CITY OF DOVER PLANNING COMMISSION
AGENDA
Monday, September 18, 2017– 7:00 P.M.
City Hall, City Council Chambers
15 Loockerman Plaza, Dover, Delaware

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

ADOPTION OF MINUTES OF REGULAR MEETING of August 21, 2017

ADOPTION OF MINUTES OF QUARTERLY WORKSHOP of August 23, 2017

COMMUNICATIONS & REPORTS

1) The Annual Meeting of the Planning Commission typically held in July including the election of Chairman and Vice Chairman will be scheduled for a future meeting upon completion of the appointment process for Commission members.

2) Reminder: The next Planning Commission regular meeting is scheduled for MONDAY, October 16, 2017 at 7:00pm in the City Council Chambers.

3) Update on City Council Actions

4) Update from Planning Office

5) Education and Training Opportunity
    a. IPA Planning Education Series 2017
        i. Planning 207: *The Housing Demographic Realignment: Solving the Millennial Puzzle in Delaware* to be held September 29, 2017, 9am to Noon at the Paradee Center

OPENING REMARKS CONCERNING APPLICATIONS

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

2) MI-17-06 Updated DRAFT Preliminary Land Use Services (PLUS) Memorandum of Understanding – Action on Planning Commission Recommendation for Updated Memorandum of Understanding (MOU) for Preliminary Land Use Service (PLUS). The Draft MOU document was presented and discussed at the Planning Commission Quarterly Workshop on August 23, 2017.

NEW APPLICATIONS

1) MI-17-02 Text Amendments: *Zoning Ordinance*, Article 5 and Article 6 – Public Hearing and Review for Recommendation to City Council on a series of Text Amendments to the Appendix B: *Zoning Ordinance,* Article 5 – Supplementary Regulations and Article 6 – Off-Street Parking, Driveways and Loading Facilities. The proposed Ordinance updates various sections in order to enhance the flexibility of the code in several areas, including dumpster requirements, screening and buffer requirements (Arterial Street Buffer and Opaque Barrier), tree planting requirements, and curbing requirements. The proposed Ordinance also adds requirements for recycling to Article 5, Section 6 and rewrites Article 5, Section 18 – Sidewalk requirements to address pedestrian, bicycle and multi-modal access requirements and to allow the City to require multi-use paths instead of frontage sidewalks under specific circumstances. Ordinance #2017-12.
    - A copy of the Proposed Ordinance #2017-12 is available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. https://www.cityofdover.com/ordinances-and-resolutions
    - *The Legislative, Finance, and Administration Committee reviewed the proposed Text Amendments on August 15, 2017 and First Reading was completed before City Council on August 28, 2017. The Public Hearing and Final Reading before City Council is scheduled for October 9, 2017.*

NEW BUSINESS

ADJOURN

THE AGENDA ITEMS MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

Posted Agenda: posted September 8, 2017

CITY OF DOVER PLANNING COMMISSION
AUGUST 21, 2017

The Regular Meeting of the City of Dover Planning Commission was held on Monday, August 21, 2017 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert. Ms. Edwards was absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Jason Lyon, Mr. Eddie Diaz, Mr. Julian Swierczek and Mrs. Kristen Mullaney. Also present were Mr. Bill McPoyle, Ms. Jocelyn Jones, Mr. Chuck Speigleman, Mr. Nicholas Patel, Mr. Marion Lott, Mrs. Mary-Beth Johnson, Mr. Gregory Fusco and Mr. James Medved. Speaking from the public were Ms. Amelia Howard and Mr. Victor Giangrant.

APPROVAL OF AGENDA

Mr. Holt moved to approve the agenda as submitted, seconded by Dr. Jones and the motion was unanimously carried 8-0 with Ms. Edwards absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JULY 17, 2017

Mr. Baldwin moved to approve the Planning Commission Meeting minutes of July 17, 2017, seconded by Mr. Holt and the motion was unanimously carried 8-0 with Ms. Edwards absent.

COMMUNICATIONS & REPORTS

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on July 24 & 25, 2017 and August 7 & 8, 2017.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

NEW BUSINESS regarding Applications

1) S-17-22 McPoyle Site at 575 North DuPont Highway: Waiver Request – Review and Consideration of a Waiver Request for the Elimination of Upright Curbing associated with the Administrative Site Plan for the McPoyle Site at 575 North DuPont Highway. The project is located on the east side of North DuPont Highway south of Jefferic Boulevard and is zoned C-4 (Highway Commercial Zone). The owner of record is William McPoyle. Tax Parcel: ED-05-068.09-01-23.00-000. Council District 3.

Representatives: Mr. Bill McPoyle, owner

Mr. Diaz stated that this project is to construct a new 3,300 SF parking lot. The site is on the east side of North DuPont Highway, south of Jefferic Boulevard and is addressed as 575 North DuPont Highway. The site is zoned C-4 (Highway Commercial Zone). The property is the site of a State Farm Insurance Office and is to remain the principal use of the property. The proposed parking lot is intended for use by the employees only. This project is going through Administrative Site Plan review due to the small size of the impervious surface being added. The only item the Planning Commission needs to act on is the applicant's waiver request. The applicant is asking to waive the requirement for curbing around the parking lot in order to avoid changing the stormwater drainage patterns on the site. Based on the practice of granting waivers for curbing for stormwater management purposes, Staff is recommending approval of the waiver request. As a standard practice for this kind of waiver, Staff is recommending that parking bumpers be provided instead of curbing at the heads of the parking spaces.

Mr. McPoyle stated that he is very much in agreement with what was just heard.

Mr. Holt questioned if the parking bumpers in lieu (of curbing) for the stormwater would be okay with the applicant? Responding to Mr. Holt, Mr. McPoyle stated that he is not an architect. He is here to stand in for him. He thinks that the bumpers are perfect. He doesn't mind at all putting them at the head of each parking space.

Mr. McPoyle stated that at one of his sites, he has pretty cool parking bumpers that are not concrete. They are made out of a heavy plastic with spikes in them and just go right into the ground. Would that suffice or do they need to make concrete bumpers? Responding to Mr. McPoyle, Mr. Diaz stated that they do not have any restrictions on the material.

Mr. Holden moved to approve S-17-22 McPoyle Site at 575 North DuPont Highway: Waiver Request to remove the requirement for upright curbing and in lieu of require parking bumpers, seconded by Mr. Holt and the motion was carried 8-0 by roll call vote with Ms. Edwards absent. Mr. Holden voting yes; as it is a common-sense approach to address the site constraints. Mr. Roach voting yes. Mr. Holt voting yes; he thinks everything looks good and the owner has agreed with the parking bumpers. Mr. Baldwin voting yes; for the reasons previously stated. Dr. Jones voting yes; based upon the previous comments and the applicant is in concert with the recommendation. Mrs. Welsh voting yes; the request is in compliance with previous curbing eliminations. Ms. Maucher voting yes; for the proper handling of stormwater runoff. Mr. Tolbert voting yes; the applicant has represented himself in a favorable way and he is willing to cooperative with Staff with any questions, concerns or requests that they may make.

NEW DEVELOPMENT APPLICATIONS

1) Z-17-04 Lands of Sarah Jones at 826/828 Forest Street – Public Hearing and Review for Recommendation to City Council on the rezoning of one parcel of land totaling 0.5 acres+/- located on the south side of Forest Street between Gibbs Drive and Lincoln Street. The property is zoned RG-1 (General Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is C-1A (Limited Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). The owner of record is Sarah E. Jones. Property Address: 826/828 Forest Street. Tax Parcel: ED-05-076.12-01-16.00-000.

Council District 4. Ordinance #2017-10. *For this zoning map amendment, the First Reading was completed on July 24, 2017. Public Hearing before the Planning Commission is scheduled for August 21, 2017, and Final Reading/Public Hearing is scheduled before City Council for September 11, 2017. This application is associated with item MI-16-13: Nonconforming Uses in Residential District. The Rezoning is proposed in order to comply with City Council action requiring the sunsetting of nonconforming uses in residential zones.*

Representatives: Ms. Jocelyn Jones, E&J West Dover Liquors

Mrs. Melson-Williams stated that this application is a rezoning application. It is in regards to the property located at 826 Forest Street. The store on the property is also addressed as 828 Forest Street. The property is on the south side of Forest Street between Gibbs Drive and Lincoln Street. Currently, the present zoning of the property is RG-1 (General Residence Zone) and it is subject to the COZ-1 (Corridor Overlay Zone). The application before us this evening seeks a zoning classification of C-1A (Limited Commercial Zone) with the property remaining subject to the COZ-1 (Corridor Overlay Zone). The reason for the request is to allow the existing use which is a retail establishment of a liquor store to remain on the site instead of sunsetting due to its nonconforming use status in the residential zone. As mentioned, the property is currently zoned RG-1 (General Residence Zone) and the Planning staff has been working through a project City wide to identify non-residential uses that are non-conforming that happen to be located on properties that are zoned residentially. It is the location of a retail store; specifically the E&J West Dover Liquors which has been that for a number of years at the existing building on the site. This application does not involve any construction or redevelopment of the property. It is strictly about the zoning classification of the property. Surrounding the site is really a mix of residential zoning classifications as well as some nearby commercial zones including C-1 (Neighborhood Commercial Zone), C-1A (Limited Commercial Zone) and also C-3 (Service Commercial Zone). Most of the commercial zones are specifically across the street from this property. With all rezonings, we have to look at the *Comprehensive Plan* and the *Comprehensive Plan* for this area identifies the appropriate land use classification as Mixed Use. When they refer to the land-use and zoning matrix, the classification of C-1A (Limited Commercial Zone) is in compliance with the *Comprehensive Plan.* Specifically, the types of uses that are allowed in the C-1A (Limited Commercial Zone) include retail stores, personal service establishments, restaurants, and a variety of types of offices. It does allow for one-family residences and apartments and multi-family dwellings as permitted uses. There are some conditional uses that are allowed through a specialized process and then several uses that are specifically prohibited which in this case would include a prohibition of fuel pumps and any kind of motor vehicle storage, sales or repairs in that C-1A (Limited Commercial Zone) classification. The property is also subject to the COZ-1 (Corridor Overlay Zone) and this is a zone that adds a series of architectural, parking and landscaping guidelines should re-development of the property be anticipated.

With this application, the Planning Staff is supporting the rezoning request from RG-1 (General Residence Zone) to C-1A (Limited Commercial Zone) noting that the C-1A (Limited Commercial Zone) is the lowest density zoning classification that would permit this type of retail

store within the zone. They also recommend that the property remain subject to the COZ (Corridor Overlay Zone). They have a number of advisory comments to the applicant including a notation that currently the property taxes are delinquent on this property. That is an item that must be taken care of before City Council can take final action on this specific property and its rezoning request. There are comments from the participating Development Advisory Committee agencies but most of those comments indicate no objection to the rezoning of the property. They just identify some advisory comments should re-development in the future be anticipated by the property owner. Tonight, the Planning Commission is making a recommendation in regards to the rezoning of the property. The Planning Commission's recommendation after the public hearing will be forwarded to City Council. City Council will conduct their own public hearing and take all of the items and information under consideration before they take final action on the rezoning.

Mr. Holt questioned if there have been any problems or difficulties with the liquor store in that neighborhood or from the neighbors? Responding to Mr. Holt, Mrs. Melson-Williams stated that Planning Staff did have several people that did come in to inquire about the application that was filed because they received notice but they did not seem to indicate any issues with the property itself. There is public here this evening that you may hear from. The types of code violations that the property has had over the years have been related to licensing requirements for being slightly late on their Business License for the year and things of that nature.

Mr. Tolbert stated that the review process cannot be completed as long as taxes are delinquent. Will any action that the Planning Commission takes be impacted by the outstanding taxes that are due? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that the indication from the Planning Staff is that they are continuing to move it through the process in hopes that the applicant will take care of that before they get to the final step in the process which is action by City Council. When this application initially started the review process, taxes were not yet due and they were due by July 31, 2017 which was mid-way through the process. The portion of the Ordinance that they are referring to is the Clean Hands Provisions of the *Dover Code of Ordinances* which require applications, permits, licenses and the like to be current with all obligations to the City and that would include paying taxes.

Ms. Jocelyn Jones stated that she was here on behalf of E&J West Dover Liquors and she is in agreement with the review that was just heard.

Mr. Tolbert opened a public hearing.

Ms. Amelia Howard – 814 Forest Street Dover DE 19904

Ms. Howard stated that she has no problem with them rezoning the liquor store which is 828 Forest Street but 826 Forest Street used to have a house there and is residential. Why can't that property remain residential and 828 Forest Street go to commercial? If they rezone it and the property is sold then you don't know what's going to be put there.

Responding to Ms. Howard, Mrs. Melson-Williams stated that the information that they have indicates that the property is one large property. It is not two separate lots meaning that the store on one lot and where the house was is on another lot. The City's records indicate that it is one large tract of land and they typically rezone the entire parcel. The C-1A (Limited Commercial Zone) that they are seeking does allow for a single-family residence or for an apartment or multi-family building as a use on the property. So that vacant area could still be used as residential under the proposed zoning if that is successful.

Ms. Howard stated that she doesn't have a problem with that being a residential area. She just doesn't want them to expand out with a bigger liquor store or something like that because they have a lot of traffic on that street. Most of the time she has to go east to a back street to go west from her house and so do her neighbors. If they put something bigger there it's going to be even more congested.

Responding to Ms. Howard, Mr. Tolbert stated that if they want to put something bigger there at some point, they are going to have to come before this Commission and everyone will have an opportunity to address that issue at that time.

Mr. Victor Giangrant – Westside Car Wash 805 Forest Street Dover DE 19904

Mr. Giangrant stated that he owns Westside Car Wash. They are adjacent to the liquor store. It is quite interesting working next to a liquor store. He picks up beer cans and whiskey glass every day. His customers get panhandled every day. There are people hanging out along side of the liquor store in a drunken stupor yelling and screaming obscenities. It's a tough place to do business when you have that type of environment so he is against it. Although he is pro-business, he doesn't think that a liquor store is the proper place in a residential area in his opinion.

Mr. Tolbert closed the public hearing.

Dr. Jones questioned if the applicant understands and accepts the concern about the taxes, that it will not go further in all probability? Responding to Dr. Jones, Ms. Jones stated yes.

Mr. Tolbert stated that he would like to hear the applicant's response to Mr. Giangrant's concerns. Responding to Mr. Tolbert, Mr. Jones stated that she has not had any complaints and there hasn't been any beer cans or bottles around the area of the liquor store. His employees drink there very much so the empty cans and bottles are on his side. She hasn't had anyone yelling in a stupor or drunk on the side of the store so she hasn't had any complaints. Also, this store has been here for over twenty years. Even before her family became the owners, the store was there for fifteen years prior. There were two owners before them.

Mr. Tolbert stated that the only reason that he brought it up was that he wanted her to be aware of a complaint that's being made. He also wants to state that if the complaint is valid then it should be brought to the attention of the police so that they can look into that matter. The Planning Commission can't come out and police that area so you have an obligation to bring it to

the attention of the police or also talk to the owner of the establishment to come to an agreement as to what is going to be done about it.

