A G E N D A
CITY OF DOVER PLANNING COMMISSION
Monday, March 21, 2011 – 7:00 P.M. - City Hall: Council Chambers

PLEDGE OF ALLEGIANCE
ROLL CALL

APPROVAL OF AGENDA

1) Note: The following Application C-11-01 previously scheduled for this meeting will be rescheduled for a future meeting of the Planning Commission due to issues with completion of adequate public notice. C-11-01 Because We Care Veteran's Shelter at Healing Wings Christian Center is a Conditional Use Site Development Plan Review to permit the philanthropic use of an existing 6,344 S.F. building at 1420 McKee Road as a homeless veteran's shelter.

ADOPTION OF MINUTES OF REGULAR MEETING of February 22, 2011
ADOPTION OF MINTUES OF QUARTERLY WORKSHOP on February 23, 2011

COMMUNICATIONS & REPORTS

1) An Audio/Web Conference entitled "Mitigating Hazards Through Planning" will be held on March 16, 2011 from 4:00pm-5:30pm at the Kent County Administrative Building, Room 220. The session is co-sponsored by the Delaware Chapter of the American Planning Association (APA) and the Kent County Department of Planning.

2) A Workshop on "Exploring Form-Based Codes" will be held on March 29, 2011 from 4:00-5:30pm at the Kent County Administration Building, Room 220. The session presented by the Renaissance Planning Group is co-sponsored by the Dover/Kent County MPO and the Delaware Chapter of the American Planning Association (APA).

3) Report on City Council actions

4) Update on other Planning activities

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval:
   a. S-10-03 South Dover Plaza at 560 & 600 Bay Road – Request for a one year extension of the Planning Commission approval granted April 19, 2010 for a Minor Lot Line Adjustment Plan and Site Plan to permit the construction of a 142,825 S.F. shopping center and associated site improvements. The project is located on two parcels of land totaling 12.9371 acres ± and is zoned C-4 (Highway Commercial Zone). As part of the application, the two parcels are to be consolidated into one parcel. The subject area is located on the south side of Bay Road across from the Kent County Levy Court. The owner of record is S.H.E. Holdings, LLC. Property Address: 560 & 600 Bay Road. Tax Parcels: ED05-077.00-01-09.00-000 and ED05-077.00-01-09.00-000. Council District 2.

NEW DEVELOPMENT APPLICATIONS

1) S-10-11 Revision to Modern Maturity Center at 1121 Forrest Avenue: Building Addition – Public Hearing and Review of a previously approved Site Plan to consider a request to remove a required cross-access easement. The project is located on one parcel of land

totaling 13.6 acres ± and is zoned IO (Institutional/Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The subject area is located on the north side of Forrest Avenue west of Saulsbury Road. The owner of record is Modern Maturity Center Inc. Property Address: 1121 Forrest Avenue. Tax Parcel: ED05-076.07-01-25.00-000. Council District 1.

2) MI-11-01 Comprehensive Plan Amendments 2011 (Part B) - Public Hearing and Review for Recommendation to City Council of an Amendment to the *2008 Comprehensive Plan*, as amended, for a request to revise the Land Use Classification associated with a series of properties of application Z-11-02. Ordinance #2011-08. *Consideration of this request for Land Use Classification revision (Items #18-21) associated with rezoning application Z-11-02 was rescheduled at the February Planning Commission Meeting.*

3) Z-11-02 Lands of College Road Management Inc., Kent Storage Facilities Inc. & Loralex Company, LLC at Railroad Avenue – Public Hearing and Review for Recommendation to City Council on a rezoning application consists of four parcels of land totaling of 30.78 acres ±. The property is currently zoned M (Manufacturing Zone). The proposed zoning is RG-5 (General Residence Zone for Mid-rise Apartments). The subject property is located north of College Road and east of the railroad corridor and Railroad Avenue. The owners of record are College Road Management Inc., Kent Storage Facilities, LLC and Loralex Company, LLC. Property Addresses: Grove Street and Railroad Avenue. Tax Parcels: ED05-067.00-02-53.00-000, ED05-067.00-02-54.00-000, ED05-067.00-02-55.00-000, and ED05-067.00-02-56.00-000. Council District 4. Ordinance #2011-04. *This application was removed from the February Meeting agenda due to complications with the Public Notice requirements.*

4) MI-11-02 Text Amendments: Solar and Wind Energy Amendments – Public Hearing and Review and Action on a Recommendation to City Council regarding proposed amendments to the *Zoning Ordinance.* The proposed ordinance would allow solar energy systems and small wind energy systems as accessory uses in all zoning districts, and set standards for such systems within residential zones and non-residential zones. The proposed amendment adds a new Article 5 Section 20 to the *Zoning Ordinance* and additional definitions to Article 12. Ordinance #2011-01.

