CITY OF DOVER PLANNING COMMISSION
August 15, 2016

The Regular Meeting of the City of Dover Planning Commission was held on Monday, August 15, 2016 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Mr. Holt, Mr. Baldwin, Ms. Maucher and Mr. Tolbert. Dr. Jones and Mrs. Welsh were absent.

Staff members present were Mrs. Ann Marie Townshend, Mrs. Dawn Melson-Williams, Mr. Bill Cook, Mr. Eddie Diaz and Mrs. Kristen Mullaney. Also present were Mr. Ed Ide, Mr. Nick Thomas, Mr. Sean Mace, Mr. Tom Barnett, Mr. Mark Prata and Ms. Monika Sloan. Speaking from the public was Mr. Phil McGinnis.

APPROVAL OF AGENDA

Ms. Maucher moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 6-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JULY 18, 2016

Mr. Baldwin moved to approve the Planning Commission Meeting minutes of July 18, 2016, seconded by Mr. Holt and the motion was unanimously carried 6-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that they are not having a separate Quarterly Workshop this month; it's being combined with tonight's agenda since there was not a very heavy agenda.

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, September 19, 2016 at 7:00pm in the City Council Chambers.

Mrs. Townshend provided an update on the regular City Council and various Committee meetings held on June 27 & 28, July 11 & 12, July 25 & 26 and August 8 & 9, 2016.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend 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-16-16 Eden Hill Farm Traditional Neighborhood Design: Professional Office, Medical & Financial District – Phase 2, Eden Hill Skilled Nursing Facility (Building 4) – Review and Consideration of Minor Amendments related to building size & form, parking requirements and site improvements proposed with the Administrative Site Plan S-16-16 for Phase 2: Building 4 of the Professional Office, Medical and Financial District component of the Eden Hill Farm Traditional Neighborhood Design. The Implementation Plan S-06-26 for the

POMF District as approved consists of nine buildings, parking areas, open space areas and the street layout in multiple phases. The project is located on an overall parcel consisting of 25.47 acres ± of land and is zoned TND (Traditional Neighborhood Design). The project is located on the south side of West North Street and west of the railroad corridor flanking Banning Street. The owner of record is Eden Hill Medical Center, LLC. Tax Parcel: ED-05-076.00-01-13.02-000. *POMF Implementation Plan S-06-26 was granted final approval on October 2, 2007 and Phase 1 of the POMF District was constructed under Administrative Site Plan S-06-42.*

Representatives: Mr. Ed Ide III, I3a Consulting Engineers; Mr. Nick Tomasi, BBL Construction Services; Mr. Sean Mace, Eden Hill SNF; Mr. Tom Barnett, Eden Hill Medical Center

Mrs. Melson-Williams stated that this is an Administrative Site Plan. For the Commission members who are not familiar with the Traditional Neighborhood Design process for the City, this will enlighten them a little bit about a portion of that process.

This is application S-16-16 for the Eden Hill Farm Traditional Neighborhood Design project. It's actually the only TND we have in the City. It consists of three (3) different districts. Specifically, tonight they are looking at the Professional Office Medical and Financial District. Most people would probably recognize that district area if she mentioned the Eden Hill Medical Center which is a very large building on the south side of North Street just west of Banning Street where multiple offices are housed in that facility. This application tonight is focusing on Phase 2 of that district which is a proposal for a skilled nursing facility, it's labeled as Building 4. As part of the TND process, once an implementation plan is established for the district the development of each phase of that district is subject to an Administrative Site Plan review process. Meaning that it is a Staff level and agency level review. With the financial district, the implementation plan which was previously reviewed and approved by the Planning Commission consisted of a total of nine (9) buildings. This is a plan that focuses on what was constructed in Phase 1. The large Building 1 and 2 which is the Eden Hill Medical Center, the associated parking lot areas and the access including Banning Street and the access to the building.

Tonight we are dealing with what is now called Phase 2 which is the southern square just to the west of Banning Street. For the Administrative review process, they submitted a plan for what is a proposed three (3) story building in this Phase 2 area. As mentioned, it's been moving through and Administrative process and what Staff does during that Administrative process is compare the proposal for that phase with the Implementation Plan that has been established for the district as well as the Pattern Book which is kind of the rules and guidelines for development in the district. With this project there are a number of things that Staff has identified that are either minor or clarifying amendments to the Implementation Plan and to the Pattern Book and they've summarized them for the Commission. Staff is basically presenting them to the Commission to update them on the process that this project is going through. In the report summary beginning on Page 3 there is a chart that identifies these series of clarifying amendments which are slight changes to original proposal that we are focused on tonight.