Dr. Jones moved to recommend approval to City Council for Z-17-04 - Lands of Sarah Jones 826-828 Forest St for the rezoning request from RG-1 (General Residence Zone) to C-1A (Limited Commercial Zone) and to retain the zoning of the COZ-1 (Corridor Overlay Zone), seconded by Ms. Maucher and the motion was carried 8-0 by roll call vote with Ms. Edwards absent. Mr. Holden voting yes, due to Staff comments and the long standing history of the property utilized as currently. Mr. Roach voting yes. Mr. Holt voting yes; due to the last standing history of the property and hopefully something can be worked out with the car wash next door to resolve the problem. Mr. Baldwin voting yes; it fits within the zoning of that area. Dr. Jones voting yes; for previous reasons stated. Mrs. Welsh voting yes; as the rezoning brings the property in compliance with City Council's request for sunsetting of non-conforming uses. Ms. Maucher voting yes; as it eliminates a non-conforming use property. Mr. Tolbert voting yes; the application brings the applicant into compliance with the City Code.

Mrs. Melson-Williams stated that this application will next be heard at the City Council meeting on September 11, 2017. It is also subject to public hearing at that meeting as well.

2) Z-17-05 Lands Bennie Smith Real Estate, LLC at 870-872 Forest Street – Public Hearing and Review for Recommendation to City Council on the rezoning of one parcel of land totaling of 0.7473 acres (32,552 S.F.) of area. The property is currently zoned C-1A (Limited Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning classification is IO (Institutional & Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property known as 870-872 Forrest Street is situated on the south side of Forest Street and east of Gibbs Drive. The owner of record is Bennie Smith Real Estate, LLC. The equitable owner is St. Nicholas Ukrainian Orthodox Mission. Tax Parcel: ED-05-076.12-01-08.00-000. Council District 4. Ordinance #2017-11. *For this zoning map amendment, the First Reading was completed on July 24, 2017. Public Hearing before the Planning Commission is scheduled for August 21, 2017, and Final Reading/Public Hearing is scheduled before City Council for September 11, 2017.*

Representatives: Mr. Chuck Speigleman, McGinnis Real Estate

Mr. Holt recused himself from this application. (As his wife is a member of the proposed church tenant.)

Mrs. Melson-Williams stated that this application is a rezoning that is located at 870-872 Forest Street. This location is on the south side of Forest Street closer to Gibbs Drive. The property has two existing buildings on it. Currently, the front building is utilized as an office building and the building at the rear is a day care center. The present zoning of the property is C-1A (Limited Commercial Zone) and it is subject to the COZ-1 (Corridor Overlay Zone). This proposal is a request to rezone to IO (Institutional and Office Zone) and remain subject to the COZ-1 (Corridor Overlay Zone). The reason for the request is to allow for the establishment of new uses in the building that is closest to Forest Street. The intended uses are a place of

assembly as a place of worship with associated school and business office functions for that facility. The property is just over 32,000 SF in size and extends to the south of Forest Street. This property has been through several rezoning and site development applications over the years. It was originally zoned RG-1 (General Residence Zone) and then in 2003 was rezoned to CPO (Commercial Professional Office Zone). After which time the day care center was developed through a Conditional Use process and then in 2012 the property was rezoned from CPO (Commercial Professional Office Zone) to C-1A (Limited Commercial Zone) with the intent to include some retail uses in that initial building. Today, the Commission is considering the request to IO (Institutional and Office Zone).

Like the previous property, this one is surrounded by a variety of residential uses and zoning classifications with some residential specifically to its south, west and east. The bulk of the commercial in the area is located across Forest Street. The *Comprehensive Plan* for this area shows the land-use classification as Mixed Use. The IO (Institutional and Office Zone) is an appropriate zoning classification for that land-use category. The types of uses that would be allowed in the IO (Institutional and Office Zone) include a variety of offices, banks and research and development laboratories. It also includes a variety of public and institutional uses which include things like schools and places of public assembly and also day care centers. There are some items that would be a Conditional Use application should they be pursued and there are some uses that are specifically prohibited in the IO (Institutional and Office Zone) and that would include landfills and dumps. The property is currently subject to the COZ-1 (Corridor Overlay Zone) and that would remain with the rezoning request. As noted, the COZ-1 (Corridor Overlay Zone) is more related to the redevelopment of a site because it focuses on architectural, parking, and landscaping guidelines for development activities.

With this application, the Planning Staff is recommending that the rezoning be granted from the C-1A (Limited Commercial Zone) to IO (Institutional and Office Zone) as it is consistent with the *Comprehensive Plan* as a fitting Mixed Use classification. They also recommend that it remain subject to the COZ-1 (Corridor Overlay Zone) for any future re-development. Planning Commissioners may note that this property also had a slight issue with its property taxes as of July but the property taxes have been paid for this specific property location. The DAC Report goes on to provide comments from the other participating agencies which have no objection to the rezoning; they just provide some guidance should re-development activities be anticipated at the site including new uses that may occupy the buildings on the site. The Planning Commission is making a recommendation to City Council on the applicant's request to seek the zoning classification of IO (Institutional and Office Zone) and remaining subject to the COZ-1 (Corridor Overlay Zone).

Dr. Jones recused herself from this application. While she is not on a regular payroll of the property owner but occasionally she is called (Bennie Smith Funeral Services).

Mr. Speigleman stated that he agrees with the statements made by Mrs. Melson-Williams. Their office represents Mr. Bennie Smith, the property owner as well as Saint Nichols Ukrainian Orthodox Mission, the applicant. The applicant is present here tonight and they are requesting the rezoning of the property from its current zoning with Staff recommendation to allow a place of worship and a business office in an existing building while at the same time maintaining the

existing day care facility located on the property.

Mr. Tolbert questioned if Mr. Speigleman agreed with Staff's comments and would work collaboratively with them? Responding to Mr. Tolbert, Mr. Speigleman stated yes.

Mr. Roach stated that he knows that the day care has been operating. Is the applicant planning on opening the place of worship in the front building and then closing the day care or will they be having that in conjunction with the place of worship or will it be a whole separate entity being run differently? Responding to Mr. Roach, Mr. Speigleman stated that currently the day care is going to remain a day care. The front building will be changed. There are no development plans at this time.

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

Ms. Maucher moved to recommend approval to City Council for Z-17-05 Lands of Bennie Smith Real Estate LLC 870-872 Forest Street for the change in zoning from C-1A (Limited Commercial Zone) to IO (Institutional and Office Zone) with the property remaining subject to the COZ-1 (Corridor Overlay Zone), seconded by Mrs. Welsh and the motion carried 6-0 with Mr. Holt and Dr. Jones recused and Ms. Edwards absent. Mr. Holden voting yes; due to Staff comments and the recommended rezoning is in compliance with the Comprehensive Plan and lack of public opposition. Mr. Roach voting yes. Mr. Baldwin voting yes; based on the previous statements. Mrs. Welsh voting yes; the rezoning brings the property into compliance with the City's Comprehensive Plan. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; the applicant is willing to work collaboratively with Staff and the application is in compliance with the Comprehensive Plan.

Mrs. Melson-Williams stated that this application will next be heard at the City Council meeting on September 11, 2017. It is also subject to public hearing at that meeting as well.

3) C-17-03 Residence at 91 Saulsbury Road Conditional Use Review – Public Hearing and Conditional Use Review to permit conversion of an existing 1,360 SF two-story structure into residential use. The property consists of an 8,036.6 S.F. +/- parcel (0.1845 acres). The property is zoned CPO (Commercial and Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The property is located on the east side of Saulsbury Road and north of Carver Road. The owner of record is 91 Saulsbury Rd, LLC. Property Address: 91 Saulsbury Road. Tax Parcel: ED-05-076.07-01-47.00-000. Council District 4.

Representatives: Mr. Nick Patel, Elliott Surveying; Mr. K.C. Sheth, owner

Mr. Swierczek stated that C-17-03 is an application for a Conditional Use review to permit conversion of an existing 1,360 SF two story structure from an office use to a one family residence. The site is located on the east side of Saulsbury Road north of Carver Road and is addressed 91 Saulsbury Road. It is zoned CPO (Commercial and Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone) requirements. The COZ-1 (Corridor Overlay Zone) is designed to foster an attractive, efficient and economically vibrant commercial corridor

along Saulsbury Road. In considering this, the Planning Office would like to emphasis that this is an existing building. This lot also has three mature trees which means that it already meets its tree requirements. A one-family residence has a required minimum of one off-street parking space. The property currently has five off-street parking spaces and one handicapped space. There is already an existing one way entrance to the site with the entrance and exit being separate but both onto Saulsbury Road. There is also a sidewalk already installed along the Saulsbury Road frontage.

The application is for a Conditional Use as the proposed use as a one family residence is permitted in the CPO (Commercial and Professional Office Zone). In a Conditional Use application, the Planning Commission is to consider whether or not the planned use is appropriate in type and scale for the immediate neighborhood and fostering a sense of harmony in location, size and character. The Planning Commission should also consider whether the proposed use will have an adverse impact on the future or the redevelopment of the surrounding area. The Planning Office has noted some minor revisions to the plan but is making no specific recommendations as the applicant purposes no exterior changes. Therefore, the Planning Commission is simply looking at the Conditional Use application for use of the existing building as a one family residence.

Mr. Patel stated that he is in agreement with everything that the Planning Staff has said about the property. They are looking to seek approval of a Conditional Use to allow for the single family residential tenant. With the comments made forth, they are also willing to work with the Department to meet all of the requirements that are necessary in regards to having this approved.

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

Mr. Holt moved to approve C-17-03 Residence at 91 Saulsbury Road Conditional Use Review, based on there being no objections, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote with Ms. Edwards absent. Mr. Holden voting yes; due to the lack of public opposition and compliance as a Conditional Use under the current zoning. Mr. Roach voting yes; it's adding much needed property in the area with so many schools and it also meets the requirements as it pertains to parking and it is in compliance with the COZ-1 (Corridor Overlay Zone) requirements for the tree plantings and everything in that nature. Mr. Holt voting yes; it is compliance with City codes. Mr. Baldwin voting yes. Dr. Jones voting yes; based upon previous observations and comments. Mrs. Welsh voting yes; the request is in compliance with the Conditional Use of the area. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; he sees no reason to deny the request.

4) C-17-04 House of Pride Offices at 45 South New Street – Public Hearing and Conditional Use Review to convert an existing one-family dwelling structure into a philanthropic use as the administrative facility (offices) for House of Pride. The property consists of a 9,090 SF +/- parcel. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of South New Street, north of Reed Street, and south of Division Street. The owner of record is House of Pride, Inc. Property Address: 45 South New Street. Tax Parcel: ED-05-077.05-03-05.00-000. Council District: 4.

Representatives: Mr. Marion Lott, House of Pride; Mrs. Mary-Beth Johnson, House of Pride

Mr. Diaz stated that this project is to convert an existing one-family residence into offices for the House of Pride. The site is located on the east side of South New Street north of Reed Street and is addressed as 45 South New Street. The site is zoned RG-1 (General Residence Zone) and the proposed use would be conditionally permitted as a philanthropic use. So, because this application is for a Conditional Use, the Planning Commission should discuss with the applicant today, the details of the proposed use and ask for conditions as appropriate in order to make sure that the project remains appropriate for the size and scale of the neighborhood and there will not be any adverse effects on neighboring properties.

In Staff's discussions with the applicant, they learned that the intended hours of operation for the site are 8:00AM to 5:00PM on week days and 8:00AM to 1:30PM on Saturdays and the occupancy of the building at any one time would not exceed six people. Planned activities at the office include but are not limited to paying bills, holding group sessions, writing reports and conducting community service. Because the site is being converted to an office, it is a change of occupancy and there are some requirements by other agencies related to the physical conversion of the building into an office. For Planning, Staff has a number of recommendations on conditions that the Commission could ask for as part of the approval of this project. The first is that the property maintain two off-street parking spaces in the existing driveway. The second is that the applicant install at least one bicycle parking space on the property. The third is that the use of the property as an overnight shelter be prohibited. The fourth is that no changes be made to the exterior of the building that would alter its appearance as a residential structure. The fifth is that any new outside utilities or air conditioning equipment required as part of the conversion of the building would be screened from public view. The sixth requirement is that any granted Conditional Use for it be periodically renewed. Specifically, they would recommend that the application come back to the Planning Commission in a year's time to ensure that any asked for conditions are being complied with.

Mr. Roach questioned if any of the men that used to stay at this location are being displaced or being moved to another location? Responding to Mr. Roach, Mr. Lott stated that there is no resident living in this building. It was one of the buildings that was renovated so they didn't have anyone living here.

Ms. Maucher questioned how many employees will there be? Responding to Ms. Maucher, Mr. Lott stated that they have four and they are all volunteers.

Mr. Tolbert questioned if the four employees were full time? Responding to Mr. Tolbert, Mr. Lott stated that the employees were all volunteers.

Mr. Lott stated that they are in agreement with the conditions and also with the overview from Staff.

Mr. Tolbert questioned if that meant that they would work collaboratively with any recommendations that Staff makes? Responding to Mr. Tolbert, Mr. Lott stated that was correct.

Mrs. Johnson stated that she is the property manager for the House of Pride. She is 100% volunteer and has been there since 2010. By them having the ability to be there, it is a very big deterrent to people wanting to sell drugs even though that is a very bad area. During their hours of operation when she and Mr. Lott are walking around, it deters people from doing it because when they see them coming they know that she is a "cop caller." When she sees something, she says something. They are just trying to do their best to try to clean up that area and she thinks with them being there 8:00AM to 5:00PM everyday it at least deters them for that long of a period.

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

Mrs. Melson-Williams stated that for the record, distributed to the Commissioners was a hand out that consisted of a series of Google Map images. Specifically, they are street views of South New Street that shows the subject property both in aerial view and then the two views focused on the two-story structure itself that is on the subject property at 45 South New Street.

Mr. Holden moved to approve C-17-04 House of Pride Offices at 45 South New Street to include Staff recommendations for conditions of approval Numbers 1 through 6 with Number 6 being an annual renewal of the Conditional Use permit, seconded by Mr. Holt and the motion was carried 8-0 by roll call vote with Ms. Edwards absent. Mr. Holden voting yes; including the Staff recommended comments and due to lack of public opposition. Mr. Roach voting yes; he wants to say thank you for the work that they are doing in the community to make Dover better. Mr. Holt voting yes; it's a nice looking house, it meets the Conditional Use plans and it will be an asset to the neighborhood. Mr. Baldwin voting yes; for all of the reasons stated. Dr. Jones voting yes; for previous reasons stated and in her own summary, she thinks that it's a great improvement to continue to improve the climate in the area as well as the productivity in the area. Mrs. Welsh voting yes; she is familiar with the House of Pride and what they do and she thanks them very much for all that they do. Ms. Maucher voting yes; the Zoning Ordinance allows this kind of Conditional Use and it furthers a good use for the property. Mr. Tolbert voting yes; the applicant has expressed their willingness to work collaboratively not only with the Staff but also with the police if necessary in order to make the neighborhood better. He thinks that they have people that will accomplish those goals.