NEW BUSINESS

1) Dover Transit Center Neighborhood Plan *(In order to take action on the plan presented at the February Planning Commission Quarterly Workshop.)*

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.

CITY OF DOVER PLANNING COMMISSION
February 22, 2011

The Regular Meeting of the City of Dover Planning Commission was held on Tuesday, (Due to Holiday) February 22, 2011 at 7:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Tolbert, Mr. Shomo, Mr. Baldwin, Mr. Nichols, Colonel Welsh, and Mr. Ambruso. Mr. Friedman and Mr. Holt were absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Mr. Koenig, Ms. Cornwell, Mr. Albert, and Ms. Metsch. Also present were Mr. Gregg Moore, Colmcille DeAscanis, Pete Ksenish, Mr. Bob Munion, Mr. Leonard Iacono, and Mrs. Laura Switsky. Also speaking from the public was Mr. Leonard Iacono, Mrs. Carolyn Fredericks, Mr. James Hutchison, and Mrs. Joyce Breasure-Herrick

Mr. Hemmig stated that there is an amended agenda on your desks this evening as Item #2 under New Development Applications Z-11-02 Lands of College Road Management Inc, Kent Storage Facilities, Inc., and Loralex Company, LLC at Railroad Avenue has been removed due to inadequate public notice.

APPROVAL OF AGENDA
Mr. Ambruso moved to approve the amended agenda as submitted, seconded by Colonel Welsh and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

APPROVAL OF THE REGULAR PLANNING COMMISSION MEETING MINUTES OF JANUARY 18, 2011
Mr. Shomo moved to approve the regular Planning Commission meeting minutes of January 18, 2011, seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

APPROVAL OF THE EXECUTIVE SESSION PLANNING COMMISSION MEETING MINUTES OF JANUARY 18, 2011
Mr. Tolbert moved to approve the Executive Session Planning Commission meeting minutes of January 18, 2011, seconded by Mr. Nichols and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

COMMUNICATIONS & REPORTS
Mrs. Townshend stated that the Planning Commission Quarterly Workshop will be held tomorrow at 4:00 PM in the City Hall Conference Room. With regards to that meeting, there will be a presentation regarding the neighborhood planning charrette for the area around the new Transit site.

Mrs. Townshend further stated that the American Planning Association is holding an audio web conference "Mitigating Hazards through Planning" which will be held on March 16, 2011 at 4:00 PM at the Kent County Administration Building.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meeting of January 24, 2011 and the regular City Council meeting of February 14, 2011.

Mrs. Townshend further stated that a letter was placed on the Commission member's desks this evening. As you recall, last month you took action with regard to the House of Pride. Of the nine (9) properties that were under the Conditional Use permit, two (2) were removed as they were vacant. The remainder was given thirty (30) days to come into compliance. Staff has determined that two (2) of those seven (7) had not had the initial inspection done yet. These were inspected that week and the follow-up inspections are scheduled for tomorrow, Wednesday, February 23, 2011. On Friday, February 18, 2011 the Fire Marshal's Office and the Code Enforcement Division conducted inspections of the other five (5) properties. The Inspectors determined that the violations identified in the previous report had been satisfactorily corrected. There were a number of small corrections that were underway on Friday that will be inspected later this week. Additionally, there were a number of other violations that were identified and were given two (2) weeks to correct those violations.

Mrs. Townshend further stated that one of the things that they talked about with Staff, the Fire Marshal's Office, and the Code Enforcement Division is the challenge of this issue being addressed during the winter months with the Planning Commission having stated that they would want to review it annually. Staff would like to start that annual review in August which would be six (6) months from now, then a year from that so that we are not up against the issue of what happens if they are not compliant in the middle of winter.

