and picnic area, a canoe and kayak storage facility, outdoor fitness facilities and a sand volleyball court. The other key issue is with Rear Emergency Access. They revised the entrance layout and drive aisle configuration so that there is one single drive aisle on the property that does access the rear of the building or rather the building size opposite that of Bay Road to hopefully address any concerns with Rear Emergency Access requirements. They do show the multi-modal path being divided along Bay Road. The site, due to its situation in between the right-of-ways of Route 1 and Bay Road, does not have immediate access on the same side to other pedestrian areas but it does on the east side of Bay Road. The applicant did provide supplementary information that the members of Planning Commission should have received in their packets. It does further go into detail about the target demographic that they are looking at for this development and further explaining their Active Recreation proposal. As a reminder to the members of Planning Commission, as this is a C-4 (Highway Commercial Zone), the apartments are a conditional permitted use. So, they have to be acting specifically on the Conditional Use. The Active Recreation Plan did go to the Parks & Recreation Committee on May 11, 2021; that is another item which the members of the Planning Commission should act on.

Mr. Balascio stated that one of the things that they did is they heard the comments and concerns at the last meeting. They went back and they merged the buildings into one building. They are not seeking any waiver requests at all. They have also fully provided the Active Recreation and

as Mr. Swierczek said, they went beyond that to 13,390 SF. They have also exceeded the parking requirement. They are also fully compliant with the Fire Code as stated by the City Fire Marshal. They put fire access around the entire building. This is a very much thicker plan than the required plan. Also outlined in the supplemental package for the land use and zoning is a realization of this site for apartments. This property fell outside of the true commercial corridor that is farther north to them and it fell out of the commercial corridor that is south of them. That, collectively with where the access points are on Route 1 kind-of hinders it from being sort of a retail commercial site. Any person wanting to utilize it as a Dunkin Donuts would have to go past the Route 1 exit to get to the site and then would have to circle back to get to where they were heading. However, when we looked at the tenant base in the area, which are Air Base personnel, Police, Fire, EMS, and other first responders, this was something that they like because they could utilize the facility for living but easily get to their point of destination by jumping on Route 1 at nearby exits. There is nothing else in the vicinity that provides the number of units that they will be providing for something like this. They are even looking at some of the students from the nearby colleges. Also, some of the people that they have spoken to are adults who work nearby. They thought that that was something that was very positive.

Mr. Hartman questioned if Mr. Balascio could speak to Planning Staff's recommendation to evaluate and implement any building construction techniques necessary to abate traffic noise? Responding to Mr. Hartman, Mr. Balascio stated that Mr. David Grayson was on the phone tonight and he has built buildings like this. With that present configuration, the way that the building sits below elevation to nearby roads it is something that we don't seem to have an issue with. Even going as far up as to Christiana on Route 1 by the Mall or the Route 40 area up in Bear, DE and you look at the proximity of those apartment units to Route 1, Route 13 or any adjacent roads. They think that where they positioned this building minimizes noise the best that they can for this site; and they think that it will work well.

Mr. Hartman further questioned what the Planning Office's take is on this? Responding to Mr. Hartman, Mr. Swierczek stated that they are aware that based on the configuration of Route 1 in proximity to this site, Route 1 does sit higher than what you see in this elevation drawing so he can understand what the applicant is saying that the sound would be abated just by the elevation of the road and the building. Beyond that, he doesn't know a lot of specifics about the construction but he can understand what Mr. Balascio is saying about the elevation.

Mrs. Welsh questioned why specifically kayaking and canoeing storage is being proposed? Is there expectation that the residents will need that for some reason? Responding to Mrs. Welsh, Mr. Balascio stated that one of the things that we have done is made their best guess of what they believe, as most of these units are going to be single units, they are thinking that it is going to be younger people who are in their late 20's or early 30's. If they have a jeep or truck, this is something that they may or may not want to do. They put it in there to exceed the Active Recreation knowing that if it is something that doesn't get utilized and there is something else that comes up, they would come back to the City and say that they are finding that people aren't using this amenity, could we supplement it with something else? That is something that they could use at Silver Lake or they could load up to take to the beaches in Lewes, DE. Stand-up paddleboards was something else that was also commonly brought up and that's why we thought it was something great. It is also why they ventured towards the volleyball pit versus basketball



court because it was more of a group setting that they were more keen to play than basketball. What they tried to do is make sure that they exceed the amount of Active Recreation just in case something needs to be altered.

Mrs. Welsh stated that she was just wondering why it is specific to kayaks as opposed to an additional storage area for oversized equipment that would house multiple types of equipment or uses as opposed to just something specific like that. Responding to Mrs. Welsh, Mr. Balascio stated that is something that they could consider if it comes down the road. Those kayak storage facilities are specifically designed to hold kayaks and canoes; and as you can see, it only holds a handful of them. It was just an amenity that they thought would be nice for people who need somewhere to store their kayaks or canoes in an organized fashion. If there is something else that comes up down the road and this amenity is not being utilized, they would just come back to the City and ask to supplement it with some other structure.

Mrs. Lord stated that she thinks that it is an excellent idea to have kayak storage because we do live near the water; we are surrounded by water. She thinks that it is an excellent idea to promote outdoor fitness or getting close to nature as opposed to just storing stuff. She thinks it is a good use of motivating people to get out and explore the wonders of the Delmarva Peninsula since we are at water level basically. We are surrounded by it and there is so much to be done. She has lots of friends who are avid paddle boarders and kayakers. They would love something like this; so, she thinks that it is a good addition.