5) S-17-23 Kent Pediatrics at 53 Roosevelt Avenue – Public Hearing and Review of a Site Development Plan application to permit construction of a 2,520 S.F. one-story medical office building and associated site improvements. The property consists of a 15,350 S.F. +/- parcel (0.36 acres) and is zoned C-4 (Highway Commercial Zone). The property is located on the north side of Roosevelt Avenue and west of South DuPont Highway. The owner of record is JCD Investments, LLC. Property Address: 53 Roosevelt Avenue. Tax Parcel: ED-05-077.17-05-73.00-000. Council District 2. *Waiver Requests: Alternative Format of Opaque Barrier; Elimination of Sidewalk Requirement; and Partial Elimination of Curbing Requirement. This property is the subject of variance applications V-17-05 approved by the Board of Adjustment on February 15, 2017 and V-17-11 approved on April 19, 2017. The variances granted were to allow an increase in parking and to reduce the rear yard setback requirement.*

Representatives: Mr. Gregory Fusco, Key Engineering; Mr. James Medved, Kent Pediatrics

Mr. Diaz stated that this project is to construct a 2,520 SF medical office building that will be a new home for Kent Pediatrics. The project is to be constructed on the north side of Roosevelt Avenue west of South DuPont Highway and is addressed as 53 Roosevelt Avenue. The site is zoned C-4 (Highway Commercial Zone). This is a tight site; about 1/3 of an acre. There have been a few steps necessary to prepare the site for development. The site has been to the Board of Adjustment two times. First, to increase the maximum allowable number of parking spaces and a second time to decrease the minimum rear setback of the property. Before the site is developed it will need to be cleared and the applicant is also working with the City's Public Works Department to determine the best strategy for gaining access to the site in terms of the type of entrance that it should have and what the appropriate signage and striping on the street should be.

Overall, the site design is pretty simple. The building is towards the back of the site and there is parking in the front. There are stormwater management areas in the rear and front yards. The building features a prominent front entrance door and an employee entrance on the west side. It also features relatively small windows in front for patient privacy.

There are three waiver requests. The first is for the alternative format of the opaque barrier requirement. An opaque barrier is required along the rear property line of the site because it is adjacent to residential uses. The applicant would like to plant the landscape component of the barrier on their property side of the fence due to ease of maintenance concerns. Staff is recommending approval of this waiver. The second waiver request is for frontage sidewalk. They are asking for a waiver due to lack of adjoining sidewalk on adjacent properties as well as the need to convey an easement to the City for its construction and the difficulty of constructing the sidewalk and the tight space on the west side of the driveway. Staff is recommending a partial waiver here to address the sidewalk on the west side of the driveway. They are not recommending a full waiver because they believe that a full sidewalk will eventually be available to this property coming from the east from the highway. Public Works is willing to accept the easement. The third waiver request is for the partial elimination of curbing on the property. The applicant is asking for this waiver to allow easier conveyance of stormwater to the stormwater management facilities both from their site and the neighboring property to the west. Staff is recommending approval of this waiver and the applicant is already proposing the parking bumpers that Staff normally requests as a condition of granting this waiver. Again, Staff recommendations are for approval of the opaque barrier alternative format waiver, partial approval of the sidewalk waiver to waive only the sidewalk on the west side of driveway and approval of the curbing waiver.

Mr. Holt questioned if there is a stormwater pond or an underground holding area there for the stormwater run-off? Responding to Mr. Holt, Mr. Diaz showed a display of areas both in the front and rear of the property where the stormwater management facilities are located.

Mr. Fusco stated that they are in agreement with the report prepared by Mr. Diaz. Mr. Diaz and other Staff have been very helpful to them with this application. There is one thing that they would like to point out with regard to the sidewalk waiver that they are requesting. Their plan in

fact does proposed sidewalk. In order for them to actually construct the sidewalk, they would be providing a five foot wide easement on their property for the construction of the sidewalk which the applicant was willing to do when they submitted it. He would just like the Commission to understand and consider the seven or eight properties to the west of this particular site that are all residential in nature. They are all owned by individual property owners. The Town would also have to obtain five foot wide easements from those individual property owners in order to have someone construct sidewalk and continue the sidewalk down Roosevelt Avenue to the west. Being a municipal engineer over the last thirty-five years, one of the hardest things that he has ever encountered is knocking on people's doors and asking for easements whether it be for sidewalk or utilities or multiple purpose paths; it takes a long time. He just questions understanding the fact that if they did construct the sidewalk and it was approved in that manner and the waiver wasn't granted, how long this site would stand by itself with the sidewalk in front of it without sidewalk being constructed elsewhere in the community. Other than that they have worked diligently with Mr. Diaz and requested the waivers that his Staff supports. They are willing to comply with all of the review letters and comments that the other particular divisions of the City have offered in order for them to complete the Site Plan.

Mr. Holden questioned if he understands correctly that the applicant would prefer to grant an easement for a sidewalk in the future but not construct the sidewalk now? Responding to Mr. Holden, Mr. Fusco stated that they could certainly do that; it would make sense.

Ms. Maucher questioned if there were sidewalks on the other side of the street? Responding to Ms. Maucher, Mr. Fusco stated that there are sidewalks for the full length of Roosevelt Avenue (on the south).

Mr. Holt stated that it is a nice looking building. He was looking at the layout and the sketches and they did a good job on it.

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

Mr. Holden moved to approve S-17-23 Kent Pediatrics at 53 Roosevelt Avenue to include the waivers for opaque barrier alternative format, the elimination of the sidewalk requirement and the partial elimination of curbing requirement but do require the applicant to provide an easement for the installation of a sidewalk in the future, seconded by Mr. Holt and the motion was carried 8-0 by roll call vote with Ms. Edwards absent. Mr. Holden voting yes; due to conformance with Code and lack of opposition. Mr. Roach voting yes; he thinks that it is a beautiful building and he is excited that it does not have a flat roof. Mr. Holt voting yes; it is a very nice building and he thinks that with all of the requirements and the sidewalk problems he thinks they can work it out and will be an asset to the area. Mr. Baldwin voting yes. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; for the reasons previously stated. Ms. Maucher voting yes; it conforms with C-4 (Highway Commercial Zone) and the waivers make good use of the property especially the granting of the easement for future sidewalks. Mr. Tolbert voting yes; he fully expects the applicant to work cooperatively and collaboratively with the Staff regarding all of the issues that were brought up by the Staff regarding this application.

Mrs. Melson-Williams stated that just a reminder to the Commissioners that the Planning Commission Quarterly Workshop is scheduled for Wednesday, August 23, 2017 at noon in the City Hall Conference Room. If you are planning to attend please confirm with Staff.

Meeting adjourned at 8:21 PM.

Sincerely,

Kristen Mullaney
Secretary

- **MINUTES of**
  Planning Commission Quarterly Workshop Meeting
  Of August 23, 2017

    - The Planning Commission Quarterly Workshop Meeting Minutes of August 23, 2017 are still being prepared. These Meeting Minutes will be distributed to the Planning Commission via email and at the September 18, 2017 meeting for review.

    - Adoption of the Minutes will be considered at the September 18, 2017 meeting of the Planning Commission.

Professional Development and Training Opportunities for Local Government

offered through the

Institute for Public Administration at the University of Delaware

PLANNING 207

The Housing Demographic Realignment: Solving the Millennial Puzzle in Delaware

September 29, 2017

9 a.m. to noon

Check-in begins at 8:30 a.m.

University of Delaware Paradee Center

69 Transportation Circle
Dover, DE 19901

$50 Registration Fee
Includes refreshments

Registration Deadline
September 28, 2017

Planning 207 will explore changing demographics in Delaware and how they are impacting the housing market.

COURSE TOPICS

- Demographic trends, specifically relating to Millennials and Baby Boomers
- DSHA's 2014 Housing Needs Assessment and affordability issues facing the state
- Status of Delaware's housing market and how changing demographics will likely affect demand in different parts of Delaware
- Resources like Downtown Development Districts, Complete Communities, and First Map that can help local governments to better address the housing needs in their communities

This session qualifies for certificate credit in the Academy for Excellence in Local Government Leadership and the Delaware Planning Education Program.

COURSE INSTRUCTORS



Karen Horton, AICP
Principal Planner,
Delaware State Housing Authority



Phil McGinnis, CCIM, GAA, ACoM, ALC, ePRO
Principal and Managing Broker, McGinnis Commercial Real Estate



David Edgell, AICP
Principal Planner,
Office of State Planning Coordination

Dare to be first.
UNIVERSITY OF DELAWARE

Register for this and other training events online at

www.ipa.udel.edu/events.html

Note: Registration for this event can only be done online.

MI-17-06 Updated DRAFT Preliminary Land Use Services (PLUS) Memorandum of Understanding – Action on Planning Commission Recommendation for Updated Memorandum of Understanding (MOU) for Preliminary Land Use Service (PLUS). The Draft MOU document was presented and discussed at the Planning Commission Quarterly Workshop on August 23, 2017.

- Updated Draft MOU for PLUS was first presented at the Planning Commission Quarterly Workshop on August 23, 2017.

- DRAFT MOU document and associated information was forwarded to the Council Committee of the Whole: Legislative, Finance, and Administration Committee for their review on September 12, 2017.

- Attached information:
  - Committee Action Form
  - DRAFT Updated Memorandum of Understanding for PLUS
  - Excerpt of Meeting Minutes from Planning Commission Quarterly Workshop

ACTION FORM

PROCEEDING: Council Committee of the Whole: Legislative, Finance, and Administration Committee **AGENDA ITEM NO.:** Item 4 of September 12, 2017 Meeting
DEPARTMENT OF ORIGIN: Department of Planning & Inspections **DATE SUBMITTED**: **9/1/2017**
PREPARED BY: Planning Office: David S. Hugg III and Dawn Melson-Williams, AICP
SUBJECT: Updated Memorandum of Understanding (MOU) for Preliminary Land Use Service (PLUS)
REFERENCE: Preliminary Land Use Service (PLUS) – State Review process
RELATED PROJECT: N/A
APPROVALS: Planning Commission discussion of DRAFT MOU for PLUS at August 23, 2017 Planning Commission Quarterly Workshop.
EXHIBITS: See attached Updated MOU for PLUS; Excerpt of Planning Commission Quarterly Workshop Meeting Minutes
EXPENDITURE REQUIRED: $ ----- **AMOUNT BUDGETED**: $----- **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: City Council Meeting of September 25, 2017
RECOMMENDED ACTION: Review of Updated MOU by the Legislative, Finance, and Administration Committee for Recommendation and signature by City Council and other participating parties.

BACKGROUND AND ANALYSIS

The City of Dover currently has a Memorandum of Understanding (MOU) regarding the Preliminary Land Use Service (PLUS) review process with the Office of State Planning Coordination (OSPC). The Planning Staff worked with the OSPC Staff in development of a Memorandum of Understanding (MOU) for how development activities within the City of Dover will be reviewed under the Preliminary Land Use Service (PLUS). See the following link for more information on PLUS: http://stateplanning.delaware.gov/plus/ The current MOU was adopted in February 2004 following the establishment of the PLUS process in Delaware Code (29 *Del. Code*, Chapter 92. Land Use Planning). http://delcode.delaware.gov/title29/c092/sc02/index.shtml

Since 2004, about forty-seven (47) land development plans and rezoning applications in Dover have participated in the PLUS Review process. This is approximately 6% of the land use change/land development applications (Annexations, Conditional Uses, Site Plans, Subdivisions, and Rezoning applications) filed with the City in the 2004-2017 timeframe. Additionally, thirteen (13) applications associated with the *2008 Comprehensive Plan* and then Comprehensive Plan amendments were reviewed through the PLUS Review process. A number of other projects received waivers from the PLUS Review process.

The City Planning Staff again working with OSPC Staff reviewed the current MOU to develop the Updated MOU for PLUS. The City of Dover Planning Commission reviewed Draft Updated Memorandum of Understanding for Preliminary Land Use Service at its Quarterly Workshop on August 23, 2017. The following items are included:

- **Draft Updated Memorandum of Understanding for PLUS between the City of Dover, Delaware and the Office of State Planning Coordination** (as presented to Planning Commission)
- **Excerpt from Meeting Minutes** of the Planning Commission Quarterly Workshop on August 23, 2017. This includes their discussion of the Draft Updated MOU and its associated recommended changes.

Memorandum of Understanding
between
The City of Dover, Delaware
and the
Delaware Office of State Planning Coordination

WHEREAS, the State of Delaware has determined that certain local land use decisions have far reaching and complex effects on the region, resulting in development which often requires the commitment of finite resources by the various levels of government as well as private investors; and

WHEREAS, coordinated review of certain development activities would result in a more efficient, effective and timely use of resources and would also achieve consistency and coordination between the various levels of government and other interested parties; and

WHEREAS, under Title 29, Chapter 92 of the Delaware Code, local land use planning actions by local governments are subject to pre-application review processes by the Office of State Planning Coordination (OSPC); and

WHEREAS, under Title 29, Section 9205 (c) of the Delaware Code, the OSPC shall, through a Memorandum of Understanding, exempt a local jurisdiction from the provisions of the Land Use Planning Act or modify the pre-application process when the local jurisdiction has a Certified Comprehensive Plan and imposes a more stringent review of projects;

NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD by and between The City of Dover, Delaware and the Office of State Planning Coordination as follows:

A. Nothing in this agreement shall be construed to deny The City of Dover its final decision-making authority over proposed land use planning actions in the corporate limits of The City of Dover. Additionally, any comments received from state agencies, pursuant to Title 29, Chapter 92 of the Delaware Code, shall not exempt applicants from the responsibility of meeting all requirements set forth in The City of Dover's adopted land use regulations.

B. The Development Advisory Committee (DAC) of The City of Dover will continue to review development proposals on a monthly basis, and will continue to include representation from various state agencies as is currently the practice.

C. The following land use planning actions are and shall remain subject to State review under Title 29, Chapter 92, Delaware Code:

    1. All residential projects containing 125 or more dwelling units**.**

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2. Any non-residential subdivision or site plan involving new construction of structures or buildings with a total floor area equal to or exceeding 75,000 square feet.

3. Any application for rezoning or annexation that is inconsistent with The City of Dover's Comprehensive Plan Update certified February 9, 2009, or as amended, except where the non-conformity is of a minor, relatively insignificant nature. A rezoning shall be considered a minor variation from the Comprehensive Plan when the following conditions are met:

a. The rezoning is of a unique circumstance and can not set a precedence for other lands in the vicinity of the rezoning.
b. The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan.
c. The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned lands and would not alter the pattern of development in the area.

Upon notification of a rezoning in the City of Dover that meets these criteria, the State will concur in writing to the City thereby waiving the PLUS review process in that instance.

4. Any project of any size proposed to the east of Delaware Route 1 and north of South Little Creek Road, except that projects within the Garrison Oak Technical Park do not require PLUS review unless they involve new construction of structures or buildings with a total floor area equal to or exceeding 75,000 square feet .

5. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by The City of Dover for the purpose of providing the City with advisory comments. These include the modifications to the City's zoning and subdivision ordinances that implement the Comprehensive Plan.

6. Any development projects voluntarily submitted by the developer to the Office of State Planning Coordination for review.

7. Any other project which is required to be referred to the State for pre-application review by City of Dover regulations.

8. Any amendment, modification or update to The City of Dover's

Comprehensive Plan, as required by Title 22 of the Delaware Code.

9. All projects in the Downtown Dover Redevelopment Target Area, defined by The City of Dover Code shall be exempt from State review unless voluntarily submitted by the developer or The City of Dover.

D. The City of Dover shall, at the time of the required pre-application meeting, identify those projects meeting the criteria defined in this agreement for State review, direct applicants whose projects meet State review criteria to submit necessary documents to the Office of State Planning Coordination (OSPC) in order to initiate the PLUS review process, and not accept applications for those projects requiring PLUS review until such time as the OSPC has issued comments, as defined in Title 29, Section 9204 (c) of the Delaware code, to the applicant and The City of Dover.

E. In special circumstances, the Office of State Planning Coordination may waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code. Where such waiver is granted, the Office of State Planning Coordination shall provide a written explanation of the causes for the waiver to the relevant local jurisdiction and the applicant. These circumstances may include, but are not limited to, a local government's imposition of a more stringent review of projects enumerated in §9203(a) than required by Title 29, Chapter 92 of the Delaware Code, and/or projects expected to provide an extraordinary benefit to the State and the local jurisdiction through economic development, job creation, educational opportunities, public services or facilities, agricultural preservation, or protection and enhancement of the natural environment.

F. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both The City of Dover and the Office of State Planning Coordination.

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DRAFT FOR DISCUSSION
Last Revised May 22, 2017

Signature Page

_____ _____
The Honorable Robin Christiansen Date
Mayor, City of Dover
Dover, Delaware

_____ _____
The Honorable Timothy Slavin Date
President, Dover City Council
Dover, Delaware

_____ _____
Mr. Fred Tolbert Date
Chair, Dover Planning Commission
Dover, Delaware

_____ _____
Mr. David Hugg Date
Acting Director
City of Dover Department of Planning

_____ _____
Constance C. Holland, AICP Date
Director
Delaware Office of State Planning Coordination

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CITY OF DOVER PLANNING COMMISSION
August 23, 2017
Excerpt from Meeting Minutes – DRAFT

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Wednesday, August 23, 2017 at 12:00 noon. Members present were Mr. Roach, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh and Mr. Tolbert. Mr. Holden, Ms. Edwards and Ms. Maucher were absent.

Staff members present were Mr. Hugg, Mrs. Melson-Williams, Mr. Diaz, Mr. Swierczek and Mrs. Mullaney.

Also present was Mr. David Edgell from the State Planning Office.

DRAFT PRELIMINARY LAND USE SERVICES (PLUS) MEMORANDUM OF UNDERSTANDING

Mrs. Melson-Williams stated that the City of Dover currently has a Memorandum of Understanding that was written in 2004 that basically establishes what type of applications occurring here in the City of Dover have to first go through the State PLUS review process. The State PLUS review process is actually established in Delaware Code. Delaware Code establishes some thresholds but the Code provisions there also allow for local jurisdictions to change those thresholds as appropriate to serve their types of projects that they see. She is going to have Mr. Edgell explain how the PLUS process works in the State level piece and then we will talk about what they are bringing to the Commission today.

Mr. Edgell stated that the idea behind the PLUS process is that all of the various State agencies have some role in the land development process. You are probably most familiar with DelDOT; for instance, they often require a Traffic Impact Study or an Entrance Plan if it's on a State maintained road. DNREC has multiple environmental regulations. Sometimes the Historic Preservation Office is involved. Years ago, it was kind of difficult for local governments to access all of that information in a timely manner and in a way that they could make a good decision and understand what the State requirements would be. The PLUS process was put together back in 2004 and the idea is that before a project goes before a local government like the City of Dover, the State agencies all come together and have a meeting and review those projects and provide both the developer, the applicant and the local government with basic information about what the requirements at the State level will be. The agencies also provide recommendations because unlike Dover, not many other towns or cities in Delaware actually have a Planning Staff that has all of the knowledge and expertise that these people sitting here do. So, a lot of the smaller towns and jurisdictions really rely on the State Planning Office, DelDOT, DNREC and the other agencies to provide them with recommendations and information about some of these projects. The State law kind of sets up some thresholds for what is a project that goes to before PLUS and the State requirements are anything fifty (50) residential units or more or 50,000 SF of non-residential building space or more. As Mrs. Melson-Williams mentioned, while they were putting it together the idea was that some local

jurisdictions the requirements of fifty units and 50,000 SF may be a good baseline. For instance, their smaller towns want to send everything through because they don't have the expertise of a Planning Staff. Other towns like Dover have a Planning Staff and a DAC process. There may be not every project needs to go through but may be the larger ones that have more of a State impact or a regional impact might be worthwhile. In 2004, they agreed on this MOU that he believes the numbers are 125 or more residential dwelling units or 75,000 SF of commercial building space. There are a couple other things in here, notably back then, east of Route 1 was an area where the idea behind the Kent County plan and Dover's plan at the time was to preserve that area for the most part so anything east of Route 1 was seen. They would from time to time come back and review the MOU with the towns and counties and see what was working and what was not working and make amendments if need be. It just so happens that in 2017 they are here and it's overdue. They met with Mr. Hugg and Mrs. Melson-Williams and came up with this Draft.

Mrs. Melson-Williams stated that she has looked through the types of applications that have gone through PLUS review over the years. They have had multiple PLUS review applications every year since they have signed that original MOU. Every year that they had a *Comprehensive Plan* amendment that automatically has gone through the PLUS review process. Because they set their thresholds at those higher levels of 125 dwelling units and 75,000 SF of non-residential building area, that really just pushed the really big things that we see in Dover to the process. If we had left it at fifty dwelling units, they probably would have tripled the number of things that would have had to go through the PLUS review process. They felt comfortable enough that the smaller things for Dover could be dealt with at the Staff level and didn't really need to go through that State review process. Some of the bigger things were the Chesapeake Utilities new campus on Bay Road went through the process. The Blue Hen Apartments with its first phase and second phase and the Leander Lakes Apartments also went through the process. The series of school projects within the Capital School District went through the PLUS review process and some of that is related to school planning at the State level that's required to go through. From the request for annexation for the land that ultimately became Dover High School through the new Dover High School Plan; those things went through the PLUS review process in Dover. Some of our larger requests for shopping center development have gone through it. The most recent application is the Bay Road Commercial project that the Commission just saw in July. The office building project that was directly beside that didn't reach the level of 75,000 SF to have to go through the PLUS; review process. It's been a number of applications over time. Some subdivisions such as the Eden Hill project when it was initially getting started went through PLUS so it's really the big things. Anytime an application goes through PLUS review, Staff is noting that in the DAC Report that is provided to the Commission. They also try to provide the State comments that are issued on any kind of application to PLUS as well as the applicant's response to those PLUS comments so the Commission will see those in their packets.

Mr. Edgell stated that the way that the law is written, the thresholds are one as to what's required to go through but any developer or applicant can go through on their own desire. If you have a residential subdivision of fifty units in Dover and they decide that they want to go through the PLUS Review they can. He is not sure if that's ever happened but it would be possible.

Mrs. Melson-Williams stated that the one thing that they have also dealt with over the years is that there is the ability to seek a waiver of the PLUS Review process. They have done that

several times, in some cases because of a project already went through the process and try number two is very similar to what already went through. In some cases, rezonings can be considered a Minor Variation and they don't have to go through the process.

Mr. Tolbert questioned what Staff's feelings have been with requesting waivers? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that for the most part they have been granted. Some of them related to the hospital project; obviously, it's not going anywhere. There are some waivers that can be sought for more of the economic reasons. There are also some waivers related to the Garrison Oak Technical Park because the original park went through and as they were seeing individual lot development, they think a number of them also got waivers.

Mr. Edgell stated that what the law says is that the reasons for a waiver have to be related to some extraordinary benefit to the local government and State related to economic development or environmental preservation. The one that he can really remember is the Bayhealth Campus. When they were building their new multi-story parking garage, they came through and asked for a waiver. The reason was that they felt like they could use the extra months' time because they had a deadline to get their permit and they felt that they could use the extra time. Also they had seen a plan before for that site and not much was changing with the entrances or any utilities. That was kind of the rationale for the waiver and his Director, Connie Holland took the responsibility to grant the waiver. He would say that they do grant most of the waivers with good reason. They have turned a few down but not in the City. The only reason that they would turn one down is if they feel as though the agencies need a chance to see it and that it might be something to do with a permit or some kind of reason that they would need to see an application.

Mr. Roach questioned how long the PLUS Review usually takes? Responding to Mr. Roach, Mr. Edgell stated that it's about a month and a half. The applications are due the first working day of each month. The meetings are the fourth Wednesday of each month and twenty working days from that, the letter is issued to the applicant and the local government. After that, the applicant which is usually the developer has to respond to it in some way. When people are really rushed to get to their local government deadline, they have allowed them to go kind of concurrently to some extent just so that the letter is available by the time the Planning Commission would see the application. They have tried to make it user friendly and there's no cost to apply. It's really designed so that you don't have to have a plan as detailed as you would need to go before the Planning Commission. You can have a Concept Plan for your shopping center (and not necessarily on the back of a napkin) but a more general plan showing the locations of the buildings on the site and the parking lots. They can take that a provide comments. As soon as they can give the applicant information, that is information that they can use as they design the project and consequently the local government gets a better plan without the concerns that there will be some other outstanding State requirement.

Mr. Tolbert questioned if the Commission had to be involved in a request for waiver? Responding to Mr. Tolbert, Mrs. Melson-Williams stated no.

Dr. Jones questioned that in the matter of the one hundred twenty-five residential dwellings is there a requirement to go through PLUS or not? Responding to Dr. Jones, Mrs. Melson-Williams stated that there is a requirement to go through PLUS if you are proposing one hundred twenty-

five dwelling units or more.

Dr. Jones stated what happens in the case of a developer who ran into trouble and stopped developing. At that time, there were one hundred twenty-five or two hundred dwellings. A new developer comes in to continue to development in that area and there are less than one hundred twenty-five dwellings so the process just goes through the Planning Commission? Responding to Dr. Jones, Mrs. Melson-Williams stated that it depends on what the project is. If it were a subdivision that was already plotted for over the one hundred twenty-five units and they started it and stopped, the lots are still there and the plan approvals for the subdivision still exist. If they were going to what they call re-plat or redesign, meaning change where the roads are, change where the lots are and things like that then they might be into a process depending on the chunk that they are redesigning.

Mr. Edgell stated that they get that question a lot. A lot of times it's things that aren't started yet and they come back and want to redesign it. They always review it. The PLUS Review never expires. As long as they are keeping with the same general plan or the same number of units or reducing the units, it usually doesn't have to go through the review process again. There are times when people say we were going to build one hundred units and now we are going to build two hundred units and we are changing all of the roads. That would be a new plan and it would have to go through the PLUS Review again. Another instance is a developer has a 2005 plan and they are coming through in 2017. It might be worth it to go through again because all of the rules and regulations that have changed since 2005.

Mr. Tolbert stated that the Eden Hill development changed dramatically from the original concept. Responding to Mr. Tolbert, Mrs. Melson-Williams stated yes and no. For the Residential District, the Commission saw a Revised Implementation Plan that kind of re-organized the residential portion of where active recreation was going to be approached and the mix of unit types. They did not require that to go back through the PLUS Review because the overall Eden Hill project had gone back in 2004 and the Residential District was basically still in the same place and the road linkages were still in the same place. It was just more internal re-organization that happened with that.

Mr. Edgell stated that if they start changing roads or adding units then sometimes it triggers a review.
Mrs. Melson-Williams stated that what they have for the Commission today is a Draft of the updated MOU. It starts with the typical "whereas" statements that kind of establish what it is and then it outlines how the process kind of works and that it doesn't supersede their current DAC process that the City has. It establishes what types of projects would be required to go through the PLUS Review process for the City of Dover. The ones that they are recommending to hold are residential projects, still keeping that threshold at one hundred twenty-five dwelling units. One hundred twenty-five is referenced in the *Zoning Ordinance*. There are some other things that once you hit that threshold, you have to have so they kept that number the same. For non-residential plans, it's new construction with a total new floor area of 75,000 SF. That's going to capture the bigger things but the one restaurant building on an individual site isn't going to have to go through this PLUS Review process. It's the large, either industrial or multiple building shopping centers that would probably rise to that level to have to go through the process. There's

an update to the certification date of the most recent *Comprehensive Plan*. Their *Comprehensive Plan* is due shortly for its ten-year review or update.

Number three deals with the Minor Variation provision which is established in the *Comprehensive Plan* that allows for a waiver. The zoning always has to comply with the Land Development Plan which is the land-use component of the *Comprehensive Plan.* Sometimes that map may need a slight tweak and this kind of allows for those minor variations. They just saw one that was a Minor Variation when they dealt with the lodge property on College Road where the main building was good from a rezoning standpoint for the land-use classification to go to institutional but there happened to be two little parcels that were also owned by the Lodge that in the plan were shown as Residential but collectively they could make the case for it being a Minor Variation. The driveway crossed one of them and the other one was a grass lawn. It really would be meaning to function with the land-use classification of the institutional use and allow the zoning. They want to maintain that opportunity to seek Minor Variations for the small and minor things that mapping doesn't always pick up when dealing with large scale properties.

Number four is where they are proposing a particular change. The current MOU has the statement that a project of any size, if it is east of State Route 1 and north of South Little Creek Road would be required to go through the PLUS process. It so happens that that area is where the Garrison Oak Technical Park is located which is a City owned industrial park. They have seen development of three lots out there with soon to be four with the Advantech project. The overall subdivision went through that process but having the individual lots having to go through PLUS just because of where they are located doesn't seem to make sense unless there is a proposal for something that is rather large out there that would meet that kind of large threshold test of 75,000 SF. Then they think that it may have larger or more broader implications than somebody just building a building. What was seen most recently was the Advantech office and facility that was much smaller than that on an individual lot and the lot already exists and the street already exists to get there. This is a proposed refinement to that locational requirement. Mr. Edgell can probably talk about why east of State Route 1 is a particular concern which is why this is part of our MOU. It goes back to before the City's most recent *Comprehensive Plan.*

Mr. Edgell stated that it actually goes back to when they were designing Route 1. Route 1 went east of Dover. At that time from what he can gather, it was the idea that the business community was very concerned that since they had this new road which will have interchanges and be limited access that all of the businesses would go out east of Route 1 and it would be like a new commercial district. There was also great concern about agricultural preservation and the natural resources in that area and not wanting to have Dover and parts of Kent County sprawl out towards that way because now there is this new road access being granted. Over the years, there was an MOU with Kent County and the City was a part of it at the time. The idea was that they would focus their development on the Route 13 corridor. Anything east of Route 1 they would try to maintain as lower intensity, more rural type of an area. That kind of exist today. Kent County has a growth zone that is basically bounded by Route 1; anything east of Route 1 in their plan is rural. All of the growth and utilities in the growth zone are focused on the inside. For Dover's Plan, they do have the Technical Park that we are discussing now but for the most part it's lower intensity and lower residential housing and things of that nature in that area. That's kind of the history and reason for it. This is really just to catch anything that would go out there

to make sure we take an extra look at it and make sure that they are all aware of what's happening and if there is any kind of advice or information that they can give about that area.

Mrs. Melson-Williams stated that South Little Creek Road was shown as the southern boundary because once you are south of there, the implications of the Airport Environ Overlay Zone associated with the Dover Air Force Base are somewhat limiting as to the type of new uses that can happen in that area because of that overlay zone and what it's rules cover.

Mr. Edgell stated that you have Horsepond Road which is mostly industrial with the Kent County Aero Park and the AEOZ really says that you don't want to have a lot of residents out there. Industrial and warehousing is probably the right thing because it's not going to be bothered by noise and other things. That is kind of why that area was excluded because once you get down in that area, it's an industrial kind of area.

Dr. Jones questioned how she gets to the Garrison Oak Technical Park? Responding to Dr. Jones, Mrs. Melson-Williams stated that it is off of White Oak Road. Take the bridge that goes over Route 1 and it's on the left.

Mrs. Melson-Williams stated that the other items are that it gives them the ability for any kind of proposed ordinance they could actually refer them to the PLUS process to get State input on if they chose. There is also the voluntary submission that can occur that's documented. Any amendment or modification to our *Comprehensive Plan* had to go through this process as well as the Plan itself. Then they do have a very specific exemption for any project that is in the Downtown Redevelopment Target Area. If it for some reason met the threshold test of the unit count or the size count, because of its location in the Downtown Redevelopment Target Area it would not be required to go through PLUS because that is where they want activity to happen.