The first one is a change of phase order. Phase 2 will now consist of Building 4. Originally, it was proposed for Phase 2 to consist of Building 3 which is the building area that is closer to North Street. The second revision is related to building size. The original plan for the district identified

Building 4 as a three (3) story building just over 35,000 square feet. With this proposal, Building 4 remains as a three (3) story building; however, the size has increased to 65,000 square feet. While the building size has increased, they believe that it is mainly related to the type of facility that is proposed for this building. The skilled nursing facility is one of the allowable uses in this zone. The specific uses for each of the buildings throughout the district were not fully identified at the time of Implementation Plan. We anticipate some types of changes to the building shape as a particular phase gets ready to come online. The maximum floor area in total for the district would not be exceeded; we are just at Phase 2 of this. There is a maximum building footprint limitation in this district; however, this proposal likewise does not exceed that. Staff is comfortable with while the building appears to be increasing in size, it's certainly within the intent of the overall district.

The next item is related to building height. It is a three (3) story building. They have the initial color rending for a concept for this building. You can see that it is three (3) stories. The Pattern Book establishes guidelines for height for construction the district with those limitations being three (3) story and forty (40) feet. Their proposal, and they've gotten some clarifying information from the applicant's representatives recently, is that the height to the roof level is actually forty-six (46) feet and then there is a taller parapet wall system of varying heights as you can see on the building. The top of the parapet is just over fifty-two (52) feet in height. The Pattern Book does account for this concept of roof top areas that are unoccupied space. They may be steeples or dealing with mechanical systems and it does allow for those types of areas to extend to a height of sixty-five (65) feet. Staff is comfortable with this proposal with a building roof height being forty-six (46) which does exceed the forty (40) feet; however, it's related to floor to ceiling heights within the building which accommodate increased mechanical system spaces between floors. It is not unlike Buildings 1 and 2 that exist on the property. While it looks like it is four (4) stories with a set of dormers and the mansard roof system that is not occupyable space on that existing building. There is certainly some precedent that's set for a slightly taller building that's focused on dealing with the systems that the building needs to have. Staff is comfortable with what they are proposing with this Phase 2 building.

The building footprint itself did change. It was previously kind of an "L"' shaped building that presented a main façade to Banning Street. The presentation to Banning Street as a front does continue. The building is more "T" shaped now and there is another main entrance on what is the parking lot side of the building. But the building still presents a streetscape to Banning Street which is the public street in this district and has this corner element as you enter the overall complex that is maintained.

The next amendment is related to parking. This plan proposes construction of about ninety-five (95) parking spaces. Staff notes that Phase 1 actually constructed more parking than it was required to so there's access parking available that can certainly accommodate any parking needs for both the existing facility that is there as well as other ones such as this that begin to come online. The applicant also presented information on what their typical parking needs are related to staffing and visitors that are expected. With a skilled nursing facility, much of the space is occupied by beds and not necessarily everyone in a bed needs a place to park. The Implementation Plan for the district actually established a parking space rate based on floor area. When the calculation is done for this building it result in what Staff believes is an over-parking requirement based on the function of this building. Staff is comfortable with the proposal of ninety-five (95) parking spaces, recognizing the fact that the TND Project is intended to be walkable, pedestrian friendly and multi-modal access

which this project overall has. There are opportunities for shared parking to be able to walk between buildings or arrive on-site via bicycle or bus as well. Staff is comfortable for their proposal for the ninety-five (95) parking spaces. Ultimately, there are other areas of the district to be constructed and if parking becomes an issue that can be addressed in other methods.

The project does include an entrance from Banning Street on the far south end of the building. It's intended to be sort of a service drive. It accesses what would be the loading areas of the building so that those types of vehicles providing service needs to the building don't have to make the entrance drive loop that comes in off of Banning Street.

