STAFF RECOMMENDATION REPORT  
April 18, 2019  

APPLICATION:  
A-19-12  

APPLICANT:  
Davis, Bowen & Friedel, Inc.  
1 Park Avenue  
Milford, DE 19963  

OWNER:  
Lakeland Commerical Group  
1207 Delaware Avenue  
Wilmington, DE 19806  

PROPERTY LOCATION:  
1685 South Street Extended  
Dover, DE 19901  

NATURE OF REQUEST:  

A-19-12 Davis, Bowen, & Friedel, Inc. (Owner: Lakeland Commercial Group) seeks variances from the requirements that each off-street parking area shall contain interior planting islands for each 10 spaces or fraction thereof and from the planting strips of at least 6’ wide separating double parking rows to enable the submittal of a Conditional Use with Site Plan (§205-224.B.(1)(a) & (2)(a) of the Kent County Code). The property is located on the east side of South State St. (DE Rt. 27) and the south side of Lakeland Ave. adjacent to Pugh Ave., south of Dover. Levy Court District: 2nd. Zoning District: BN. Tax Map No. ED-00-086.00-01-19.01-000.  

The applicant is requesting the variances from the provision requiring each off-street parking area with 10 or more spaces must contain interior planting islands of at least 8 ft. by 18 ft. for each 10 spaces and the requirement of planting strips of at least 6 ft. wide separating all double parking rows to enable the expansion of a mini storage facility and the development of four office buildings.  

I. STAFF RECOMMENDATION:  
The staff has reviewed the information presented by the applicant and recommends that the Board strongly consider all public testimony in making their decision. The staff
recommends DENIAL of the variances for interior planting islands and planting strips based on the analysis of the four criteria from the applicants and staff as follows:

II. RESPONSE TO CRITERIA:

1. The nature of the zone where the property lies.

   Applicant Response:
   Proposed parking will align with the existing building’s parking.

   Staff Response:
   As shown on Exhibit A, the subject site is zoned BN (Neighborhood Business) and BG (General Business), but the area of petition is within the BN zoning district. Surrounding properties are a mixture of medium density zoning, consisting of RMH (Residential Manufactured Home District) and RS1 (Single Family Residential District). Commercial development is within the nature of this zoning district, contingent on meeting all required code requirements. Office buildings and mini storage buildings are to be expected within the BN zoning district.

2. The character and uses of the immediate vicinity.

   Applicant Response:
   The parking lot will be used for offices and mini storage.

   Staff Response:
   The character of this area is primarily residential, with limited commercial developed along S. State Street Extended. Surrounding residential development includes both single-family dwellings and an existing manufactured home park. Properties directly to the south are undeveloped and consist of woodlands and tidal wetlands. The subject site is currently under transition from an existing manufactured home to a low intensity commercial use of professional offices, which does appear to be within the character of the area. However, all commercial development within Kent County should anticipate certain requirements for landscaping and buffering, among other requirements from Chapter 205 and Chapter 187, as applicable.

   The staff would argue that the denial of this request would be more aesthetically pleasing for future customers of the site. Trees and landscaping not only break up large expanses of brick, concrete and pavement, but also creates a shade canopy that may help cool cars parked in the lot and pedestrians navigating the site during the summer months.

3. Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties.

   Applicant Response:
   Neighboring properties include another office complex and a mini-storage facility and will not affect these properties.
Staff Response:
The removal of the interior landscaping may not directly affect neighboring properties, but in addition to aesthetics, landscaping requirements support stormwater and drainage by allowing for greater absorption of rain water and runoff. The site may be able to adequately handle the stormwater through other means. However, approval of this request could set a trend that is in direct contradiction to the goals of the Kent County Code. New commercial land development plans need to anticipate these types of improvements for all new sites and should not rely on comparisons to older businesses not subject to these rules. And although the applicant was previously granted relief from landscaping requirements under variance A-17-25 on the subject site, this does not guarantee relief from such requirements should continue in the future. The landscaping requirements were added to the code in 1991 to change the way commercial lots are developed, not to continue the patterns of the past. These requirements should be uniformly applied to all commercial development and should not be altered to maintain consistency for commercial development throughout Kent County.

4. Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner’s efforts to make normal improvements to the property. Economic hardship, standing alone, may justify granting an area variance and the inability to prove one’s business or to stay competitive as a result of area limitations may qualify as a legitimate exceptional practical difficulty.

Applicant Response:
The applicant will provide the same square footage of landscaping per Section 205-224, but would relocated plantings to the north parking lot. The required area of 2,232 sq. ft. of landscape islands would be replaced by 3,781 sq. ft. of landscaping. The applicant would provide larger landscape islands on the ends of parking isles to be utilized as bio-filtration/stormwater management areas.