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

*Mr. Hartman moved to approve C-21-04 Bay Pointe Apartments (One Building Concept) at 1080 and 1106 Bay Road based on the recommendations by Staff and the work done by the applicant to improve the site and to include the Active Recreation Plan, second by Mrs. Welsh and the motion was carried 6-0 by roll call vote with Mr. Adams, Mr. Roach and Mrs. Malone absent. Mr. Hartman voting yes; for the reasons stated in the motion. Mr. Baldwin voting yes; for the reasons stated in the motion. Mrs. Lord voting yes; for reasons stated in the motion. Mrs. Welsh voting yes for reasons previously stated. Dr. Jones voting yes; for the reasons previously stated. Mrs. Maucher voting yes; for reasons previously stated and she thinks that it's a good use for the site and it's a demographic that needs additional housing.*

S-21-05 Bay Road Office Park Master Plan (Revised) – Public Hearing and Review of a Site Development Master Plan as Revised to permit continued phased construction of Bay Road Office Park to consist of three buildings in three phases. Phase 1 is complete with a 25,120 SF Office Building, parking, stormwater management facility, and other site improvements. Phase 2 proposes a 25,606 SF Office Building with potential 4,800 SF building addition. Phase 3 proposes a 17,374 SF Office Building. The subject properties consist of four (4) parcels: 1.11+/- acres, 1.10+/- acres, 1.2+/- acres, and 4.17+/- acres. The properties are zoned C-4 (Highway Commercial Zone). The properties are located on the southwest side of Bay Road and south of Miller Drive with access from Martin Street. The owner of record is Bay Road One, LLC. Property Addresses: 530, 540, 544, and 550 Bay Road. Tax Parcels: ED-05-077.10-01-45.00-000, ED-05-077.00-01-10.02-000, ED-05-077.00-01-10.01-000, and ED-05-077.00-01-11.00-000. Council District 2. *Waiver Requests: Elimination of Loading Spaces, Reduction of Arterial*

*Street Buffer, and Elimination of Upright Curbing. Previous Application S-17-19 Bay Road Office Park Master was approved by Planning Commission in July 2017, Revised in October 2017, and with Final Plan approval April 4, 2018. Phase 1: Office Building was constructed under S-17-30 with Final Plan approval granted April 4, 2018.*

**Representatives:** Mr. Alex Schmidt, Century Engineering; Ms. Dana Dunphy, Century Engineering

Mrs. Melson-Williams stated that this project involves a series of properties that are addressed as 530, 540, 544 and 550 Bay Road. This is located on the west side of Bay Road. This Master Plan came to them initially back in 2017 and the first phase has actually been constructed which is the area that is not shaded in the depiction that is on the screen. Phase 1 consists of an Office Building of just over 25,000 SF and it included a parking area, the stormwater management facility to serve the area to the west of the existing building, and the access connection to Bay Road that was constructed as a right in/right out configuration and there is also a link to the adjoining Martin Street. With this project, they have actually acquired additional land and that is the land that is bounded by Bay Road, Miller Drive and Martin Street. With that, they are bringing this back to revise the overall Master Plan. What this does is make Phase 2, the northeast corner of the property, it allows the expansion of what would be the Phase 2 Office Building and then the Phase 3 remains in the southeast corner of the property and is also proposed as an Office Building. The property is zoned C-4 (Highway Commercial Zone); so, office uses are certainly allowed in that zone. As mentioned, it's a Master Plan. What a Master Plan does is it allows them to bring the overall concept through the Planning Commission process and then once they are ready to move into a phase of construction, then it requires an Administrative Site Plan review process. That is strictly administrative but we are looking to its compliance with the Master Plan and then also with the Code provisions. With this Master Plan, they have shown us the strategy for parking. They are well above the required parking based on the building sizes that are currently being proposed. They are showing some bicycle parking racks. They have made a Waiver Request to eliminate the requirement for specifically designated loading spaces. Their written request notes that the type of deliveries that are expected for office buildings are not those that would truly need a long term loading space designated onsite. The entrances with the Master Plan continue to be that main entrance drive on Bay Road with a right in and right out. The Phase 2 area will also have a link to Miller Drive and then there continues to be the connection to the overall site from Martin Street. They are proposing sidewalks to be located on the street frontages and to expand the multi-use path that is out along Bay Road. As part of their parking, they have requested the partial elimination of upright curbing. They are thinking that it is going to be necessary in some areas of Phase 2 in order to accommodate stormwater management for that area of property. Staff will continue to look at it. We granted initial approval of that elimination of upright curbing but will also look at it as the project is refined through the Administrative Site Plan process. The other Waiver that they are seeking is a Waiver Request regarding the Arterial Street Buffer. Bay Road requires a 30 foot buffer along the frontage. With the original Master Plan that Arterial Street Buffer was reduced to 20 feet and they are seeking to continue that reduced width of 20 feet with the additional segment of property that now fronts on Bay Road at the intersection of Bay Road and Miller Drive. There is a segment at the northeast corner of the development that would be subject to that reduced buffer width. That Buffer includes the multi-use path and then some additional landscaping that is planned in that area. With the current configuration of the Phase 2 area, part of its rear parking

lot results in parking spaces that will face a residential area. There is a requirement for screening of that area involving at least a hedge and it may also require a fence during implementation while that hedge is growing to height. The Planning Office has provided comments and they are recommending approval of the Waiver Request for the elimination of loading spaces. They have granted approval for the elimination of upright curbing, but they will continue to evaluate that. They are recommending of the reduction of the Arterial Street buffer in that it continues what had already been established and approved previously for the Master Plan. They do note that in their recommendations that the cross access between this property and the adjacent property to the south which is the property known as 600 Bay Road, that the cross access be continued. This property has already built that to their property line and with the activities at 600 Bay Road which is under development currently by a different entity, that entity is moving into the area where that connection ultimately will be made. They do have some notes about pedestrian connectivity and looking to ensure that the Phase 2 area has pedestrian access appropriately. Perhaps adding another connection from the Martin Street frontage could be explored in that way. There is some sidewalk on Martin Street that also should be evaluated for its condition and whether improvements are necessary there. The remaining parts of the Development Advisory Committee Report include comments from all of our regulatory agencies providing comments on plan submitted as well as advisory comments as the project would move forward. Again, this is a Site Development Master Plan, so you are looking at the overall concept for development which is basically a phased construction of three office buildings. They do note that future development is subject to an Administrative Site Plan review process.

Ms. Dunphy wanted to thank the Commission for having them on the agenda and to let them know that they are looking forward to being a growing part of Dover. They look forward to working with the Planning Staff to address the comments from the DAC meeting.