The last item that is noted is the community walking trail. The overall district includes a walking trail system in the far eastern portion of the district near the train tracks. A portion of that trail near the stormwater management pond was constructed initially in Phase 1. The applicant has asked to delay construction of that walking trail

2) C-15-04 The Grande, Building 4: Planned Neighborhood Design – Senior Citizen Housing Option: Review of Cash-in-lieu of Active Recreation Area Payment – Review of the payment amount for Cash-in-lieu of Active Recreation Area construction as associated with the Conditional Use Site Plan to establish The Grande: Planned Neighborhood Design development of Senior Citizen Housing. The Active Recreation Area Plan for The Grande, an apartment complex to consist of a total of 192 apartment units of Senior Housing, is comprised of 22,569 SF of recreation area with amenities and a deficit of 6,231 SF of recreation area. This application detailed construction of Building 4 on The Grande property which consists of a total of 6.7326 acres ± and is zoned RG-5 (General Residence Zone for Mid-Rise Apartments) and subject to the COZ-1 (Corridor Overlay Zone). The property is located on the north side of Forrest Avenue (Route 8) just west of the Saulsbury Road intersection. The owner of record is Doveview Investors, LLC. Property Addresses: 101-405 Doveview Drive. Tax Parcel: ED05-076.07-01-30.00-000. Council District 1. *Cash-in-lieu amount of $22,914 was accepted by the Parks, Recreation & Community Enhancement Committee on July 12, 2016 and by City Council on July 25, 2016.*

Representatives: Mr. Mark Prata, Doveview Investors, LLC

NEW DEVELOPMENT APPLICATIONS

1) C-16-04 90 Saulsbury Road Clubhouse and Pool, Associated with The Grande: Planned Neighborhood Design – Senior Citizen Housing Option – Public Hearing and Review of a Conditional Use Site Plan application to permit the construction of a 2,500 S.F. ± clubhouse building, pool, parking and access walkway connecting to The Grande apartment complex. The project may include a Parcel Consolidation Plan to join the clubhouse property to the main Grande property. The clubhouse property consists of 1.48 acres and is located on the west side of Saulsbury Road near Carver Road. The property is zoned C-2A (Limited Central Commercial Zone) subject to the COZ-1 (Corridor Overlay Zone), and will become part of The Grande PND-SCHO. The owner of record is 90 Saulsbury Road. Tax Parcel: ED-05-076.07-01-28.00-000. Council District 1. *Waiver Request: Partial Elimination of Upright Curbing. This application is associated with development applications for The Grande (previously known as Doveview Apartments) at 101-405 Doveview Drive, including*

C-15-04 (Building 4), S-11-12 (Building 1-3) and C-06-02 (for establishment of the Planned Neighborhood Design – Senior Citizen Housing Option).

Representatives: Ms. Monika Sloan, Northpoint Engineering

NEW BUSINESS

1) MI-16-12 Text Amendment: Height in COZ-1 (Corridor Overlay Zone) – Public Hearing and Review for Recommendation to City Council on a Text Amendment to the *Zoning Ordinance,* Article 3, Section 27.66 – Building Height. The proposed amendment would revise the building height limitation for a defined area on properties within the Corridor Overlay Zone (COZ-1). Specifically, areas within one hundred (100) feet of a right-of-way line of the roadways referenced in the *Zoning Ordinance,* Article 3, Section 27.3 – Zone Boundaries would remain subject to the current two-story, 35-foot height limitation, while areas outside this buffer would have no height restrictions other than those applying to underlying zoning. Ordinance #2016-18. *Final Reading/Public Hearing is scheduled before City Council for September 12, 2016.*
   A. A copy of the proposed Ordinance #2016-18 is available on the City's website http://www.cityofdover.com/ under the Government Heading: Ordinances, Resolutions & Tributes.

Representatives: None

Mrs. Townshend stated that this is an amendment to the Corridor Overlay Zone. The area highlighted in green on the display that goes from the railroad tracks along Route 8 to Artis Drive and then up and down Saulsbury Road and McKee Road is subject to the provisions of the Corridor Overlay Zone. The Corridor Overlay Zone is principally design guidelines for how properties are developed. There is quite a bit regarding buildings and what you see from the road, i.e. the location of parking and landscaping. It is just an improvement over what you would see along Route 13. One of the provisions of the Corridor Overlay Zone is that it limits the height of buildings to thirty-five (35) feet and two stories. This proposed amendment would take that restriction of height only to one hundred (100) feet of the lot depth. For a lot that is deeper than one hundred (100) feet from the road, the remainder of that parcel would be subject to the height restrictions of the zone. There are some zones where you might be able to do six (6) stories; some might be three (3) stories depending on the zone. At this point, regardless of what the zoning underneath says because of the way the Corridor Overlay Zone is written everything in the COZ-1 zone is limited to thirty-five (35) feet and two stories. This would simply allow beyond one hundred (100) feet from the road to be taller than that based on whatever the zoning of the parcel is.