Mr. Hemmig questioned if there was any discussion from the floor with the proposal by Staff to start the annual review in August of this year?

Mr. Shomo stated that he felt that it would be a great idea.

Colonel Welsh stated that he understood why; however, his only concern is the greatest risk for fire or hazard identification is in the winter months. He feels that we will see them in compliance and that they will continue to stay in compliance. He agrees that it would be less disruptive to do it in the summer months.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend presented the audience information on policies and procedures for the meeting.

OLD BUSINESS

There were no requests for extension of Planning Commission approval.

NEW DEVELOPMENT APPLICATIONS

MI-11-01 Comprehensive Plan Amendments 2011 - Public Hearing and Review for Recommendation to City Council of a series of Amendments to the *2008 Comprehensive Plan*, as amended, by replacing Table 12-1: Land Use and Zoning Matrix and Map 12-1: Land Development Plan. The amendment to Table 12-1 is to add zoning classifications to the Open Space land use classification in the Land Use and Zoning Matrix. The series of amendments to Map 12-1: Land Development Plan Map will revise the Land Use Classification from Open Space for certain properties to more appropriate classifications based on the property uses and surrounding uses.

Representative: Staff

Mrs. Townshend stated that there are two (2) Staff recommended changes to the *Comprehensive Plan*. Both are fine tuning things that happen as the Plan is implemented. You will recall that back in July; the Planning Commission looked at the rezoning of properties to the Recreational and Open Space (ROS) zoning classification that had been created earlier in 2010. When Staff was going through to determine which properties to bring forward for rezoning to that classification, we picked up some errors. Essentially, areas that for example may have been a house that somehow were made green on the Land Development Plan Map. We did not bring forward a recommendation to rezone the uses that are not consistent with the Open Space classification to the Recreational and Open Space zoning. The first part of this application is to correct the areas that were picked up in the green areas on the Development Plan Map which is what is expected in the Comprehensive Rezoning phases when you get into more of the parcel level analysis rather than the broad brush that you do at the Comprehensive Plan level.

Mrs. Townshend further stated that if you look at the table that was included in your packet, you are looking at numbers 1 through 16 which are essentially properties that were painted green in the *Comprehensive Plan* that when we went to apply that zoning classification, we determined that this was not in fact the current use or the intended used for those areas. This is a clean-up for the *Comprehensive Plan*.

Mrs. Townshend further stated that the second part of this relates to the implementation of the Recreational and Open Space Zone. Staff is proposing a number of amendments to the Land Development Plan chapter in the Land Use and Zoning Matrix which is Table 12-1 of the *Comprehensive Plan* that would, instead of having the language of: "Lands that are on the Land Development Plan as Open Space are not proposed for rezoning. They will remain as zoned as of this printing. Once an Open Space Zone is developed, some areas will be proposed for rezoning for this designation." Following the implementation of the Open Space Zone or what turned out to be the Recreational and Open Space Zone, recommendation is to amend this Table as it relates to Open Space by putting the ROS (Recreation and Open Space Zone) and the RC (Recreational and Commercial Zone) as the appropriate zoning classifications for that Land Use category.

Mr. Hemmig questioned if there were any Commission member comments or questions at this time and there were none.

Mr. Hemmig questioned that the second part of the Open Space is going to be Recreational and Commercial Zone, what is the commercial part? Responding to Mr. Hemmig, Mrs. Townshend stated that these two zoning classifications are the classifications that would be acceptable in this area. When Staff was looking at what to rezone to recreation and open space areas, the Maple Dale Country Club is shown as Open Space in the Comprehensive Plan. They had some concerns about rezoning that as it would take them from Recreational and Commercial Zone to the Recreational and Open Space Zone. At the time of the proposed rezoning, they voiced their concerns on the record and the decision was recommended by the Planning Commission and approved by City Council to have them retain their zoning of RC. When you look at what the appropriate land use classifications are, it makes more sense to change the table then it would to change the map.