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

*Mrs. Welsh moved to approve S-21-05 Bay Road Office Park Master Plan (Revised) to permit construction of the office park and Revised plans of construction in three phases inclusive of the Waiver Requests for the elimination of loading spaces, reduction of the Arterial Street Buffer, and the elimination of the upright curbing, seconded by Mrs. Lord and the motion was carried 6-0 by roll call vote with Mr. Adams, Mr. Roach and Mrs. Malone absent. Mrs. Welsh voting yes; she thinks that this is a good revision to the plan and it will certainly make that space much more appealing. She looks forward to seeing a lot of work going on there. Dr. Jones voting yes; she feels that the applicant has addressed some of the questions and concerns that were previously raised. Mr. Hartman voting yes; based on the applicant's submittal, the findings of the DAC, and the recommendations of Planning Staff. Mr. Baldwin voting yes; for reasons previously stated. Mrs. Lord voting yes; for reasons previously stated. Mrs. Maucher voting yes; for reasons previously stated.*

MI-21-03 Comprehensive Rezoning 2021 Project: Comprehensive Zoning Map Amendments - Public Hearing and Review for Recommendation to City Council of Amendment the Zoning Ordinance and Zoning Map of the City of Dover by Changing the Zoning Designations to Conform with the 2019 Comprehensive Plan, as amended. These recommendations of parcels for Rezoning have been identified as part of the Comprehensive Rezoning 2021 Project and will be

presented in map and listing formats. Ordinance #2021-09. *Public Hearing before City Council is set for June 7, 2021 with Final Reading and Final Action by City Council on June 14, 2021.*

Mrs. Melson-Williams stated that this is the Comprehensive Rezoning Project for 2021 and there are some associated Comprehensive Plan Amendments. (Staff utilized a PowerPoint presentation on the project.)

Mr. Hugg stated that you all may remember as part of *Comprehensive Plan* project and as part of the *Comprehensive Plan* itself, it is not just the document. The Plan is a living document and it needs to be implemented, followed, updated and revised as we move forward. One of the State statutory requirements is that within a select period of time after the Plan is adopted you must go through and bring your Comprehensive Zoning Map and your Land Development Plan Map into compliance eliminating inconsistencies. That is what Staff has been working on since a year or so ago now. The *Comprehensive Plan* was recommended by the Planning Commission in 2019 and went to City Council in 2020 and was ultimately adopted there; it was certified by the Governor on January 13, 2020. Chapter 15, which is the Implementation Plan, has a number of recommendations and projects. As part of it, has some things that are Ongoing as part of the ongoing maintenance of the Plan. It has a number of Immediate Actions that must be done pretty quickly and two of them are Comprehensive Rezoning and the changes to the *Comprehensive Plan* to correct any inconsistencies with the Land Development Plan. Then, there is a list of Short Term, Intermediate and Long Term Implementation tasks with a time period of roughly five years in a number of areas. It includes studies, looking at regulations and various marketing plans. For example, a development plan for Downtown and development of a Capital Complex Plan. These are a couple of examples of Short-Term Implementation projects. This effort is one of those critical things that had to be done immediately and it is the Comprehensive Zoning 2021 Project. As with the *Comprehensive Plan*, this has been done in-house by your Planning Staff and he gives them a great deal of credit for the dedication, their expertise and their knowledge and the occasional banging of their heads against the wall as we move forward. This has been a major task on top of everything else that is going on. This is an in-house project and we are very proud of it. The extensive use of the GIS technology and various mapping techniques to overlay land use and zoning and to look at individual parcels and aerial photos to make the determinations of what the appropriate land use and zoning classification should be were done. A significant portion of the application was education on planning and land use. That included putting documents out on the website including public outreach workshops. It was an ongoing process to make sure that people involved understood what they were doing and why it needed to be done, and what the changes meant for their particular properties and for the community in general. Then it needs to be implemented and adopted. It is here tonight to get Planning Commission approval and goes back to City Council in early June 2021.

Mrs. Melson-Williams stated for those that participated in either reading some of our information or watching our Virtual Sessions that were posted online, some of this will sound familiar. This is really a major data analysis project. It caused us to compare the Land Development Plan Map, which is a component of the *Comprehensive Plan* that gives Land Use Categories, with the City's Zoning Map which is the zoning for the properties which tell us which section of our rules to read. As Mr. Hugg mentioned, we utilized Geographic Information System technology. It is a computer program that does what years ago, you had to do by layering pieces of tracing paper on top of each other. We now let the computer brain do some of the work for us, but you have to put

good data in in order to make those comparisons. So, it still involved an analysis that Planning Staff had to look at and look at what the reporting out was telling us; and even ground truthing a number of the properties when you get down into the details of parcel by parcel analysis.

As mentioned, it is really a comparison of two maps: Map 12-1 which is the Land Development Plan Map which gives us a broad Land-Use Category and then the City's Zoning Map that shows the zoning districts for all properties located within the City. The Land Development Plan Map most recently is revised as of March 8, 2021. There were some Amendments to this Map that were successful; so this was the map that they had to utilize. As you can see, it is very colorful. Each of the broad Land-Use Categories is given a designated color. For example, Commercial High Intensity Areas are the bright vibrant red. They find those the clearest along the Route 13 Corridor and then extending down in the Bay Road area. There are also some pockets out on Route 8. The residential components are basically different shades of yellow: a light yellow, a medium yellow, and then an orange with various degrees of intensity. In the Downtown area, it is mostly a kind of light purplish lavender color which stands for Mixed Use area. All of those equate to certain Land-Use Categories. The next Map is the City's official Zoning Map. You can actually view this map online through our "Dover Parcel and Zoning Viewer" that is part of the City's website. Here is just an example of a glimpse of the City's Zoning Map. The subject property that is highlighted on the screen is the location of City Hall and the Library in Downtown Dover. This map has a couple of different things that are depicted like the zoning categories. That is the letter terms that are shown like IO (Institutional and Office Zone), C-2 (Central Commercial Zone), and there are also some overlays that exist here in the City. The orange color shown in the Downtown area here is the City's Historic District. Then there is also shading for things related to our Source Water Protection Overlay Zone and when you are in the eastern part of the City, also the Airport Environs Overlay Zone. They had to compare these two maps and the link between the two is something called Table 12-1 which is part of the *Comprehensive Plan*. This is a brief excerpt from that Table, and this is where the compatibility analysis had to happen where they looked at the Land-Use category. For example, Residential Low Density Areas are light yellow. They needed to ensure that those properties with that Land Use category fell into one the zoning districts that is listed on the right. For Residential Low Density, the appropriate zoning districts are R-20 (One Family Residence), R-15 (One Family Residence), R-10 (One Family Residence), R-8 (One Family Residence), R-7 (One Family Residence) and C-1 (Neighborhood Commercial). For Commercial Low Intensity, there is a comparable series of zoning districts that are appropriate. Then even for areas that are designated as Open Space, there are a couple of options for zoning of those areas. The next page shows all of the colors and their matching zoning districts. This information was provided in the information that went out to people as it is part of our *Comprehensive Plan* and it's the key to doing the comparison that had to be done. As a result of that initial comparison and the other ground truthing by Staff that was done, they identified a total of 165 parcels for Rezoning. There are just about 65 unique property owners that are involved. With those properties, some property owners own multiple parcels in the same vicinity that make the list. What they are really seeing is a series of different types of rezoning situations. Most of them are a situation where properties are proposed for Rezoning, meaning changing the zoning of the property to the ROS (Recreation and Open Space Zone). That is meant to match the Land Use of the property which is the open space, conservation area or recreation area. The reason why they are seeing these types of properties is as our residential subdivisions finish development, it is a policy of our office to transition the designated open space areas. Where that stormwater pond may be on the active