Mrs. Melson-Williams stated that basically the rest of it is that the City is supposed to help out in the applicant's understanding of this process. During their pre-application meeting they want to make sure that if it is a project that is going to meet those threshold tests to have to go through PLUS that they are letting the applicant know. The management of the application process for PLUS is all at the State level. We are just a helpful agency that tells the applicant to go through that process first. There are the provisions for the waiver ability. There is a signature page which ultimately includes the Chairman of the Planning Commission, the City Planner, City Council and the Mayor to agree to the memorandum as well. They wanted to bring it to the Commission today. They will have to move forward to presenting it to City Council so that they have the same kind of understanding about it to ultimately get the signatures for it.

PETITION TO AMEND ZONING ORDINANCE TEXT

Report to the
Dover Planning Commission
September 18, 2017

Proposed Changes: Text Amendments to the following:

- *Zoning Ordinance*, Article 5 – Supplementary regulations
  - Section 1 – Supplementary regulations applying to residence zones
  - Section 6 – Supplementary regulations applying to all zones other than single-family residence zones (section proposed for renaming under Staff Amendment #1)
  - Section 7 – Supplementary regulations applying to all non-residential zones
  - Section 15 – Landscape guidelines (changes proposed under Staff Amendment #1)
  - Section 16 – Tree planting and preservation
  - Section 18 – Sidewalk requirements (section proposed for renaming)
  - Section 19 – Building and architectural design guidelines
- *Zoning Ordinance*, Article 6 – Off-street parking, driveways, and loading facilities
  - Section 1 – Permitted accessory parking (changes proposed under Staff Amendment #1)
  - Section 3 – Required off-street parking spaces
  - Section 5 – Supplementary regulations for parking and loading facilities

Summary of Amendment: The proposed ordinance updates sections of Articles 5 and 6 of the *Zoning Ordinance* in order to enhance the flexibility of the code in several areas, including dumpster requirements, screening and buffer requirements, tree planting requirements, and curbing requirements. The proposed ordinance also adds requirements for recycling to Article 5, Section 6 and rewrites Article 5, Section 18 to allow the City to require multi-use path instead of frontage sidewalk under specific circumstances.

Ordinance Number: Proposed Ordinance #2017-12

File Number: MI-17-02

Development of the Ordinance

In April of 2017, the Interim Director of the Planning & Inspections Department met with local business leaders and engineers to discuss possible changes to the *Zoning Ordinance* and the *Land Subdivision Regulations* that would remove unnecessary obstacles to development in pursuit of the City's business-friendly policies. The result of these meetings was a document entitled "City of Dover – Business Friendly Suggested Subdivision and Zoning Code Changes," which is attached to this report.

The current set of ordinance changes was developed largely as a response to this document. Planning Staff discussed the concerns and suggestions raised in the document and divided them into changes that could be made immediately and those that would need extra attention and research. The immediate changes were developed in detail as "Phase 1" fixes. In addition to the suggested immediate changes, Planning Staff added to Phase 1 several additional changes based on concerns raised as part of the review of recent development projects before the Planning Commission.

Upon the implementation of Phase 1, Planning Staff will begin working on the remaining fixes needing extra research. These "Phase 2" fixes will appear before future meetings of the Planning Commission and City Council.

Current Proposed Ordinance

The immediate fixes identified by Planning Staff include text amendments addressing the following topic areas:

Buffering and Screening

- Clarification of the landscaping standards and waiver provisions of Arterial Street Buffers.
- Harmonization of the Arterial Street Buffer requirements for commercially zoned and residentially zoned properties. Under existing code, landscaping for Arterial Street Buffers in residential zones is required to rise to the level of screening.
- Modifications to the Opaque Barrier Requirement eliminating the requirement for a barrier in front yard areas and allowing the accompanying landscaping to be planted on either side of the barrier.
- Clarification of the requirements for parking lot screening, including elimination of the 20-foot distance requirement.

Trash and Recycling

- A requirement that all properties provide at least two dumpsters upon redevelopment, in order to accommodate both trash and recycling needs.
- Elimination of most minimum size requirements for dumpster enclosures. The existing size standards require too much space relative to the actual size of most dumpsters.
- Addition of a trash compactor substitution option for dumpsters.
- Clarification of the approving authority for dumpsters.

Tree Planting and Preservation

- Creation of a "development area" standard for landscaping with the requirement that tree density achieve a required one (1) tree per 3,000 SF of area within the development area. The intent of this change is to ensure developers do not have to landscape large

undeveloped areas of a property.
- Clarification of when new or replacement tree plantings must be in accordance with the City's Table of Trees or merely of an acceptable similar species.

Facilities for Pedestrians and Bicycles
- Rewriting of the section on sidewalks so that it also addresses multi-use paths through the creation of "pathway" terminology.
- Expansion of the requirement to install sidewalk (pathway) so that new buildings must provide sidewalk if they are going through administrative review.
- Creation of standards outlining when the Planning Commission or the City Planner may require a multi-use path instead of sidewalk.

Building and Architectural Design Guidelines
- Addition of standards for visible HVAC equipment and utility connections.

Parking and Driveways
- Reassignment of the responsibility for curbing waivers from the Planning Commission to the City Planner.
- Expansion of the responsibility for parking waivers so that the City Planner may reduce the amount of required parking in case of administrative review.
- Relaxation of the requirement that recipients of parking waivers designate an area of open space where the parking waived could be constructed in full in the future. The waiver recipient, at the granting authority's discretion, must designate an area where the full amount or less than the full amount may be constructed in the future.
- Relaxation of the prohibition on motor vehicle fueling in parking lots for multiple dwellings, so that electric vehicle charging stations may be provided.

As text amendments are proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission is required. City Council will conduct a Public Hearing and take Final Action on the proposed Ordinance #2017-12 at their meeting of October 9, 2017.

Agency Review

As part of review by Development Advisory Committee (DAC) members, the Planning Office received comments from the City's Public Works and Electric Departments and from DelDOT. Comments from Public Works and Electric raised concerns about conflicts between landscaping and utilities and infrastructure. These concerns are addressed through Staff Amendment #1 below.

Comments from DelDOT asked that Article 5, Section 18 include maintenance standards for multi-use paths. After consideration, Planning Staff believes the *Zoning Ordinance* is not an appropriate place to include these standards. Maintenance standards will be addressed through proposed changes to the *Dover Code of Ordinances*, Chapter 98 – Streets, sidewalks, storm sewers and other public places, as part of the Phase 2 fixes to follow Phase 1.

Staff Amendment #1

Following DAC Review, Planning Staff reviewed the current proposed ordinance and developed a Staff Amendment to include corrections, additional clarifications, and changes based on department/agency concerns. The proposed changes presented as Staff Amendment #1 are outlined below.

Staff Recommendation	Ordinance Lines	Proposed Revision	Reason/Notes
1	42	Replace the words "article 5, section 15 of this ordinance" with "Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines".	Clarification of reference
2	44-46	Amend line as follows: "Landscape designs and planting plans which would pose a hazard to traffic on the arterial street**, obstruct underground or overhead utilities or infrastructure,** or ~~**which would**~~ significantly impede visibility of properties from the street shall be prohibited."	Address Public Works & Electric concerns about landscape plantings interfering with utilities and infrastructure
3	59	Replace subsection 7.32" with "subsection 1.82 – Standards for arterial street buffer landscaping."	Clarification of reference
4	70-71	Retitle Section 6 as "Dumpsters for trash and recycling."	With the removal of section 6.4 (see item 7 below) Dumpsters become the sole topic of Section 6.
5	73	Remove the words "or garbage disposal units."	Removed to avoid confusion with trash compactors
6	75	Remove the words "garbage disposal units."	Removed to avoid confusion with trash compactors
7	147-149	Remove section 6.4 in its entirety.	This section will be moved to Article 6 Section 1 (see Item 19 below)
8	193	Add "and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31." after "egress."	Ensure that required parking lot buffers do not interfere with corner visibility
9	194	Add the sentence "The hedge shall be at least two feet in height at the time of planting	Clarify the minimum and maximum height standards for parking lot screening

		and shall grow to no more than four feet in height at the time of maturity." Add the sentence before the sentence beginning with "while."	
10	200-201	Replace the words "a durable and continuous evergreen screen" with "landscaping as required by section 7.22 – Landscaping options"	Clarify that any landscaping permitted by section 7.22 will be permitted in case of a waiver of the fence component of the opaque barrier
11	227-229	Amend line as follows: "Landscape designs and planting plans which would pose a hazard to traffic on the arterial street**, obstruct underground or overhead utilities or infrastructure,** or ~~**which would**~~ significantly impede visibility of properties from the street shall be prohibited."	Address Public Works & Electric concerns about landscape plantings interfering with utilities and infrastructure
12	379	Remove all brackets from the line and making the edits as suggested by the bracketed language.	Formalization of code editor's grammatical edits
13	736-739	Remove the words "which wall contains legal windows (other than legal bathroom or kitchen windows) with a sill height of less than eight feet above the level of the said parking space".	Simplify and expand the requirement for parking near multifamily dwellings to be at least 15 feet away from the building
14	753	Add the title "*Parking lots*."	The section needs a title
15	755	Add "and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31." after "egress."	Ensure that required parking lot buffers do not interfere with corner visibility
16	757	Add the sentence "The hedge shall be at least two feet in height at the time of planting and shall grow to no more than four feet in height at the time of maturity." Add the sentence before the sentence beginning with "while."	Clarify the minimum and maximum height standards for parking lot screening
17	759	Replace the words "Article 10 of this ordinance" with	Clarification of reference

		"Appendix B – Zoning, Article 10 – Planning Commission."	
18		Add Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines to the list of sections being updated by this ordinance (#2017-12). In Article 5, Section 15, add subsection 15.9 to read as follows: "Landscape plantings shall be placed at least 10 feet away from all underground utilities and infrastructure, as measured from the trunk of the planting. Plantings located within 10 feet of overhead utilities or infrastructure shall be of a species that does not grow to the height of the lowest equipment overhead. Placement of all plantings must minimize conflict with required servicing of utilities and infrastructure."	Address Public Works & Electric concerns about landscape plantings interfering with utilities and infrastructure
19		Add Appendix B – Zoning, Article 6 – Off-Street Parking, Driveways, and Loading Facilities, Section 1 – Permitted accessory parking to the list of sections being updated by this ordinance (#2017-12). In Article 6, Section 1, add subsection 1.5 to read as follows: "*Access drives.* In areas under the joint or overlapping jurisdiction of the Delaware Department of Transportation and the City of Dover, the regulations of the Delaware Department of Transportation relating to ingress and egress drives shall apply."	Section moved from Article 5, Section 6. Article 6, which deals with parking and driveways, is a more appropriate location for this section.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: AUGUST 30, 2017

CITY OF DOVER Electric & Public Works Departments

APPLICATION: **Text Amendments: Zoning Ordinance, Article 5 and Article 6**

FILE #: **MI-17-02**

REVIEWING AGENCY: **City of Dover Electric and Public Works Departments**

CONTACT PERSON: **Paul Waddell - Electric**
Jason A. Lyon, P.E. – Public Works

CONTACT PHONE #: **ELECTRIC - 302-736-7070 PUBLIC WORKS – 302-736-7025**

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

ELECTRIC

1. No objections to proposed amendments.

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. Our office has no objections to the proposed text amendments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

MI-17-02

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 09/06/17

CITY OF DOVER FIRE MARSHAL

APPLICATION: Text Amendments: Zoning Ordinance Article 5 and Article 6

FILE #: MI-17-02 REVIEWING AGENCY: City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Fire Marshal PHONE #: (302) 736-4457

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESS BY THE APPLICANT:

ADDITIONAL / SPECIFIC COMMENTS:

- **This office has no objections to the proposed amendments as they are not related directly to our office**

APPLICABLE CODES LISTED BELOW (NOT LIMITED TO):
2015 NFPA 1 Fire Code (NFPA; National Fire Protection Association)
2015 NFPA 101 Life Safety Code (NFPA; National Fire Protection Association)
2013 NFPA 72 National Fire Alarm and Signaling Code (NFPA; National Fire Protection Association)
2013 NFPA 13 Installation of Sprinkler Systems (NFPA; National Fire Protection Association)
2009 IBC (International Building Code)
Latest editions of all other NFPA Codes as defined by the Delaware State Fire Prevention Regulations
2015 Delaware State Fire Prevention Regulations
City of Dover Code of Ordinances

***If you have any questions or need to discuss any of the above comments, please call the above contact person listed.**

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: August 30, 2017

D E L D O T

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APPLICATION: Text Amendments: Zoning Ordinance, Article 5 and Article 6

FILE#: MI-17-02 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Jonathan T. Moore PHONE#: 760-2145

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THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

DelDOT has no comments regarding city & state code at this time.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

DelDOT has no recommendations at this time.

ADVISORY COMMENTS TO THE APPLICANT:

DelDOT has no advisory comments at this time.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the planning department as soon as possible.

CITY OF DOVER
STAFF AMENDMENT #1
ORDINANCE #2017-12

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Ordinance 2017-12 be amended as follows:

1. Amend line 42 by replacing the words "article 5, section 15 of this ordinance" with "Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines".

2. Amend lines 44-46 as follows: "Landscape designs and planting plans which would pose a hazard to traffic on the arterial street**, obstruct underground or overhead utilities or infrastructure,** or ~~**which would**~~ significantly impede visibility of properties from the street shall be prohibited."

3. Amend line 59 by replacing "subsection 7.32" with "subsection 1.82 – Standards for arterial street buffer landscaping."

4. Amend lines 70-71 by retitling Section 6 as "Dumpsters for trash and recycling."

5. Amend line 73 by removing the words "or garbage disposal units."

6. Amend line 75 by removing the words "garbage disposal units."

7. Amend lines 147-149 by removing section 6.4 in its entirety. (This section will be moved to Article 6; see lines 68-74 of this staff amendment).

8. Amend line 193 by adding "and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31." after "egress."

9. Amend line 194 by adding the sentence "The hedge shall be at least two feet in height at the time of planting and shall grow to no more than four feet in height at the time of maturity." Add the sentence before the sentence beginning with "while."

10. Amend lines 200-201 by replacing the words "a durable and continuous evergreen screen" with "landscaping as required by section 7.22 – Landscaping options"

11. Amend lines 227-229 as follows: "Landscape designs and planting plans which would pose a hazard to traffic on the arterial street**, obstruct underground or overhead utilities or infrastructure,** or ~~**which would**~~ significantly impede visibility of properties from the street shall be prohibited."

12. Amend line 379 by removing all brackets from the line and making the edits as suggested by the bracketed language.

13. Amend lines 736-739 by removing the words "which wall contains legal windows (other than legal bathroom or kitchen windows) with a sill height of less than eight feet above the level of the said parking space".

14. Amend line 753 by adding the title "*Parking lots*."

15. Amend line 755 by adding "and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31." after "egress."

16. Amend line 757 by adding the sentence "The hedge shall be at least two feet in height at the time of planting and shall grow to no more than four feet in height at the time of maturity." Add the sentence before the sentence beginning with "while."

17. Amend line 759 by replacing the words "Article 10 of this ordinance" with "Appendix B – Zoning, Article 10 – Planning Commission."

18. Add Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines to the list of sections being updated by this ordinance (#2017-12). In Article 5, Section 15, add subsection 15.9 to read as follows:

    "Landscape plantings shall be placed at least 10 feet away from all underground utilities and infrastructure, as measured from the trunk of the planting. Plantings located within 10 feet of overhead utilities or infrastructure shall be of a species that does not grow to the height of the lowest equipment overhead. Placement of all plantings must minimize conflict with required servicing of utilities and infrastructure."