Mr. Hemmig further questioned regarding Table 12-1 where there are general land use categories and low and high density, he noticed certain zonings are in more than one category. Responding to Mr. Hemmig, Mrs. Townshend stated that essentially, the intent of this Table is to give guidance so that when a rezoning application comes before the City, the Planning Commission, City Council and Staff that you can use that Table as a basis to determine if this is what the *Comprehensive Plan* intended. In some cases, for instance, a zoning classification that falls into more than one would be the R-8 which is a one family classification. It is a single family detached zoning designation which has some of the lower density attributes; however, it is a higher density than some of the others.

Mrs. Townshend further stated that in terms of #3 listed in the report this is being pulled out entirely. It will be brought forward next month as a separate amendment to the *Comprehensive Plan*. The other applicant initiated Comprehensive Plan Amendment is a change in classification from Institutional to Residential High Density.

Mr. Hemmig questioned if there was a representative at the meeting for DoveView and if they would please come down to the podium.

Representative: Mr. Gregg Moore, Becker Morgan Group, Inc. representing Sun Trust Bank.

Mrs. Townshend stated that in the report what you have is the verbiage provided by the applicant to justify the change in the *Comprehensive Plan* as well as the analysis of Staff. Essentially, DoveView, if you will recall, was previously approved as a Senior Citizen Housing Option project under the PND for 192 dwelling units and age restricted for 55 aged and over. The apartments were under construction and construction ceased in about 2008 and nothing has moved forward. What we have now is two (2) partially completed buildings and an expired Site Plan. Regardless of the zoning classification and whether it remains what it is zoned now or whether it is rezoned, you will see it back as a Site Development Plan application.

Mrs. Townshend further stated that the applicant is requesting to use the housing style and the housing density that was approved for DoveView, but not have it age restricted. It is clear that they will not be able to achieve the number of units that DoveView was approved for because there are parking issues. DoveView did not provide 2.25 parking spaces per unit because when it was senior housing it was less. She believes, based on what DelDOT recommended during the PLUS review, that there will be a Traffic Impact Study required or at least the discussion of that with the potential of paying into the area-wide study. What they are looking to do is utilize the infrastructure that was put in place for DoveView and to capture a portion of that density through multi-story apartment buildings; however, not age restricted. They are requesting, in terms of the *Comprehensive Plan*, a change to Residential High Density in terms of the zoning which will be #3 on the agenda; they are requesting RG-5. This will be a separate action by the Planning Commission once the Comprehensive Plan Amendment is dealt with because the two are tied together. It is important that the applicant speaks on the matter and that the public speak during the public hearing.

Mr. Moore stated that Sun Trust Bank has been in suit with the previous developer DoveView, LLC and prevailed in that suit. Around the 16th to the 20th of February a new deed was filed in

the name of the bank and that deed is CRM Mid-Atlantic, LLC which was setup by the bank to own it. This transfer to the bank has just occurred in the last week or ten days and what the bank is trying to do is act quickly and get this property back into productive use. They want to clean the property up and bring on a developer to continue to build or rebuild these buildings. They understand to do that they have to go back through the Site Plan process and have talked to Staff with regards to the process of doing that. We, at Becker Morgan Group, have evaluated the plan and believe that there will be significantly less units than you have seen before in an RG-5 project with 2.25 parking spaces per unit under the RG-5 zoning classification. It was 1.25 with the senior project with 246 parking spaces to serve 192 units.

Mr. Moore further stated that they have done a Concept Plan for the bank and have estimated for them the total number of units as an RG-5 project would be somewhere around 120 and 144 units not 190, so it is coming down significantly. We believe that a whole building will be dropped off of the plan as there will not be four (4) buildings; however, there will be no more than three (3). There will be fewer units with less folks on the property with it being a non-senior project. The banks intention is to sell this project to a developer who will be the entity that reconstructs, operates, owns, and managers the new project once we get it conceived and the bank is prepared to continue through the Site Plan process. We also need to go through a complete building evaluation to make sure we do the right thing with these buildings because they have been sitting there for a number of years. There are structural and environmental evaluations that they are doing to make sure that we properly bring these buildings back into service without causing a problem.

Mr. Hemmig opened a public hearing.

Mr. Leonard Iacono - Stated that he has some concerns regarding what the request is. From afar, he has been following this project as a major developer in the area. From what he understands, this original project was initially approved for condominiums. There was then a trade-off done changing it from a condominium unit to allow for age restricted apartments. He questions the validity of putting out and lifting age restricted requirements given what the original intent was. He does not know where all of this is going at the end of the day; however, if he is correct, this is the history here. He personally thinks that it should stay that way.