recreation area for that neighborhood we move them from what would be a residential zoning classification into the ROS (Recreation and Open Space Zone). That gives it greater protection and clearly identifies what the use of that particular area is. It is less likely to mistakenly get developed with an additional housing unit and it really reflects what truly that land should be used for. A number of ROS locations may include stormwater management areas or they may be areas that are significantly impacted by the flood plain which the City limits development in. A number of those things make up the bulk of where they are proposing for rezoning. They see these areas in neighborhoods that have either finished construction or are almost finished construction: places like Emerald Pointe, Clearview Meadow, the Village of Cannon Mill, the Village of Westover, and a number of places like that. Some of the other Rezoning situations involve where the zoning and the Land Use are just incompatible. There may be something that is already operating on that property and it doesn't quite fit the zoning classification that it has now and there is a better fit for it. In other instances, we have some properties where the property itself may have more than one zoning classification so they are looking to kind of make some of those corrections as well.

Mr. Swierczek stated that this is an extension of the overall *2019 Comprehensive Plan* project. They started with the *Comprehensive Plan* in 2019 and when we were initially going through that process, every step of that project had to have public engagement to get public feedback. Obviously 2020 put a little bit of a challenge on us as to how they could maintain the same level of public engagement, but they were not going to cut corners. They had several different methods in which they were engaging with the public. Back in February and March 2021, they did set up a display at City Hall outside. We were still closed to the public at the time, but we did send out notifications to public, especially to the property owners that there was going to be a display at City Hall in which they could certainly come and look at the information. The website was also utilized. They were using the website through the Comprehensive Plan process and continued to post updates through that entire process. Then going into the stage right now with the Comprehensive Rezoning Project, they did create a HUB site which is an interactive website where you could get much more detailed information about specific properties. That was a project that Mrs. Bulkilvish had. Once they had identified the properties that they were going to be looking at or that they thought warranted a closer look at a possible Rezoning, they did have to mail out that information. Those mailings went out in February 2021. They involved Virtual Meetings because they couldn't have in-person meetings like they held for the initial Comprehensive Plan Project when they hosted workshops at the Library. So instead, they had specific Virtual Meetings through WebEx. The recorded sessions were posted online so that if anyone were to miss those meetings, they could view those later. They sought to provide their contact information to as many people as possible for phone, letter or email. They did provide a summary of owner inquiries on the Rezoning Project. Once they had sent out mailings and posted the information in that vestibule area of City Hall, they did receive twelve specific contacts regarding twenty-three properties. Some of those people may be here with us tonight.

Mrs. Melson-Williams stated that now they are really in the part of the process that is the formal review and public hearings on the Project. She wants to at least talk a little bit about the formal notice that was given. With a Comprehensive Rezoning, the City's *Zoning Ordinance* outlines how notice is required to be given for a Comprehensive Zoning Amendment which is what this Rezoning Project is. It requires written notification to the involved property owner and then it involves legal notice published in two local newspapers. They mailed very specific notice letter

and information packet to the affected property owners. It identified each of their affected properties by an ID number. Those people that may wish to speak tonight will try to focus on that ID number because that keys you to the Map and their specific information. They were provided the Maps as well as what the current zoning property is and what the proposed zoning of the property was recommended for by Staff. The publication in local newspapers was published in all three local newspapers that people may utilize in this area: the Dover Post, The News Journal, and the Delaware State News. With that notice, they move into the formal review process and that involves public hearings both with the Planning Commission and then ultimately with City Council. Tonight, is the Planning Commission public hearing and we will move into that shortly. The Planning Commission will make recommendations on the Rezoning that are proposed. The information will be gathered with the wealth of information on this project and forwarded to City Council. City Council will conduct a public hearing on June 7, 2021. At the present time that is scheduled to be a virtual meeting and Planning Staff will help them orchestrate that meeting and hearing. Then City Council will take final action on the proposed Rezoning at their regular meeting on June 14, 2021. In order to deal with the Rezoning, they have to adopt an ordinance and the Ordinance # is 2021-09. It will make reference to the collective maps and lists of the Rezoning that are proposed. As noted, the Rezoning are city-wide and the green highlighted areas on the map are the properties involved. This Map was shared with our affected property owners. Each one is identified by a number and that is shown on the Map. Sometime the numbers get piled on top of each other in some areas so what they decided to do was break the map up into a series of what they call "Inset Maps." They have Inset Maps A-E; and they give a closer view of quadrants of the City and the identified properties for Rezoning. Accompanying this Map is the Chart that identifies the ID Number for each parcel involved. It gets which Inset Map it is best shown on since some of them do end up on more than one Inset Map. It gives the property owner's name, the parcel ID, the location address, the current zoning of the property, and then Staff's recommended zoning. After this evening's meeting, Staff will fill in the Planning Commission Recommendation column. They are trying to keep the 165 projects identified easily. The Planning Commission members had a binder of the project in their packets. The Comprehensive Zoning Map Amendments are in the yellow section. There is kind of the summary of the Newsletter that we provided to the applicants. There is a full chronology of the events that transpired leading us to this point. There is a copy of the Ordinance and a copy of what they call the Zoning District Type List which is kind of a quick listing of the uses that are allowed in any particular zone. Then there is the series of maps that they just moved through as well as the full table listing of proposed property locations. They did use their Development Advisory Committee. They did take a look at this package and have provided comments which are basically no objections. They will of course be happy to be involved in any kind of future development should something happen on one of these properties. The last thing that was in the packet for the Planning Commissioners was what they call that Summary of Owner Inquiries that Mr. Swierczek mentioned. Those property ID's where they had, as Planning Staff, direct contact with the property owner either by phone, email or virtual meeting to help them understand the process; they have identified what those properties are.