19. Add Appendix B – Zoning, Article 6 – Off-Street Parking, Driveways, and Loading Facilities, Section 1 – Permitted accessory parking to the list of sections being updated by this ordinance (#2017-12). In Article 6, Section 1, add subsection 1.5 to read as follows:

    "*Access drives.* In areas under the joint or overlapping jurisdiction of the Delaware Department of Transportation and the City of Dover, the regulations of the Delaware Department of Transportation relating to ingress and egress drives shall apply."

SYNOPSIS

The proposed amendment provides for a series of technical corrections and clarifications to ordinance #2017-12. The amendment also addresses Public Works staff concerns about landscaping planted near utilities and infrastructure. The amendment also expands a restriction on parking within 15 feet of buildings with multiple dwellings.

FIRST READING

CITY OF DOVER ORDINANCE #2017-12

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 1 – Supplementary Regulations Applying to Residence Zones, Subsection 1.8 – Buffers Along Arterial Streets of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

ARTICLE 5. - SUPPLEMENTARY REGULATIONS

Section 1. - Supplementary regulations applying to residence zones.

~~1.8 *Buffers along arterial streets.* Where residential zoned property fronts on an arterial street, as designated by the comprehensive plan, a landscape buffer shall be required in addition to normal landscaping of the street right-of-way in all residential zones. These buffer areas shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street, and shall, at the time of development of the property, be planted with a variety of trees, shrubs and ground cover so as to effectively screen from view the arterial street from the residential property, and to create a distinctive and consistent visual character for the arterial street. The landscape design and planting plan for these arterial street buffer areas shall be subject to the approval of the planning commission as an integral part of the site development plan. When the residential lots have rear yard areas that front on the arterial street, each lot at the time of development shall be provided with uniform fencing along the rear property line. When it can be demonstrated to the satisfaction of the planning commission through the plan review process that, due to specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties, that compliance with this section would severely limit the development potential of the property or would cause the property to be out of character with the surrounding built environment, the planning commission may approve a lesser amount of buffering, provided that the basic objective of establishing landscaped green space along arterial roadways is achieved.~~

1.8 *Arterial Street Buffers.* Where residential zoned property fronts on a principal arterial street, as designated by the comprehensive plan, a landscape buffer shall be required in addition to normal landscaping of the street right-of-way. This landscape buffer shall be required when the property is subject to site development plan review or site development master plan review by the planning commission according to Appendix B – Zoning, Article 10 – Planning Commission. Arterial street buffers shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street.

1.81 *Landscaping of arterial street buffers.* At the time of development of the property, the arterial street buffer shall be planted with a variety of trees, shrubs and ground cover. The landscape design and planting plan for these arterial street buffers shall be subject to the approval of the planning commission as an integral part of the site development plan.

DRAFT

1.82 *Standards for arterial street buffer landscaping.* Landscaping in arterial street buffers shall follow the landscape guidelines outlined in article 5, section 15 of this ordinance. Landscaping shall be designed to enhance the appearance of the arterial street, complement the architecture of buildings on site, and integrate with adjacent landscape areas. Landscape designs and planting plans which would pose a hazard to traffic on the arterial street or which would significantly impede visibility of properties from the street shall be prohibited.

1.83 *Planning commission waiver.* The planning commission may approve a buffer less than 30 feet in depth. In approving a lesser amount of buffering, the planning commission shall consider the following factors:

a) Whether there are specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties that would severely limit the development potential of the property if a deep buffer was required.

b) Whether a deep or shallow buffer would cause the property to be out of character with the surrounding built environment.

c) Whether there is significant landscape area within the right-of-way of the arterial street itself that can contribute to the buffer, and whether future road improvement activities are likely to reduce the depth of this area.

d) Whether the landscape design and planting plan for the buffer achieve the standards of subsection 7.32.

(Ord. No. 1-78, 1-24-1978; Ord. of 12-14-1992; Ord. of 4-25-1994; Ord. of 6-13-1994; Ord. of 1-10-1996; Ord. of 5-22-2000; Ord. of 10-23-2006; Ord. of 1-14-2008; Ord. No. 2011-21, 10-10-2011; Ord. No. 2011-26, 12-12-2011; Ord. No. 2015-13, 10-12-2015)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 6 – Supplementary Regulations Applying to All Zones Other Than Single-Family Residence Zones of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

Section 6. - Supplementary regulations applying to all zones other than single-family residence zones.

6.1 *Location of trash receptacles or garbage disposal units.* In all zones of the City of Dover (except in residential zones where standard City of Dover 90-gallon trash containers are used), all trash receptacles, garbage disposal units, and bulk recycling bins (excluding publicly operated recycling drop off centers), which shall be referred to collectively as "dumpsters" in this ordinance, are to be situated in order to allow safe and efficient access by trash collection vehicles, and shall be screened from public view. All dumpsters must comply with the following regulations:

6.11 *Location and screening required.* All dumpsters must be located in approved locations on the lot. Dumpsters **must be placed on hard, paved, dust-free surfaces and** may not be placed in designated parking spaces, fire lanes, or access ways. Outside storage of trash, cardboard, or shipping pallets is prohibited. A dumpster enclosure is required to screen the dumpster from view

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whenever these units are situated so that they will be visible from any public right-of-way or from an adjacent property.

6.12 *Minimum dumpster**s*** ~~*pads*~~ *required.* ~~All sites must have provisions for the minimum amount of dumpster pads based on the following table. A dumpster pad shall be provided for each dumpster present on the site. A concrete surface shall be provided to place each dumpster on (unless the pad is reserved for future use). The minimum dimensions for a dumpster pad are 12 feet deep and 12 feet wide. Uses not specified in the table must have dumpster capacity adequate for their needs.~~

Use	Dumpster**s** ~~Pads~~ Required
Restaurant	Two required for the first 3,000 square feet of gross building area; one required for each additional 3,000 square feet of gross building area or fraction thereof
Shopping center (excluding supermarkets or anchor tenants)	Two required for the first three stores; one required for each store thereafter
Supermarkets & anchor tenants in shopping centers	Two required in addition to requirements for shopping center
Office & retail less than 50,000 square feet	~~One~~ **Two** required for the first ~~8,000~~ **16,000** square feet of gross floor area; one required for each additional 16,000 square feet of gross floor area or fraction thereof
Office & retail greater than 50,000 square feet	Two required for the first 50,000 square feet of gross floor area; one required for each additional 24,000 square feet of gross floor area or fraction thereof
Industrial, warehousing & institutional	~~One~~ **Two** required for the first ~~40,000~~ **80,000** square feet of gross building area; one required for each additional 40,000 square feet of gross building area or fraction thereof
Apartment complex	~~One~~ **Two** required for the first ~~24~~ **48** apartments; one required for each additional 24 apartments or fraction thereof

6.13 *Selection of trash service.* Applicants for site **development** plan ~~or conditional use~~ approval shall specify the proposed method of trash collection (side load or front load) at ~~[~~the~~]~~ time of application. A change in the method of collection may require an alteration of the site plan, subject to approval of the city planner or the planning commission.

6.14 *Maneuvering space.* Adequate off-street truck maneuvering space shall be provided on-lot and not within any public street right-of-way or other public lands. Internal site circulation lanes are to be designed with adequate turning radii to accommodate the size and efficient maneuvering of trash collection vehicles.

6.15 *Minimum dimensions for dumpster enclosures.* All dumpster enclosures must be adequate to screen dumpsters from public view. Enclosures for private collection ~~must have interior dimensions of no less than ten feet in width, ten feet in depth, and seven feet of height~~ **must be no less than**

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seven feet in height. The height of enclosures for City of Dover collection may be no less than five feet high.

6.16 *Enclosure construction.* All dumpster enclosures shall be constructed of durable materials that will withstand the normal use and wear expected in trash removal operations. **Whenever a dumpster, in its enclosure, will be visible from a public right-of-way,** ~~T~~the appearance of the dumpster enclosures shall complement the architecture of the principal building on the lot, and be constructed with the same or similar exterior materials.

6.17 *Gates.* Gates are required whenever a dumpster, in its enclosure, will be visible from a public right-of-way. Gates must be designed to swing back behind the front of the enclosure and lock in the open position. If City of Dover trash service is provided, it is the responsibility of the property owner or occupant to open and securely lock back the gates to allow for trash pick up. The gates may be opened 12 hours prior to pick up, and must be closed within 12 hours after pick up.

6.18 ~~*Dumpster pads reserved for future use.* In the event that an establishment is required by this ordinance to have more dumpster pads than they currently need, the additional pad(s) may be reserved on the site for future use. All dumpster pads must meet the minimum design requirements and criteria found in this ordinance. The city planner may require that the owner of record construct the dumpster pad and enclosure on this reserved location or locations upon determining that there is a need for the additional enclosure.~~ ***Reduction of dumpster requirement*. When a use is required to provide dumpsters as part of site development plan approval, the required number of dumpsters may be reduced under the following circumstances:**

a) Dumpster pads reserved for future use. An area of the site reserved for a dumpster may be substituted for an actual dumpster. The provided area must be large enough to accommodate a dumpster and must be accessible to trash collection services. The city planner may require that the owner of record of the property provide a dumpster in the reserved location, together with any enclosure required, upon determining there is need for the additional dumpster.

b) Trash compactor substitution. Trash compactors may be substituted for ordinary dumpsters at a two to one ratio. The city planner may approve a higher substitution ratio if specifications are provided indicating the machine will achieve a correspondingly higher trash compaction ratio. Trash compactors must meet the same location and screening requirements as other dumpsters. Sites providing trash compactors must still provide separate receptacles for recycling.

6.2 ~~*Unit location to be approved by planning commission and city manager.* The location of the units on the property and the type of screening necessary shall be approved by the planning commission of the City of Dover in accordance with the site development approval of the property and the same shall be approved by the city manager concerning the desirability of the location for [the] facility in collection of trash.~~ ***Location and screening approval required*. The locations of new dumpsters on a site and any screening necessary shall be approved through the site development plan approval process, according to the type of review required in Article 10 of this ordinance.**

6.3 ~~*Location and screening approval required.* It shall be unlawful for any person to maintain a unit on his property unless the location and screening of the same has been approved by the planning commission and the city manager as stated in [sub]sections 6.1 and 6.2.~~ ***Unauthorized dumpsters*.**

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Any dumpster not previously approved through the site development plan approval process may be required by the city planner to be moved, removed, or screened if said dumpster is a nuisance to neighboring properties by virtue of its current location.

6.4 *Access drives.* In areas under the joint or overlapping jurisdiction of the Delaware Department of Transportation and the City of Dover, the regulations of the Delaware Department of Transportation relating to ingress and egress drives shall apply.

(Ord. of 9-13-1999)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 7 – Supplementary Regulations Applying to All Non-Residential Zones of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

Section 7. - Supplementary regulations applying to all non-residential zones.

7.1 *Lighting.* Lighting of commercial uses shall provide no less than 1½ footcandles at grade. Light shall be deflected away from adjacent residential areas and shall not be distracting to traffic on adjacent roads.

7.2 ~~*Buffering.*~~ **Opaque Barrier.** Visual and sound screening shall be provided on a non-residential use when abutting a residential use~~.~~**, except in front yard areas. The screening shall be required to be installed on site as part of planning commission or administrative site plan approval. Where required,** ~~S~~screening shall consist of an opaque barrier at least six feet in height, accompanied by landscaping.

7.21 *Opaque barrier options.* The requirement for the opaque barrier may be met by choosing one of the following:

a) An opaque ~~wooden~~ fence **made of durable materials such as wood, vinyl, composite, etc**.

b) A wall constructed of masonry materials, either stucco, brick, split-faced block, or decorative concrete. If the principal structure on the lot is of masonry construction, the wall shall match the exterior of the building.

c) An earthen berm (3:1 slope maximum).

d) An earthen berm (3:1 slope maximum) **with** ~~and~~ either an opaque ~~wooden~~ fence or ~~a~~ wall **constructed on top. Materials of the fence or wall shall be as specified in options a) and b).** ~~constructed of masonry materials, either stucco, brick, split-faced block, or decorative concrete.~~ The total height of the ~~buffer~~ **barrier** may be no less than six feet high.

7.22 *Landscaping options.* The required opaque barrier must be accompanied by one of the following:

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a) A durable and continuous evergreen planted screen, six feet in height at ~~[~~the~~]~~ time of planting~~, located on the residence side of the barrier~~. In the case of an earthen berm, the evergreen screen may be on the top of the berm.

b) A hedge that will grow to a height of at least six feet at maturity~~, planted on the residence side of the barrier~~. The hedge shall be interspersed with evergreen trees at least six feet high at ~~[~~the~~]~~ time of planting. The hedge shall be at least four feet high at ~~[~~the~~]~~ time of planting.

7.23 *Parking lots.* Whenever a parking lot is located across the street from a residential use, it shall be screened from view of such land by a thick hedge located along a line drawn parallel to the street ~~and a distance of 20 feet therefrom~~, such hedge to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. **While the hedge is growing to a suitable height, an adjacent four foot high fence may be required by either the planning commission or city planner, according to the type of review required by Appendix B – Zoning, Article 10 – Planning Commission.** ~~A fence five feet high may be required while such hedge is growing to a suitable thickness.~~

7.24 *Planning commission waiver*. The planning commission may waive the requirement for the opaque barrier (wood fence, masonry wall, or earthen berm) and require only a durable and continuous evergreen screen in cases where noise is not a concern and the vegetation alone is considered a desirable aesthetic alternative.

7.3 ~~*Buffers along arterial streets.*~~ **Arterial Street Buffers.** Where nonresidential zoned property fronts on ~~an~~ **a principal** arterial street, as designated by the comprehensive plan, a landscape buffer shall be required in addition to normal landscaping of the street right-of-way ~~in all non-residential zones~~. **This landscape buffer shall be required when the property is subject to site development plan review or site development master plan review by the planning commission according to Appendix B – Zoning, Article 10 – Planning Commission. Arterial street buffers shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street.** ~~These buffer areas shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street, and shall,~~

7.31 *Landscaping of Arterial Street Buffers.* ~~a~~**A**t the time of development of the property, **the arterial street buffer shall** be planted with a variety of trees, shrubs and ground cover ~~so as to create a distinctive and consistent visual character of the arterial street~~. The landscape design and planting plan for these arterial street buffer**s** ~~areas~~ shall be subject to the approval of the planning commission as an integral part of the site development plan. ~~When it can be demonstrated to the satisfaction of the planning commission through the plan review process that, due to specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties, that compliance with this [sub]section would severely limit the development potential of the property or would cause the property to be out of character with the surrounding built environment, the planning commission may approve a lesser amount of buffering, provided that the basic objective of establishing landscaped green space along arterial roadways is achieved.~~

7.32 *Standards for Arterial Street Buffer Landscaping.* Landscaping in arterial street buffers shall follow the landscape guidelines outlined in Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines. Landscaping shall be designed to enhance the appearance of the arterial street, complement the architecture of

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buildings on site, and integrate with adjacent landscape areas. Landscape designs and planting plans which would pose a hazard to traffic on the arterial street or which would significantly impede visibility of properties from the street shall be prohibited.