Mrs. Carolyn Fredericks – Executive Director, Modern Maturity Center – Stated that she believes that there is a great need for affordable senior housing in Dover. She understands the buildings need to have some work done and obviously she would like to have a nice neighbor there as well. Her concern is, and we have filed the appropriate paperwork, to get rid of the connectivity between the two properties should the zoning be changed.

Mr. James Hutchison – 15 Glen Eagles Court- Stated that he is currently a board member of the Modern Maturity Center and for the record, he feels that it is very important that you keep in mind the Modern Maturity Center has over 20,000 members. When he looks next door at the DoveView Apartments, the complex itself was originally designed for senior citizens that have changed. Making it compatible between the two facilities is not so at this point. He would urge all of you to consider that for a public safety point of view. When he looks at the number of people who are going in and out of the senior center every single day many of these people are much older than average and have disabilities and some have severe disabilities. So again, I urge

you to look at this as far as any connection between roadways for the application and the Modern Maturity Center.

Mr. Hemmig stated with regards to clarification we are not considering any connection tonight on whether it should exist or not. That will be a separate application by the Modern Maturity Center should they desire to bring that forward. Tonight, we are only considering the land use consideration and the rezoning of that property.

Mrs. Joyce Breasure-Herrick – President, Modern Maturity Center - Stated that she would like to encourage you to consider the wonderful opportunity Dover has to use the facility, the Modern Maturity Center and have dedicated senior citizen housing which we desperately need in Kent County and specifically in Dover. What a wonderful environment it would be for someone to be able to come out of the apartment or condominium cross a little bridge, come into our facility for medical services, physical therapy services, lunch, line dancing, art classes, and higher education classes. It needs to be 55-plus housing as we desperately need the housing.

Mr. Hemmig closed the public hearing after seeing no one else wishing to speak.

Mr. Hemmig stated that he would like to clarify that the Commission is considering Items #1 thru #17 on the Land Use Classification Map. Items #18 through #21 apply to the item that was taken off of the agenda this evening. Under the proposed amendments, we are considering Items #1, 2 and 4 for Land Use Classifications under MI-11-01 application.

Colonel Welsh stated that while not applicable at this time his concern has to do with the senior housing as DoveView. He does not know the details as to why construction stopped on DoveView. He would assume it has something to do with finances. He does not know if it had anything to do with demand. While all of us envisioned having senior housing and hoped that it would be, it certainly has been an eyesore for a couple of years. The question is do we continue with the eyesore or do we go with someone who will move forward with this project and develop it as something other than the original intent of senior housing. Did they not foresee a need for senior housing in the area?

Responding to Colonel Welsh, Mr. Moore stated that the bank has been trying to find a partner/developer to take the project on as it has been in a lawsuit trying to get control of the property and has not been able to find any partner or developer to take it on as a full senior development. The bank believes that this is because of the market as it has dropped significantly for senior housing. They believe to be able to market this property and bring it back into use. They are going to need to be able to do that with more than just senior apartments given the realities of what has happened. Their goal is to bring it back into code compliant construction standards and continue the construction. They need to be able to do that with the diversity of the housing with not just the senior option.

Colonel Welsh further questioned if there was no chance that the bank may be willing to stay with it to try and find a developer for senior housing? Responding to Colonel Welsh, Mr. Moore stated that the bank does not feel that it is viable as a senior only project.

Mr. Hemmig questioned if Sun Trust Bank or your firm as representative or the potential developer has done any actual market surveys to indicate that a rental apartment would be as or more viable than a senior housing apartment? Responding to Mr. Hemmig, Mr. Moore stated that they have met with, talked with, and negotiated with developers to take it over. They will be bringing a partner in to actually do the construction because they are a bank and this is not what they do so they have relied on their partners. The name that this comes from, CRM Mid-Atlantic actually has the expertise and that is what they are drawing on to make that conclusion which is why he is here tonight.