Mr. Hartman stated that he understands the reasoning for most of the Rezoning, but there was one that fell out what you were explaining to us and that is Item ID #128. Could you give him an idea for the reasoning for Item ID# 128 Rezoning? Responding to Mr. Hartman, Mrs. Melson-Williams stated Item ID# 128 is a property owned by Mr. William Torbert. As of this afternoon

they did receive a letter from Mr. Torbert and she will introduce that as part of the public hearing process. This property is currently zoned C-4 (Highway Commercial Zone) and Staff proposed its rezoning to ROS (Recreation and Open Space Zone). The property is directly adjacent to the St. Jones River and is impacted by the 100-year flood plain. They felt that because of that situation, it is better protected with an ROS (Recreation and Open Space Zone) designation recognizing that Flood Plain area should be left as a natural form in an open space scenario. Our Code actually limits development within the 100-year flood plain so even if it were to remain as C-4 (Highway Commercial Zone), development of that area would be limited so that is why Staff was making the recommendation to take it to ROS (Recreation and Open Space Zone).

Mr. Hartman questioned if there were any other properties like that that went from commercial to ROS (Recreation and Open Space Zone)? Responding to Mr. Hartman, Mrs. Melson-Williams stated that a lot of the ROS (Recreation and Open Space Zone) properties are within residential developments and some of that may be because of flood plain impacts. There are a few that may have been IO (Institutional and Office Zone) that are going to ROS (Recreation and Open Space Zone). Some of that is City-owned properties which is probably why it was IO (Institutional and Office Zone) to begin with; so, it may have been more of a park like setting than true commercial development.

Mrs. Melson-Williams stated that with the public hearing this evening, we will give individuals the opportunity to speak in regards to their particular property of interest. When she calls on people to speak, please identify the property by the ID #. That will be a number somewhere between 1 and 165 so that we can identify and kind of show what property is being discussed. They are not going to go to call out one property at a time; they are just going to move through the attendees that they have this evening. Ultimately, when they get to the time of a motion, they will probably deal with the specific numbered items that have been called out in particular for action. Then the Planning Commission can adopt the balance by referencing the table general.

*Mrs. Maucher opened the public hearing.*

**Mr. Collin Faulkner – Director of Public Safety for Kent County**

Mr. Faulkner stated that he is speaking in regards to property #130 which is 911 Public Safety Boulevard. The Kent County Levy Court has no objections to the Rezoning to IO (Institutional and Office Zone) and it certainly complies with the current use.

Mrs. Melson-Williams stated that is Item #130 and it is visible on Map E. The property is currently zoned R-10 (One Family Residence Zone). The proposed zoning is IO (Institutional and Office Zone). Mr. Faulkner notes the support of the property owner; in this case, the Kent County Levy Court, of the Rezoning from R-10 (One Family Residence Zone) to IO (Institutional and Office Zone).

**Mr. Isaac Morris – Most Worshipful Prince Hall Grand Lodge – 1412 College Road Dover, DE 19904**

Mr. Morris stated that he is speaking in regards to Item #25. The property is zoned R-8 (One Family Residence Zone) and you are proposing it as ROS (Recreation and Open Space Zone). He is assuming that this is the property where they currently have a pavilion built on. Responding to Mr. Morris, Mrs. Melson-Williams stated yes, this is Item #25 which is on



College Road. It is currently zoned R-8 (One Family Residence Zone) and it is shown on Map C. It is a little property right at the top of the map. The property owner owns a series of lots there, some of which are zoned IO (Institutional and Office Zone) where the facility is located. They also own a tract of land that is basically wooded and she believes that it does have a pavilion on it that would be zoned ROS (Recreation and Open Space Zone). It is a land locked parcel of land so she believes that is the reasoning Staff gave to take it to ROS (Recreation and Open Space Zone).

Mr. Morris stated that they have no objection to the Rezoning.

**Deacon James Ebert – Liberty Church 1150 W State College Road Dover, DE 19904**

Deacon Ebert stated that he is speaking in regards to Items #29 and 30. They are copying the information that it has to become compliant to the current reconfiguration of the existing Comprehensive Zoning. He can say right now that over a period of time, 90% of what we have talked about at the church and in Planning is how been how to comply with the zoning as far as drainage is concerned and parking. Two items that do cause them to consider the possibility of rezoning the existing property. They work with the idea that they will become compliant with the good offices that you already offer.

Mrs. Melson-Williams stated that this is a couple of properties on College Road and McKee Road and the church is located on part of one of the properties, ~~so it is on that old section of McKee Road that is kind of a dead end~~ (location incorrectly described by Staff.)

Deacon Ebert stated that it is actually about 15 acres that were combined by a purchase and McKee Run skirts behind the existing Presbyterian Church and is actually a pathway for water flows. The College Road is the larger property being around 10 acres and it is mostly wooded. Mostly all of the construction, paving and building are toward the front of the property. In that, they have a combination that peaks out around fifteen acres and primarily impacts zoning as it is to be.

Mrs. Melson-Williams stated that this is a rezoning from R-10 (One Family Residence Zone) to IO (Institutional and Office Zone) and places of worship area a permitted use in that zone.

Deacon Ebert stated that they are legally incorporated as a church and that is one of the considerations that they wanted to maintain. The Pastor has a list of opportunities that she uses to work with the existing areas around the church as ministries but they are in fact a church. The Pastor has joined the meeting if there are any questions. She is current as far as where they are going because of the necessary zoning change to IO (Institutional and Office Zone).