Ms. Maucher stated that she was looking at the Kent County Association of Realtors letter and the Corridor Overlay Zone is a twenty-five (25) year old ordinance. Was there a specific request for this or is this just an effort to update the Ordinance all together? Responding to Ms. Maucher, Mrs. Townshend stated that in this case there was a specific request. The Corridor Overlay Zone came about after a study of the Route 8 Corridor and the Saulsbury/McKee Road Corridor back in the early 1990's and then the Corridor Overlay Zone was adopted. They did a pretty significant change in 2007 but there are probably other amendments that are due like this one in particular. As they have tried to urbanize things more, they are less intimidated than they might have been twenty-five

(25) years ago by a building that is over two stories. This was actually brought forward by the real estate community and has Council sponsors. This was not Staff's review of the Ordinance; it was something that was brought forward for practical reasons and had support from members of Council to take it forward. The Planning Office is also in support because it does make sense.

Mr. Tolbert opened a public hearing.

Mr. Phil McGinnis – McGinnis Realty, 555 E Loockerman Street Dover DE 19901

Mr. McGinnis stated that he supports the text amendment because he supports anything that improves the way we do things around town. The Corridor Overlay Zone is actually illegal. You don't have overlay zones; the Chancellery Court has told Levy Court that. They are trying to preserve the first one hundred (100) feet and then after that, let the zoning districts do what the zoning districts are supposed to do which is help develop the City properly.

Mr. Holt stated that this certainly gives a lot more flexibility to the builders and real estate people to develop a property. Responding to Mr. Holt, Mr. McGinnis stated yes, it absolutely does. It actually makes that area with all of the infrastructure that's already in place a little more appealing because you are not limited by an artificial restriction.

Mr. Tolbert stated that Mr. McGinnis cited a legal issue that has been resolved by Kent County. Responding to Mr. Tolbert, Mr. McGinnis stated that Levy Court did an overlay zone out by Route 9 where as you went further east your lot sizes had to be larger and larger. The farmers sued the County about that and the Chancellery Court overturned overlay zones.

Mrs. Townshend stated that the Chancellery Court overturned "that" overlay zone not all overlay zones. No other overlay zones were nullified and the others that were in place at that time are somewhat protected by virtue of the Statute of Repose. It prevents us from enacting additional overlay zones in the future.

Mr. Baldwin stated that looking at the wording where it says "roadways", will that create a problem for people on corner properties? Responding to Mr. Baldwin, Mrs. Townshend stated no more than it already does. When something is on a corner lot it is already treated as having two fronts: so, it doesn't make it any more challenging to lay those properties out than it is now. For instance, if you look at the CVS and the Walgreen's; they are both on corner lots. In Walgreen's case, she thinks they did get a variance but the CVS complies with the requirements of the Corridor Overlay Zone as a corner building.

Mr. McGinnis stated that there are only two intersections in that zone and all four (4) corners are fully developed and no change is expected during his lifetime.

Mrs. Melson-Williams stated that there was a letter dated July 12, 2016 addressed to Tim Slavin, the Council President. It was received from the Kent County Association of Realtors and signed by their current year President, Michael Harrington, Jr. It indicates in the text of the letter that the Kent County Association of Realtors supports to text amendment to the Corridor Overlay Zone which would modify the height limitations.

Mr. Tolbert closed the public hearing.

Mr. Holt recommended approval to City Council for MI-16-12 Text Amendment: Height in COZ-1 (Corridor Overlay Zone) as submitted, seconded by Mr. Holden and the motion was unanimously carried 6-0 by roll call vote. Mr. Holden voting yes; it's a wise update to an older regulation and it makes sense. Mr. Roach voting yes. Mr. Holt voting yes; it's a very much needed addition for the real estate market and to the whole area on the overlay zones. Mr. Baldwin voting yes; it allows some flexibility for new building heights. Ms. Maucher voting yes; it's a modernization of ordinances as well as increases possibility for new development. Mr. Tolbert voting yes; after hearing the comments and the overview the passage will facilitate development in the City for buildings that need this kind of amendment.

8:06:20

Meeting adjourned at 8:47 PM.

Sincerely,

Kristen Mullaney
Secretary