7.33 *Planning Commission Waiver.* The planning commission may approve a buffer less than 30 feet in depth. In approving a lesser amount of buffering, the planning commission shall consider the following factors:

a) Whether there are specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties that would severely limit the development potential of the property if a deep buffer was required.

b) Whether a deep or shallow buffer would cause the property to be out of character with the surrounding built environment.

c) Whether there is significant landscape area within the right-of-way of the arterial street itself that can contribute to the buffer, and whether future road improvement activities are likely to reduce the depth of this area.

d) Whether the landscape design and planting plan for the buffer achieve the standards of subsection 7.32 - *Standards for Arterial Street Buffer Landscaping*.

7.4 *Outdoor storage trailers.* Storage trailers accessory to an approved use shall be prohibited on a site, except when meeting the following conditions:

1. The total floor area of storage trailers shall be less than two percent of the gross floor area of the principal building.
2. All storage trailers shall be placed in accordance with all zoning regulations regarding permanent structures, including setbacks, parking, and other bulk regulations.
3. All such trailers shall be screened from public streets, and shall not be located between the principal building and the public road right-of-way.
4. Trailers placed during approved construction phases or those used as collection facilities for non-profit, governmental or philanthropic organizations shall not be calculated into floor area totals used to determine parking requirements, but must conform to setbacks and all other bulk regulations.
5. Storage trailers accessory to an approved use are to be temporary features on a site. No such trailer shall be in place for more than 18 months, except for those trailers to be used during construction or those used as collection facilities for non-profit, governmental or philanthropic organizations.

7.5 *Fences.* Fences or walls shall be limited to a maximum height of four feet above the ground when situated within front yard areas, and shall be limited to a maximum height of eight feet above the ground when situated within side and rear yard areas. Fences situated on corner lots shall be subject to the provisions of article 5, section 1.3. For the purposes of this provision, on lots with dual street frontage that are not corner lots, a fence situated to the rear of the principal structure shall be limited to a maximum height of eight feet above ground. Fences or walls with a height in excess of eight feet above the ground shall conform to the setback requirements for dwelling

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buildings as set forth in article 4 of this Appendix. Fence material commonly referred to as "barbed wire" and/or "razor wire," or any similar material shall be prohibited along property lines which adjoin residential zones.

(Ord. of 3-24-1986; Ord. of 12-14-1992; Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 5-22-2000; Ord. No. 2011-26, 12-12-2011)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 16 – Tree Planting and Preservation of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

Section 16. - Tree planting and preservation.

16.1 *Purpose.* The purpose of this section is to establish standards and requirements for the protection and planting of trees and woodlands because it is recognized that woodlands and trees are not only desirable, but are essential to the health, safety, and welfare of the population in that they provide oxygen, reduce carbon dioxide, stabilize soil, cleanse the air by transpiring clean water into the atmosphere, cleanse water passing into the ground through the root system, provide protection for wildlife and their habitats, provide shade, reduce noise and glare, increase property values, and provide an important physical, aesthetic, and psychological balance to the built environment.

16.2 *Definitions.*

Caliper dimension. The term "caliper dimension" means an outside diameter measurement of the trunk of a tree measured at a vertical distance of three feet above grade.

Clearing. The removal of trees from an area of 5,000 square feet or greater, whether by cutting or other means. ~~[~~The term~~]~~ "clearing" shall not include the removal of trees for landscaping purposes by individual lot owners.

Development Area. The area containing all new site features (buildings, parking and drive areas, pedestrian walks, stormwater management areas, buffer areas etc. but not underground utilities) proposed by a plan. The development area shall be delineated using property lines and lines run straight across the property from one property line to another without bending or curving.

Design professional. ~~[~~The term "design professional"~~]~~ shall be any person licensed as a landscape architect or architect, or Delaware certified nursery professional.

Dripline. A line on the ground established by a vertical plane extending from a tree's outermost branch tips to the ground, i.e., the line enclosing the area directly beneath the tree's crown, from which rainfall would drip.

Tree. Any self-supporting, woody perennial plant, usually having a main stem or trunk and many branches and at maturity normally attaining a trunk diameter greater than three inches at any point and height of over ten feet.

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Tree protection area. Any portion of a site wherein are located existing trees which are proposed to be retained in order to comply with the requirements of this section. The tree protection area shall include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively.

Woodland. An area of contiguous wooded vegetation (7,500 square feet or greater), where trees exist at a density of at least one tree with a caliper dimension of six inches or greater per 375 square feet of land and where the tree branches form a contiguous canopy.

16.3 *Applicability.* The terms and provisions of this section shall apply to any activity on real property which requires conditional use, site plan or subdivision approval of the planning commission as set forth in article 10, except the provisions in ~~[~~sub~~]~~section 16.4 which shall apply to all real property.

16.4 *Tree preservation.*

16.41 *Trees required by planning commission to be replaced.* Trees required by the planning commission as a part of a conditional use, subdivision, or site plan approval shall not be removed unless ~~it is [~~they are~~]~~ diseased or infested, or present a danger to life and property. In cases where such trees are removed, they must be replaced with a tree planting ~~of a similar variety~~ in accordance with the table of trees standards kept in the office of the city planner.

16.42 *Trees of special value.* Trees having an historic value, as determined by the state historic preservation officer, or that are of an outstanding nature due to type or species, age, or other professional criteria, may be required by the planning commission to be preserved. Such trees may be prohibited from being removed by the city planner until such time that the planning commission has granted approval to remove such trees.

16.43 *Tree preservation in wetlands.* No portions of wetland areas shall be developed or cleared of vegetation unless granted permission under state and/or federal permit; ~~[~~and~~]~~ they shall remain as essentially undisturbed areas protected under the provisions set forth in ~~[~~sub~~]~~section 16.7.

16.44 *Clearing prohibited without approval.* Clearing, as defined by this section, for any purpose whatsoever, except the establishment of trails and pathways (not greater than eight feet in width) and open yard areas, shall be prohibited unless approved by the planning commission through the site plan, conditional use, or subdivision review process.

16.5 *Woodland preservation.*

16.51 *Tree preservation and selective clearing plan required.* All site development proposals ~~in woodland areas that require planning commission approval and~~ which involve the development of woodland areas **and require planning commission approval** shall include a tree preservation and selective clearing plan as part of the submission plan. The tree preservation and selective clearing plan shall be prepared in accordance with the provisions of ~~this [~~sub~~]~~section ~~[~~16.5~~,] and [~~sub~~]~~section 16.7 and ~~[~~sub~~]~~section 16.8 of this section.

16.52 *Limited clearing for site development allowed.* Generally, site development plans for the construction of ~~[~~a~~]~~ new building within existing woodland areas shall limit clearing of the land to those areas necessary to provide for the placement of the building or group ~~[~~of~~]~~ buildings, adequate access onto the property and to the proposed building or group of buildings, utility placement, off-street parking and yard areas to allow for daylight infiltration and building maintenance. When woodland areas are proposed to be cleared to allow for new construction, clearing within the area of

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the proposed construction shall be limited to an area of 30 feet from proposed building foundation, and 15 feet from off-street parking lots, and utility placement.

16.53 *Maximum clearing requirement.* Specifically, no more than 50 percent of a lot, parcel or tract of land occupied by woodland vegetation may be cleared for any purpose.

16.54 *Reserved.*

16.6 *Tree preservation and planting in nonwoodlands.*

16.61 *Tree preservation and planting plan required.* All developments ~~in nonwoodland areas~~ requiring approval of the planning commission shall be required to submit, with its application and plans, a tree preservation and planting plan as set forth in ~~[~~sub~~]~~section 16.8, and shall conform with the following provisions.

16.62 *Tree density.* **For each property required to submit a tree preservation and planting plan, a development area as defined in this section shall be delineated within the nonwoodland area of the property. Within this development area, existing trees may be retained and new trees shall be planted such that the development area shall attain or exceed a tree density of one tree per 3,000 square feet or fraction thereof.** ~~On each property for which a tree preservation and planting plan is required by this section, existing trees may be retained and new trees shall be planted such that the lot shall attain or exceed a tree density of one tree per 3,000 square feet of lot area or fraction thereof. Trees needed to meet buffer requirements shall not be counted towards tree density. Trees required to be planted in parking areas as specified by the planning commission shall not be counted towards tree density.~~

16.63 *Minimum standards for new trees.* For ~~[~~new~~]~~ trees to be counted toward the required tree density, they must be of a species and size as set forth in the table of trees approved by the planning commission and kept on file in the office of the city planner**, or be of an alternate species found acceptable by the commission**.

16.64 *Minimum standards for existing trees.* For existing trees to be counted toward the required tree density, the tree shall have a minimum caliper dimension of two inches. No trees over eight inches in caliper dimension shall be removed unless within an area of 30 feet from the proposed building foundation, off-street parking lot, and utility placement.

16.7 *Tree protection and planting requirements.*

16.71 *Application.* The following guidelines and standards shall apply to activities regulated under article V [5], section 15 of this section [ordinance]:

16.72 *Protection required.* To protect the required trees or woodland and their critical root zone, a tree protection area delineated by the dripline of a tree or group of trees to be retained, shall be established. The protection area shall not be disturbed by site utility and grading work, by construction activities such as parking, material storage, concrete washout, sedimentation intrusion or erosion, or other activity. Damage to trees or woodlands and their critical root zones shall require tree plans to be revised to compensate for the loss as determined by the building inspector.

16.73 *Protection measures.* Tree protection areas shall be protected by fencing, staking, or continuous ribbon and, where necessary, silt screens which shall be situated to coincide with the

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dripline of the tree or group of trees to be preserved. Protection measures shall be erected prior to construction, and must remain until final landscaping is installed.

16.74 *Planting requirements.* New trees proposed to be planted for credit toward the density requirement shall have spacing that is compatible with the ~~spacial~~ **spatial** site limitations and with responsible consideration toward species size when mature. Species selected for planting must be ecologically compatible with the specifically intended growing site. Trees selected for planting shall be free from injury, pest, disease, and disorders.

16.8 *Tree preservation, planting and selective clearing plans.*

16.81 *Plan specifications.* A tree preservation and planting plan or a preservation and selective clearing plan, prepared by or in conjunction with a design professional, shall be shown on a copy of a preliminary plat, sketch, or site plan, as appropriate to the proposed development, drawn to the same scale and covering the same area as the other plan documents prepared for the planning commission hearing. The plan may be combined with a required buffer and landscape plan for the project, at the option of the developer. The plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this section will be fully satisfied. The plan shall contain, but need not be limited to, the following:

a. Project name, zone, parcel number, north arrow and scale.

b. Developer's name, address and telephone number.

c. Name, address, and telephone number of the design professional responsible for the preparation of the plan.

d. Delineation of all lot lines, minimum yard areas, buffers, and landscape areas as required by the zoning ordinance [this appendix].

e. Total acreage of the site and total lot area for each lot delineated.

f. Delineation of all wetlands and woodlands.

g. Designation and delineation of all lots in nonwoodland areas expected to retain existing trees to meet the tree density requirement.

h. Approximate location and description of the protective tree fencing, staking, or continuous ribbon to be installed which, at a minimum, shall follow the dripline of all trees to be retained along adjoining areas of clearing, grading, or other construction activity.

i. The location, spacing, caliper dimension, and species of new trees proposed to meet tree density requirements.

j. Measures to be taken to avoid sedimentation intrusions and erosion in tree protection areas, and the location of such devices.

k. A summary table of the number of new trees to be planted and minimum number of existing trees to be retained to meet the tree density requirement, if any, along with calculations showing that the tree density requirement has been achieved. Groupings of trees in the tree protection areas for new trees may be keyed to the summary table by area rather than having each tree individually labeled on the plan.

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l. There shall be a note on the plan indicating that a one-year full price replacement guarantee on all new trees planted is held by the applicant.

16.9 *Tree mitigation.*

16.91 *Planning commission waiver.* The planning commission may waive the provisions of ~~[~~sub~~]~~sections 16.52, 16.53, and 16.62, and require replacement planting for mitigation purposes should the planning commission determine, after demonstration by the applicant, that due to physical limitations of the land which would otherwise prohibit the reasonable use of the land, or for purposes of preserving, protecting and promoting the interest of public health, safety, welfare and/or public convenience. All tree mitigation plantings must occur within the corporate limits of the City of Dover. Tree mitigation may occur off-site in accordance with the provisions listed below in this ordinance:

(a) If a waiver is sought from the provisions of ~~§ [~~subsection~~]~~ 16.62, new tree plantings are required at a rate of 1:1. All new tree plantings shall meet the minimum size at planting requirements of the City of Dover table of trees.

(b) If a waiver is sought from the provisions of ~~§ [~~subsection~~]~~ 16.52 and/or ~~§ [~~subsection~~]~~ 16.53, then mitigation must be in the form of newly created woodland areas. New woodlands shall be created at a rate of 1.25 times the amount of woodlands to be removed. A woodland mitigation plan shall be prepared by a licensed forester, landscape architect, or certified nursery professional, for the consideration of the planning commission.

(c) All tree mitigation must occur on-site unless an off-site location is specifically approved by the planning commission. When considering off-site locations for tree mitigation, the commission shall consider:

1) A physical hardship related to the land which would otherwise prohibit compliance on the subject site;

2) Whether the mitigation plan proposed by the applicant is superior in terms of environmental benefits, tree quantity, or aesthetic qualities compared to strict compliance with the ordinance on-site.

16.92 *Tree mitigation required for unauthorized clearing.* In the event that trees or woodland areas to be preserved under this ordinance or as a condition of a site plan, subdivision, or conditional use approval are illegally removed, tree mitigation shall be required. All tree mitigation plantings must be placed on the same lot, parcel, or tract on which the illegal clearing occurred, except as noted below. All replacement trees must be of the same or a similar variety as the trees illegally removed.

(a) If trees have been removed from non-woodland areas, new tree plantings shall be provided in accordance with the table below:

Caliper Dimension of Trees Removed	Number of Trees Required	Caliper dimension at Planting
25″ or larger	5 trees	3″
17″ to 24″	3 trees	3″
9″ to 16″	3 trees	3″
8″ or less	2 trees	3″

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461 * *Note* —All trees replanted must be guaranteed to survive a minimum of one year.

462 (b) If trees have been removed from woodland areas, then mitigation must be in the form of
463 newly created woodland areas. New woodlands shall be created at a rate of 1.75 times the
464 amount of woodlands that were illegally removed. The woodland unlawfully removed
465 must be replanted to satisfy a portion of this requirement. A woodland mitigation plan shall
466 be prepared by a licensed forester, landscape architect, or certified nursery professional, for
467 review and approval by the city planner.

468 (c) If the applicant wishes to provide replacement plantings on any property other than the
469 one on which illegal clearing occurred, the mitigation plan must be reviewed and approved
470 by the planning commission. When considering off-site locations for tree mitigation, the
471 commission shall consider:

472 1) A physical hardship related to the land which would otherwise prohibit
473 compliance on the subject site;

474 2) Whether the mitigation plan proposed by the applicant is superior in terms of
475 environmental benefits, tree quantity, or aesthetic qualities compared to strict
476 compliance with the ordinance on-site.

477 (Ord. of 7-13-1992; Ord. of 7-12-1993, § 4; Ord. of 9-13-1999; Ord. of 4-28-2008(2); Ord. No. 2010-25,
478 11-8-2010)

479 **BE IT FURTHER ORDAINED:**

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481 That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 18 – Sidewalk Requirements
482 of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue
483 text, as follows:

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485 Section 18. - ~~Sidewalk requirements~~**Pedestrian, bicycle, and multi-modal access requirements**.