**Ms. Deborah Brinkley – Liberty Church 1150 W State College Road Dover, DE 19904**

Ms. Brinkley stated that she is the Pastor at Liberty Church. She has recently become a Pastor and she would really like to know the reasoning for rezoning the properties. Responding to Ms. Brinkley, Mrs. Melson-Williams stated that Staff is recommending a change in zoning from R-10 (One Family Residence Zone) which is a residential zone that allows for church use through a Conditional Use process to an IO (Institutional and Office Zone). They typically use that IO

(Institutional and Office Zone) when it is more of a complex or when it is on a much larger tract of land, which they think is the situation here for Liberty Church with Items #29 and 30. That is Staff's reasoning for why they are recommending rezoning to IO (Institutional and Office Zone).

Ms. Brinkley stated that she knows eventually as they grow and things begin to change; our entrance ways, they are now using that one entrance way to enter and exit. They are right across from the new development of apartments. She didn't know if eventually they would have to somehow address that congestion there. Responding to Ms. Brinkley, Mrs. Melson-Williams stated that if you were to develop your property further, the entrance design would be something that would be evaluated at that point in time based on the access to that particular road. Certain roads in the City are actually State maintained roads so DelDOT has the true say about how that entrance could be designed or if it needed improvement based on what your activities were.

Deacon Ebert stated that if they did rezone that and establish another ingress into the property, it would make the whole process of entering and existing safer and streamline. They noticed that down the street, they have seen some good work done with the Presbyterian Church getting granted access to College Road. It's made a nice even flow and a safe ingress onto the church property. So they are looking at talking with your group to get your professional opinion as to the advantages or disadvantages of doing that kind of thing. If they do move and put in a road that is on the front part of the property, it means that they are going to have to reconsider sewer and water and everything underground. In front of the building is going to have to be considered before they could make such a move. He would like to have access to the Planning Staff to take real-time advice as to how to develop Items #29 and 30 because they are going to have to do quite a little bit to re-engineer where their point/no-point is located. That has already been discussed and they found at that time, which was years ago, that it was going to be an issue. At the same time, they realized that there was like two different jurisdictions controlling the run-off. He wants to make sure that they are lining up right as they should on the first go-around. One of the big reasons for the IO (Institutional and Office Zone) is that they do have to relocate the point/no-point and do quite a bit of work on pavement to make sure that we have the best access and usability of the current church building.

Mrs. Melson-Williams stated that he could reach out to Planning Staff during normal working hours at 302-736-7196. They will put him in contact with Planning Staff. They would be happy to talk over the phone or discuss any meeting opportunities that they would have.

**Mr. Darryl Harris - unknown**

Mr. Harris stated that he just wanted to hear what the Rezoning was about. He has gotten a better understanding of it now. He would just talk to Planning Staff to see what they can and can't do.

**Mr. Ronald Harmon – 1427 New Burton Road Dover DE 19904**

Mr. Harmon stated that he has been a resident of Dover since 1964. The City didn't choose him but he chose the City. He and his wife own a piece of property on New Burton Road and a total of three properties in the City of Dover. Some of you may remember the Peppermill Pantry which was a little store located on New Burton Road that his wife ran for about 15 or 16 years. About 22 years ago they had part of those 4.65 acres that they owned rezoned to C-3 (Service Commercial Zone) and they built a self-storage facility on that property. The Map that you are

looking at down at the bottom shows Item #161. What the Map doesn't show you is that that property also joins our current C-3 (Service Commercial Zone) zoned property which is the mini-storage and it has about 185 foot of common property line in the back. That property was originally part of the old Delaware State News property. Of course, it went through many owners and he ended up buying it from the bank. The reason that they never tried to rezone the property or combine the current storage property with this is because they had no idea at the time exactly what they were going to do with it but it had the proper zoning for our mini-storage. Over the years that he had owned that property, he had stored some motor homes and trailer there for people because his storage inside the mini-storage area is limited for certain size vehicles. When people were in dire need of storage, he would offer them that area at a nominal fee and most of the time they would take it. He was born in January 1941 so it is pretty easy to figure out how old he is. About six or eight months ago, he and his wife decided that they would sell their business and their house but keeping this property on Webbs Lane. The contracts that he has on the property also include an option for the purchasers to buy Webbs Lane if and when they decide to sell it within the next five years. If they don't decide to sell it in five years, they have the option to buy it. So, they don't want to lose the C-3 (Service Commercial Zone) on that property because it already adjoins 3.3 acres that is already zoned C-3 (Service Commercial Zone) which they own. To take this zoning away from them, would hurt them financially because he is not sure that the current contracts that he has with people are done. He also believes that those people have contacted the Planning Office and their plan is to expand the mini-storage onto that property. If you need a storage unit today between Greenwood and Smyrna, you are probably not going to find one. If you change the zoning on this property it is certainly going to hurt them and it is going to hurt the future buyers. They are on the south end of the City and that property has been zoned C-3 (Service Commercial Zone) forever because the State News had it zoned that way. They don't want it rezoned. The Map doesn't show that the property already adjoins 3.3 acres that is already zoned C-3 (Service Commercial Zone).

Mrs. Melson-Williams stated that since Mr. Harmon is concerned about what Staff has proposed for rezoning, do any of the Planning Commissioners have any questions for Mr. Harmon? This is ID #161 and it is proposed for rezoning from C-3 (Service Commercial Zone) to C-1A (Limited Commercial Zone).

Mr. Hartman stated that Mr. Harmon makes a good argument since the property is adjoining a property that he owns that is zoned C-3 (Service Commercial Zone). He makes a very good argument that the property should remain C-3 (Service Commercial Zone).

Mrs. Melson-Williams stated that this Item will be one of the ones that they will pull out and set aside for individual action because of the Request that has been made. Responding to Mrs. Melson-Williams, Mr. Harmon stated that he appreciated it. He is currently in Dover right now and he has some company in from West Virginia. They are trying to get back down to their new home that they just built that is unfortunately not in the City of Dover anymore. They did move south to a place called Townsend Fields that is located behind Piazza Mia on the east side off of Irish Hill Road. Anything that Planning Staff can do to help him out, he would really appreciate it.