Staff Response:
The failure to remove the required interior landscaped areas within rows of 10 or more spaces will not cause an exceptional practical difficulty as it appears that the applicant can easily integrate these into the proposed parking areas while maintaining the required parking for the site. Similarly, the failure to remove the required landscaping strips 6 ft. in width between double rows of parking rows will not cause an exceptional practical difficulty for this same reason. It appears that the applicant has the ability to redesign the project area to reduce the number of proposed parking spaces and maintain compliance with both parking and landscaping requirements, given the proposed number of parking spaces is 23 spaces more than the requirement. Further, there are 54 contiguous parking spots. This is an excessive amount of parking spots not to include island plantings without proper justification. Also, the applicant is starting with a vacant site that has no unique characteristics or physical restrictions in designing a code compliant site plan. Therefore, the removal of this requirement may be viewed as a matter of convenience. For both aesthetics and
functionality of the site, the applicant has the ability to design the site in order to accommodate all landscaping requirements within the site.

In taking into consideration all information above, the staff recommends the following:

- Buffering around the northern parking lots be required for the residents of the mobile home park; and
- If approved, any future expansion of this property by the applicant must maintain all existing landscaping in place.

This recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Board of Adjustment shall give considerable weight to public testimony received during the public hearing in considering its decision.

III. APPLICATION BACKGROUND INFORMATION:

- The applicant is requesting the variance from the interior planting requirements, including the removal of required 6 ft. planting strips between double rows of parking spaces, and planting islands within single rows of parking per each 10 spaces.
- The applicant is seeking the variances to construct four office buildings and two mini storage buildings, with required site improvements. Each office building will be 5,100 sq. ft., for a total of 20,400 sq. ft. Both mini storage buildings will be 16,800 sq. ft. in size, for a total of 33,600 sq. ft.
- The subject site is a total of 20.46± ac., while the proposed project area consists of 5.04± ac. and is currently unimproved. Previously, the project area was a part of the Lakeland Manufactured Home Park.
- There have been several Board applications on the subject site, including:
  - A-77-37, a request for a detached sign at the southeast corner of S. State St. and Lakeland Ave., was approved on 8/18/77 to reduce the required front setback from 50 ft. to 28' from the front property line.
  - A-81-12, a request to allow a reduction from the 50 ft. front setback requirement to 43 ft. to enable the construction of a building, was approved on 5/21/81.
  - A-02-24, a request from the requirement that all driveways, parking, loading and vehicle circulation areas for mini storage be paved; from the required front lot line or street right-of-way setback of sixty feet (60'); from the required 6' wide planted median strip between rows of parking; and the sixty foot (60') front setback from a private road, was granted a modified approval on 4/4/02.
  - A-17-25, a request from the requirement that each off-street parking area with 10 or mores spaces must contain interior planting islands of at least 8 ft. by 18 ft. for each 10 spaces and the requirement of planting strips of at least 6 ft. wide separating all double parking rows, was granted modified approval on 5/8/17. This project design was abandoned and the applicant is returning with the design proposed as part of this application.
• The subject site is zoned both BG (General Business District) and BN (Neighborhood Business District), with the proposed project area being entirely within the BN zoning district. The Comprehensive Plan recommends that these areas be utilized for highway commercial purposes and neighborhood commercial purposes.

• The applicant is advised that denial of these requests will require a site plan submittal that integrates any and all applicable landscaping requirements pursuant to Sect. 205-224 of the Kent County Code prior to site plan application submittal.

• The applicant is also advised that, should the requests be granted, preliminary site plan approval is required prior to the issuance of any building Permits and/or the commencement of any construction. For more information, contact the Division of Planning at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B
Subject Site Landscaping Plan
APPLICANTS: Davis, Bowen, & Friedel, Inc.  
OWNERS: Lakeland Commercial Group 

PRESENT ZONING DISTRICT: BN (Neighborhood Business) 

PROPOSED VARIANCE: Variances from the requirements that each off-street parking area shall contain interior planting islands for each 10 spaces or fraction thereof and from the planting strips of at least 6’ wide separating double parking rows to enable the submittal of a Conditional Use with Site Plan 

PRESENT USE: Mobile Home Park  
PROPOSED USE: Office Buildings/Mini Storage 

LEVY COURT DISTRICT: 2nd 
TAX MAP NO: ED-00-086.00-01-19.01-000 

LOCATION: Located on the east side of South State St. (DE Rt. 27) and the south side of Lakeland Ave. adjacent to Pugh Ave., south of Dover
Variances from the requirements that each off-street parking area shall contain interior planting islands for each 10 spaces or fraction thereof and from the planting strips of at least 6' wide separating double parking rows to enable the submittal of a Conditional Use with Site Plan