486

487 ~~18.1 Standard City of Dover sidewalk, as per chapter 19 [98], article IV of the Dover Code of~~
488 ~~Ordinances, shall be required to be installed along the public street frontage of a property by the~~
489 ~~property owner or developer whenever such property involves a development proposal which is~~
490 ~~subject to planning commission review and approval.~~

491 ~~18.2 Whenever a private road within a development is proposed, whether planned for future~~
492 ~~subdivision or not, the developer shall be required to install [a] standard City of Dover sidewalk, as~~
493 ~~per chapter 19 [98], article IV of the Dover Code of Ordinances, on both sides of the cartway of the~~
494 ~~private road. Such sidewalk shall include barrier free access ramping at points of intersection with~~
495 ~~street crossing and at other locations so as to afford reasonable barrier free pedestrian movement~~
496 ~~and access to buildings.~~

497 ~~18.3 Within all multifamily residential developments that do not involve subdivision of the land, and~~
498 ~~with all nonresidential developments, [a] standard City of Dover sidewalk shall be required to be~~
499 ~~installed by the developer. Such sidewalk shall be situated so as to provide for pedestrian access~~
500 ~~from parking areas to building entrances and shall provide sidewalk linkages to the existing~~
501 ~~sidewalk network in the neighborhood, if present, or to frontage sidewalk as required in~~

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~~[sub]section 18.1 above, and shall provide pedestrian linkages between buildings and community facilities, including, but not limited to, park areas and laundry buildings.~~

~~18.4 When it can be demonstrated to the satisfaction of the planning commission that strict adherence to the provisions of this section would represent an undue burden on a development, then the planning commission may modify or waive any of the stated requirements, provided that the objective of providing adequate, visible and suitably located walkways as part of the development proposal is secured. When considering a request for modification or waiver, the planning commission shall determine whether or not an undue hardship exists, based on a finding that one or more of the following criteria have been met:~~

~~1) The property is isolated with respect to sidewalks with no existing sidewalk within the immediate vicinity of the property; or~~

~~2) The proposed use would not generate or attract additional pedestrian trips; or~~

~~3) Sidewalk construction to serve the property is planned as part of a state or municipal capital improvement project; or~~

~~4) Physical characteristics of the property are such that sidewalk installation is impractical or impossible.~~

~~18.5 The planning commission may authorize the use of construction materials other than those required of [a] standard City of Dover sidewalk when it can be demonstrated to the satisfaction of the planning commission that:~~

~~(1)Such alternative materials would serve the public as well as [a] standard City of Dover sidewalk; and~~

~~(2)Such alternative materials would be more environmentally desirable or more in keeping with the overall design of the development.~~

18.1 *Purpose*. The purpose of this section is to establish standards and requirements for the construction of transportation networks for pedestrians, bicyclists, and other users of non-motorized forms of transit, in order to ensure safe and convenient multi-modal access to all development within the City of Dover. Sidewalks, multi-use paths, and other hard paved trails, whether adjacent to a roadway or not, shall be referred to collectively as "pathways" within this section. It is the intent of this section that all new pathways installed shall be designed to a standard commensurate with existing and expected future multi-modal traffic volumes, recognizing that the convenience of a growing network of such pathways citywide will encourage residents and visitors to use non-motorized means of travel to reach their destinations.

18.2 *Applicability*. Sidewalks or other pathways according to the requirements of this section shall be installed on a property by the property owner or developer under the following circumstances:

a) When the property is part of a development proposal which is subject to planning commission site development plan review.

b) When the property is part of a development proposal which is subject to planning commission site development master plan review.

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c) When the property is part of a request for a conditional use permit which also requires site development plan review or site development master plan review.

d) When the property is part of a development proposal which is subject to administrative site plan review, provided the proposal involves construction of an entire new building.

18.3 Pathway design standards and location requirements. Pathways shall meet the following minimum standards and requirements in order to allow for pedestrian access:

a) Public street frontage. Standard City of Dover sidewalk, as per chapter 98, article IV of the Dover Code of Ordinances, shall be required to be installed along the entire public street frontage of a property. Where frontage sidewalk exists but does not meet the standards of chapter 98, article IV, the sidewalk shall be re-laid to meet the standards. Sidewalk shall include barrier-free access ramping at points of intersection with street crossings and at other locations so as to afford reasonable barrier-free pedestrian movement and site access.

b) Private street frontage. Wherever a private road within a development is proposed, whether planned for future subdivision or not, Standard City of Dover sidewalk, as per chapter 98, article IV of the Dover Code of Ordinances, shall be required to be installed on both sides of the cartway of the private road. Such sidewalk shall include barrier-free access ramping at points of intersection with street crossings and at other locations so as to afford reasonable barrier-free pedestrian movement and site access.

c) On-site linkages. Within all nonresidential developments and all multifamily residential developments, sidewalk at least five feet wide, constructed of concrete or good paving brick laid substantially in concrete, shall be installed to make pathways between street frontages, parking areas, building entrances, and any other site features needing pedestrian access. Such pathways shall be designed to provide reasonable travel times between these features and disincentivize taking shortcuts across areas inappropriate for pedestrians. Where such pathways must cross drive lanes, standard City of Dover crosswalk shall be installed.

18.4 Alterations to pathway design standards. The planning commission or city planner, according to the type of plan review required by article 10 of this ordinance, may alter the minimum pathway design standards under the following circumstances in order to allow for multi-modal access:

a) Where vehicular traffic on adjacent roadways is of sufficient speed and volume to pose a potential danger to bicyclists and other non-motorized forms of transport using the roadway, or where pedestrian and multi-modal traffic is expected in sufficient volumes to cause conflicts on a narrower sidewalk, a ten-foot wide multi-use path made of concrete or asphalt may be required instead of standard City of Dover sidewalk along the public street frontage.

b) Where an adopted plan recommends installation of multi-modal facilities for a specific site, those facilities may be required to be constructed according to the standards of the agency implementing the plan.

c) Where it can be shown that pathway materials alternate to those specified in this section would be more durable to multi-modal traffic, be more environmentally desirable, or be

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more in keeping with the overall design of the development, use of these alternate materials may be authorized.

18.5 Waiver of pathway location requirements. The property owner or developer may request a waiver from the planning commission or city planner, according to the type of plan review required by article 10 of this ordinance, under the following circumstances in order to reduce or eliminate the requirements for pathway installation:

a) When the property is isolated from the existing pathway network, with no existing pathways within the immediate vicinity of the property.

b) When the proposed use would not generate or attract additional pedestrian, bicycle, or other non-motorized trips.

c) When physical characteristics of the property are such that pathway installation is impractical or impossible.

18.6 State Law Requirements. Where state laws or regulations of the Delaware Department of Transportation applying to right-of-way design conflict with the provisions of this section, the state laws and regulations shall prevail.

(Ord. of 6-13-1994; (Ord. of 9-13-1999)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 19 – Building and Architectural Design Guidelines of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

Section 19. - Building and architectural design guidelines.

The following guidelines shall be used in design of buildings and their architectural characteristics for the purposes of meeting the intent of **Appendix B – Zoning,** ~~a~~**A**rticle 10 **– Planning Commission**, section 2, subsection 2.27:

(1) *Physical orientation and facade.*

(i) The principal building facade of proposed buildings shall be oriented toward the primary street frontage, and in the same direction as the majority of existing buildings on the frontage street. Proposed buildings on corner properties shall reflect a public facade on both street frontages.

(ii) Consideration shall be given to the dominant architectural features of existing buildings, but do not necessarily have to mimic those styles. Large expanses of blank walls are to be avoided, ~~[~~and~~]~~ consideration shall be given to windows and entrance ways along frontage, as well as projecting elements such as eaves, cornices, canopies, projecting bays, shadow lines and overhangs.

(2) *Architectural characteristics.*

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(i) *Building proportions.* Consideration shall be given to proportional attributes, including overall height-to-width ratios, of existing building facades, doors, windows, projecting canopies, and other architectural features, found in adjacent existing buildings.

(ii) *Building mass.* Facades of new buildings shall consider, but not mimic, the sense of lightness or weight of existing buildings on neighboring properties and consider similar proportions of solids (i.e., siding, blank walls, etc.) to voids (i.e., windows, door openings, etc.).

(iii) *Materials.* Proposed buildings shall incorporate durable exterior surface materials similar to and complementary with the color, texture, size, and scale of exterior materials reflected on existing buildings in the immediate vicinity.

(iv) *Roofs.* Consideration shall be given to general shape, ridge and eave heights, and material characteristics expressed in existing buildings along the subject street.

(v) *Visible utilities*. Outside HVAC equipment and visible utility connections shall be designed to minimize impact on adjacent property owners, by reducing their overall visible presence and if necessary screening them from public view. Consideration must also be given to equipment placement in proximity to loading areas and public facades of the buildings.

(3) *Exemptions.*

(i) *Building additions.* Proposed building additions which will be designed to match the architectural characteristics and exterior material treatments of the existing building to which the addition is being made shall be exempt from the requirement to submit elevation drawings or other graphic representations.

(Ord. of 9-25-2000)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 3 – Required Off-Street Parking Spaces, Subsection 3.6 – Drainage and Surfacing of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

ARTICLE 6. - OFF-STREET PARKING, DRIVEWAYS AND LOADING FACILITIES

Section 3. - Required off-street parking spaces.

3.6 *Drainage and surfacing.*

(a) All open permanent parking areas and access drives shall be properly drained and all such areas shall be provided with paved asphalt, concrete or other hard, paved, dust-free surface.

(b) All permanent parking areas shall be enclosed with upright concrete curbing at least six inches in height. The ~~planning commission~~ **city planner** may relax this requirement for a portion of a parking area when there is a demonstrated need to convey stormwater to a proposed or approved stormwater management area. Curbing shall not be required for

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loading areas, handicapped access and for parking spaces accessory to a one-family or two-family residence (see also article 6, section 5.3).

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 3 – Required Off-Street Parking Spaces, Subsection 3.9 – Adjustments to Parking Requirements of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

3.9 *Adjustments to parking requirements.* The planning commission **or city planner, according to the type of plan review required by Appendix B – Zoning, Article 10 – Planning Commission,** may reduce, in an amount not to exceed 50 percent, the number of parking spaces required when, in the opinion of the commission, it has been demonstrated that the use is adequately served by transportation and parking alternatives, including but not limited to:

(a) Site plan proposals within the downtown redevelopment target area, as described in appendix C of the Dover Code of Ordinances, may be granted a 20 percent reduction in the amount of off-street parking normally required, due to the availability of mass transit, municipal parking and existing pedestrian amenities.

(b) Designated off-street parking reserved for car pools, van pools, and bicycle parking facilities, in accordance with the following schedule:

(1) Each carpool space shall be equivalent to three standard parking spaces.

(2) Each vanpool space shall be equivalent to five standard parking spaces.

(3) Every group of five bicycle parking spaces shall be equivalent to one standard parking space.

(c) Employer participation in a traffic-mitigation plan approved by the Delaware Department of Transportation.

(d) Cash-in-lieu of parking contributions toward the capital construction or improvement of municipal parking facilities that are proposed. The cash-in-lieu of parking contribution shall be in a monetary amount equivalent to the estimated cost of construction for the number of standard surface parking spaces for which the reduction is sought. To take advantage of this option, the developer shall submit to the city engineer a cost estimate for the parking requested to be waived. The city engineer shall examine the estimate for accuracy in current prevailing costs of construction at the time of proposal and shall report to the planning commission his/her findings.

(e) Proposals involving superior urban design which contribute to an enhanced pedestrian environment and which include such features as pedestrian plazas and pocket-parks, pedestrian-way connections with existing sidewalk systems and community facilities, park benches and other street furniture, mass transit connections and shelters, and landscaping and shade tree plantings.

In all areas, except the downtown redevelopment target area, **the planning commission or city planner, according to the type of plan review required by Appendix B – Zoning, Article 10 –**

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Planning Commission, may require the development plans ~~shall~~ **to** have an area of open space designated where parking could be constructed **less than or** equal to the number being reduced**. In such cases** ~~and~~ the plan shall bear a note which explains that the petitioner, in accepting a parking reduction, agrees to construct such additional parking as is otherwise required under the provisions of ~~the zoning ordinance [~~this appendix~~]~~, if the planning commission, after a hearing, determines that the reasons for granting said reduction no longer exist. In all such instances where the planning commission determines that the reasons for granting a reduction no longer exist, the owner of record for the subject property for which a reduction was previously granted must construct the parking required to meet the regulations of the city during the next construction season.

(Ord. of 12-14-1992(2); Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 4-23-2007(4) ; Ord. No. 2009-12, 9-14-2009; Ord. No. 2009-30, 3-8-2010; Ord. No. 2011-29, 1-9-2012; Ord. No. 2011-29, 1-9-2012)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 5 – Supplementary Regulations for Parking and Loading Facilities of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

Section 5. - Supplementary regulations for parking and loading facilities.

5.1 *Access near street corners.* No entrance or exit for any accessory off-street parking area with over ten parking spaces, nor any loading berth shall be located within 50 feet of the intersection of any two street lines.

5.2 *On lots divided by zone boundaries.* When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces or loading berths shall apply to all of the lot. Parking spaces or loading berths on such a lot may be located without regard to district lines, provided that no such parking spaces or loading berths shall be located in a residence zone, unless the use to which they are accessory is permitted in such zone, or by special permission of the board of adjustment.

5.3 *Supplementary parking regulations for multiple dwellings.* No parking space shall be located in any front yard or within three feet of any lot line in side or rear yards. The parking of motor vehicles within 15 feet of any wall or portion thereof, which wall contains legal windows (other than legal bathroom or kitchen windows) with a sill height of less than eight feet above the level of the said parking space is prohibited. **Except for electric vehicle charging stations, no automobile service** ~~No service of any kind~~ shall be permitted to be extended to users of the lot, including ~~automobile service,~~ **sales,** repair or fueling, and no gasoline, oil, grease, or ~~other~~ **related** supplies shall be stored or sold in any such lot or in any garage on such lot.

5.4 *Supplementary regulations for any parking lots adjacent to residential lots.*

5.41 Whenever space is provided for the parking of ten or more vehicles in the open, such spaces shall be individually identified by means of pavement markings.

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5.43 ~~Wherever a parking lot is located across the street from other land in any residence zone, it shall be screened from the view of such land by a thick hedge located along a line drawn parallel to the street and a distance of 20 feet therefrom, [and] such hedge [is] to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. A fence five feet high may be required while such hedge is growing to a suitable thickness.~~ **Whenever a parking lot is located across the street from a residential use, it shall be screened from view of such land by a thick hedge located along a line drawn parallel to the street, such hedge to be interrupted only at points of ingress and egress. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. While the hedge is growing to a suitable height, an adjacent four foot high fence may be required by either the planning commission or city planner, according to the type of review required by Article 10 of this ordinance.**

(Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 10-12-1998; Ord. No. 2009-28, 3-8-2010; Ord. No. 2016-14, 5-9-2016)

ADOPTED: *

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SYNOPSIS

The proposed ordinance updates sections of Articles 5 and 6 of the *Zoning Ordinance* in order to enhance the flexibility of the code in several areas, including dumpster requirements, screening and buffer requirements, tree planting requirements, and curbing requirements. The proposed ordinance also adds requirements for recycling to Article 5, Section 6 and rewrites Article 5, Section 18 to allow the City to require multi-use path instead of frontage sidewalk under specific circumstances.

(SPONSORS: HARE AND SLAVIN)

Actions History:

08/14/17 – Scheduled for Introduction – Council Committee of the Whole/Legislative, Finance, and Administration Committee

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