**Mr. Tolano Anderson – 50 Dove Creek Ln Dover, DE 19901**

Mr. Anderson stated that he is speaking in regards to Items # 88 and 89. When he received the packet he was looking at how thick it was and was thinking change. He doesn't like change but immediately what came to mind was the Planning Department. He has dealt with all Staff quite extensively for eighteen years but with his two properties that are listed for a zoning change (as well as the other two dozen that he owns in the City of Dover), he has a surprisingly comfortable feeling about the whole Rezoning Plan. This project is quite an undertaking but just knowing the attention to details and the integrity, professionalism and the character of the people in the Planning Department. He looked over it and folded it up and said when he gets a chance to make some comments he is just going to say thank you for all that they do and for their professionalism. He is absolutely comfortable with the decisions that have been made so far even concerning the gentleman just before him. Taking consideration for those that have special circumstances but quite frankly he doesn't have any issues with the Rezoning Plan.

Mrs. Melson-Williams stated that Items #88 and 89 are located on North DuPont Highway at 580 North DuPont Highway and 598 North DuPont Highway. The current zoning of both the properties is C-1A (Limited Commercial Zone) and subject to the SWPOZ (Source Water Protection Overlay Zone). The Staff recommendation is to take it to C-2A (Limited Central Commercial Zone) and also remaining subject to the SWPOZ (Source Water Protection Overlay Zone). It still remains as a type commercial zoning but probably a little bit more intense which reflects the address location on DuPont Highway. They are somewhat of a smaller tract of land so she thinks that was a reason to go to the C-2A (Limited Central Commercial Zone) rather than a full highway commercial scenario at those locations.

Mrs. Melson Williams stated that they did receive one item of correspondence and that is regarding property ID #128. This is a letter from Mr. William Torbert who is the property owner at 688 South DuPont Highway. His letter references that the property there as been C-4 (Highway Commercial Zone) for a long time. He has paid taxes on the property for a long time and zoning the property would decrease the value of the property. If it was rezoned it would prevent the property owner from expanding his storage unit business which is actually located on a parcel kind of to the north of ID #128. He notes that another possibility would be a fenced in parking lot of vehicle storage which this rezoning would also prevent him from doing. This property is currently C-4 (Highway Commercial Zone) and it was proposed to go to ROS (Recreation and Open Space Zone). It is the one that Mr. Hartman asked about at the beginning of the Hearing. She suggests that this is probably one that you want to deal with specifically as the property owner has concerns about what is proposed. Mr. Torbert is a person that Planning Staff did speak with and he had hoped to join us this evening, but it does not appear that he has been able to do so.

Mrs. Melson-Williams stated that if your reference the Summary Table of Inquiries, there were a number of phone calls and there was some email as they set up a meeting with one individual for providing additional information.

*Mrs. Maucher closed the public hearing.*

Mr. Hartman stated that he lives very close to Item #128 and it is a very low property and he can understand the flood plain concern. If it were to remain C-4 (Highway Commercial Zone), would

he be able to construct on that property at all? Responding to Mr. Hartman, Mrs. Melson-Williams stated that it is likely limited in what could be constructed there, but a very specific determination and a closer look at that would be required should they pursue any kind of development on that property. There is some existing gravel that exists in that area. She is not sure how much of it is on the property ID #128 but that is certainly something that would be looked at with any application, be it Permit or Plan, to develop that parcel of land.

Mr. Hartman stated that if it were to remain C-4 (Highway Commercial Zone) the protections would still be in place for the flood plain and the restrictions would be in place and anything that is proposed if it were to remain C-4 (Highway Commercial Zone). Responding to Mr. Hartman, Mrs. Melson-Williams stated that is correct. The Flood Plain Provisions are another section of the *Zoning Ordinance* that would come into play with any kind of development for this property or any other property that is located within the flood plain that is depicted on the effective Flood Insurance Rate Maps at the time.

Mr. Hartman stated that he wished Mr. Torbert was online so that he could present his case.

Mrs. Melson-Williams stated that the Commissioners can make one motion regarding the Table as recommended by Staff with the exception of the two properties, ID #128 and 161. You can deal with those two as a separation motion since those are the two that have been called out where the property owner is not supportive of the Staff recommendation.

*Dr. Jones moved to recommend approval to City Council for MI-21-03 Comprehensive Rezoning 2021 Project: Comprehensive Zoning Map Amendments as it relates to the proposed Zoning Map Amendments exclusive of ID #128 and 161, seconded by Mrs. Welsh and the motion was carried 6-0 by roll call vote with Mr. Roach, Mr. Adams and Mrs. Malone absent. Dr. Jones voting yes; sounds like an outstanding job and a lot of work with this Project. Mr. Hartman voting yes; based on the hard work of the Planning Staff and the public comments. Mr. Baldwin voting yes; sounds like a good plan. Mrs. Lord voting yes; for reasons previously stated. Mrs. Welsh voting yes; she echoes the comments as to the tremendous amount of work that Staff has put into accomplishing this and she thinks that it is a good move for the City to expand and be in compliance with the growth of the City and where we are going as far as the Greater Dover. Mrs. Maucher voting yes; based on the several members of the public who have voiced their support and the lack of objection of the property owners that were notified of the changes and she wants to thank Staff for all of this work. Having done GIS and to compare maps, she knows how tedious it can be.*

*Mr. Hartman moved to recommend rejection of Staff's recommendation to City Council for MI-21-03 Comprehensive Rezoning 2021 Project: Comprehensive Zoning Map Amendments ID #128 and allow the property to remain as it is currently zoned based on the comments from Mr. Torbert and the controls that would still be in place if it were to remain as C-4(Highway Commercial Zone), seconded by Mrs. Welsh and the motion was carried 6-0 by roll call vote with Mr. Roach, Mr. Adams and Mrs. Malone absent. Mr. Hartman voting yes; based on what he said in the motion. Mr. Baldwin voting yes. Mrs. Lord voting yes; for reasons previously stated. Mrs. Welsh voting yes; based on the comments from the owner. She feels that they made several good points about their issues with the Rezoning. Dr. Jones voting yes; for reasons previously*

*stated. Mrs. Maucher voting yes; based on the observation that should the property owner wish to further develop, there would be another review at that time.*

*Mr. Hartman moved to recommend rejection of Staff's recommendation to City Council for MI-21-03 Comprehensive Rezoning 2021 Project: Comprehensive Zoning Map Amendments ID #161 and allow the property to maintain a zoning classification of C-3 (Service Commercial Zone) based on the comments from Mr. Harmon and the fact that it is sited next to his business that is always been zoned C-3 (Service Commercial Zone), seconded by Mr. Baldwin and the motion was carried 6-0 by roll call vote with Mr. Roach, Mr. Adams and Mrs. Malone absent. Mr. Hartman voting yes; based on what was stated in the motion. Mr. Baldwin voting yes; it makes sense since the adjoining property is zoned C-3 (Service Commercial Zone) so why not leave this property C-3 (Service Commercial Zone). Mrs. Lord voting yes; for reasons previously stated. Mrs. Welsh voting yes; due to the fact that there are adjoining properties and she believes that the applicant mentioned several properties that are C-3 (Service Commercial Zone) that are adjacent to the property. Dr. Jones voting yes; for the reasons stated. Mrs. Maucher voting yes; for the reasons provided in the motion.*

MI-21-04 Comprehensive Plan Amendments 2021 Set #2 – Public Hearing and Review for Recommendation to City Council of a series of Amendments to the 2019 Comprehensive Plan include consideration of the following:

- A. Consideration of a series of plan text changes to Table 12-1: Land Use and Zoning Matrix of the 2019 Comprehensive Plan (as amended). The changes to the Land Use and Zoning Matrix will add several zoning districts to certain Land Use Categories. Ordinance #2021-10.
- B. Consideration of a series of Amendments to Map 12-1: Land Development Plan Map of the 2019 Comprehensive Plan (as amended). The Recommendations for the Land Use Classifications to be revised is for a series of parcels citywide as discovered during the parcel-by-parcel analysis and/or Comprehensive Rezoning Project process and are as listed in the Summary Chart of Land Use Classifications. Ordinance #2021-11.

*Public Hearing before City Council is set for June 7, 2021 with Final Reading and Final Action by City Council on June 14, 2021.*

Mrs. Melson-Williams stated that this is a companion piece known as the Comprehensive Plan Amendments 2021 Set #2. This is Set #2 because they had their annual public request earlier in the year. These are ones that are components of the Comprehensive Rezoning Project, but these are amendments to the Comprehensive Plan itself. There are two of them. One of them is specific to the Plan text, meaning an amendment to the Comprehensive Plan itself and that's revisions to our Land Use and Zoning Matrix and then the second one is a Map change and it's amendments to the Land Development Plan Map. Because it was a Comprehensive Plan Amendment, these were submitted to PLUS back in March 2021 and that is the Preliminary Land Use Services review process with the State. As part of your packet you will see the PLUS Review comments. No real comments or objection from the State Agencies. Some of them did note what some of the activities are and that they were encouraged by what Staff was recommending in their regard. It is certainly something that goes along with our Comprehensive Plan and our task to make sure things are working as well as to be expected. This also has this formal review and public hearing process to it which is what we are conducting tonight.

Amendment Item A is a series of plan texts changes to Table 12-1 and this is covered by

adopting what would be Ordinance #2021-10. The second item is known as Item B and is a series of amendments to Map 12-1 and it has an ordinance specific to it and that is Ordinance #2021-11. In your packet is the Land Development Plan Matrix, also referred to as the Land Use and Zoning Matrix. What is highlighted in red are a series of text changes to add several different zoning districts to a number of land use categories. In this case, they found that a number of properties in doing that comparison with the zoning would be better suited if they made a change to our Table rather than trying to rezone the properties. The proposed changes would be in the Land Use Category of Residential Medium Density to add the zoning classification R-10 (One Family Residence Zone), just a slightly larger sized parcel of land. This Land Use Category already includes a number of residential zoning districts. The next change would be to the Land Use Category of Commercial Low Intensity and in this case, looking to add C-3 (Service Commercial Zone) and SC-1 (Shopping Center Commercial Zone). Both of which can be low intensity depending on the activity that is happening there. The other change is to the Open Space Land Use Category; and this is more of a notation that identifies that open space uses may actually exist in other zones. It doesn't necessarily have to be in the ROS (Recreational and Open Space Zone) or the RC (Recreational and Commercial Zone) to have some land use compatibility between the zoning and the Land Use Category of Open Space.

The next component is dealing with Map 12-1: Land Development Plan Map. They have a series of twenty areas that are proposed to make a change to their Land Use Category as it's depicted on the Map. They have first presented it as an overall map. Again, these are numbered and then for a closer view, they have a series of Inset Maps A-D that depict where they are a little closer so that you can see them. To accompany the Map, they have a Table that actually identifies them by an ID Number and then an address location: either a specific address or a general area description. It then presents the current Land Use Classification, the current Zoning of the property, and then the proposed Land Use Classification which is the Recommendation that Planning Staff is making tonight. Because these are amendments to the *Comprehensive Plan*, there is not a requirement that specific property owner notification occur. In this case, public notice is given through a legal advertisement and they did that in conjunction with the Comprehensive Rezoning. So there was legal notice published in three newspapers and information about these Comprehensive Plan Text Amendments, as kind of a companion piece, was clearly identified in their correspondence related to the Comprehensive Rezoning Project as a companion piece or an alternative to rezoning. They see a number of individual properties and a lot of cases it is where ground truthing of a property has clearly identified what the use is. A lot of times it is that real small level of parcel-by-parcel detail that has turned this up. In some cases, it is where it may have had a Land Use Category Residential Medium Density but what's really happening there is Residential Low Density scenario; so, that's where some of the changes are proposed. There are twenty areas that are City-wide. Almost all of them are related to residential properties for the most part where they are making that Land Use Category fix.

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

*Mrs. Welsh moved to recommend approval to City Council for MI-21-04 Comprehensive Plan Amendments 2021 Set #2 to include the Amendments to the text changes to Table 12-1 and the Amendments to Map 12-1 as well, seconded by Mr. Hartman and the motion was carried 6-0 by roll call vote with Mr. Roach, Mr. Adams and Mrs. Malone absent. Mrs. Welsh voting yes; this is*

*a tremendous amount of work done by the DAC and it speaks volumes that with all of this information, there is no one to speak against any of the issues. Mr. Hartman voting yes; based on what the PLUS Letter says and the package that they were presented with. Mr. Baldwin voting yes; for reasons previously stated. Mrs. Lord voting yes; for reasons previously stated. Dr. Jones voting yes; a job well done. Mrs. Maucher voting yes; based on review of the PLUS comments.*

**NEW BUSINESS** - None

**Meeting adjourned at 9:44 PM.**

**Sincerely,**

**Kristen Mullaney  
Secretary**