Mr. Tolbert asked if their plan is to develop the site for both senior citizens as well as others. Responding to Mr. Tolbert, Mr. Moore stated that yes they would. As you have heard this from other developers such as the Seskinore project which was one that started as simply a senior project and struggled in being able to market to others than just seniors. They came back and said that they could have a more viable project if they could open up to non-seniors. Clearly this is a good position for senior apartments as they have elevators and the project can be good for seniors to live there; however, at a 140 plus or minus units, we do not believe that it is viable in this market to be able to bring it back into and pump the money in that is necessary to redo the buildings.

Mr. Tolbert further stated that the question that comes to mind is that when you develop a site for seniors as well as others, seniors require additional kinds of amenities in their apartments than people who are under senior citizen age, would that not be a problem? Responding to Mr. Tolbert, Mr. Moore stated that no in fact, the two buildings that are there, their strategy will be to follow through on the way that they were being built to accommodate only seniors. Our project will accommodate seniors and will attract seniors in a large way; we do believe that. However, we do not believe that at the numbers we are at, the senior housing is viable with just seniors. We need to have the opportunity to get others to make it financially viable for a developer and reconstruction of the buildings. There is significant reconstruction to consider in these buildings because they have been open for so long. They have environmental issues, there are some structural issues and they are evaluating those; so, it is not like they are just going to come in and start putting siding on these buildings. There is a lot of money that needs to be pumped in to some degree to go backwards a little before we can go forward to get them into a code compliant component of a building.

Colonel Welsh stated that this is the thought process that he had as we were going along and we heard the testimony from the public. Just because it is no longer age restricted does not mean that seniors cannot obviously rent an apartment there and move in and still have full use of the Modern Maturity Center and the other facilities. It is an ideal location with the bank right there, Walgreens, and the Modern Maturity Center. He would think this would attract a great number of seniors. Responding to Colonel Welsh, Mr. Moore stated that the bank and the developers that they have talked to have the same idea. There will be a large amount of seniors that will want to come here because of the position of where it is and what it offers. The numbers are just not strong enough to revitalize the whole project.

Mr. Ambruso questioned what they are voting on separately? Responding to Mr. Ambruso, Mr. Hemmig stated on the proposed amendment there are three (3) items. The first item will be the Land Use and Zoning Matrix Table to include the new Recreational and Open Space Zone and

the Recreational and Commercial Zone. The second item is the Land Development Map plan change Items #1 through #17 to change the existing land use classification to what is shown as proposed. To take them out of Open Space and put them into one of the various residential or institutional land use classifications. The third item will be the specific land use classification change from institutional to Residential High Density for what is known as the DoveView apartments. Their zoning will be a separate issue.

Colonel Welsh moved to forward to City Council approval of MI-11-01 Comprehensive Plan Amendments 2011 to adopt the Land Use Table and the changes associated with it. That we adopt the map that depicts the Land Use changes (Items #1-16) and that we make a recommendation to change the Land Use classification for DoveView Apartments (Item #17). This excludes Items #18 through #21 on the Land Development Plan Map changes. Seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

Z-11-03 DoveView Apartments at 101-405 DoveView Drive – Public Hearing and Review for Recommendation to City Council on a rezoning application consists of one parcel of land totaling of 6.735 acres ±. The property is zoned IO (Institutional/Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is 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 CRM Mid-Atlantic, LLC and SunTrust Bank. Property Addresses: 101-405 DoveView Drive. Tax Parcel: ED05-076.07-01-30.00-000. Council District 1. Ordinance #2011-05.

Representatives: Mr. Gregg Moore, Becker Morgan Group, Inc.

Mrs. Townshend stated that this application is similar to the previous application that you just saw in terms of surrounding Land Uses. There are other properties adjacent to this property that is zoned C-2A (Limited Central Commercial), one is vacant, the other is TD Bank, Walgreens Pharmacy, and another parcel that is zoned C-2A as well. To the north of this site is property that is zoned Institutional and Office and is the location of The Academy of Dover which is a charter school. Immediately west of the site is the Modern Maturity Center where you heard people associated with the Modern Maturity Center speaking. In terms of the *Comprehensive Plan* in order for this to go through, it is dependent upon that plan change. There is language in the *Comprehensive Plan* that addresses High Density. We have included the bulk standards for what RG-5 would include. She would state for the record that the Site Development Plan associated with DoveView has expired and those approvals were specifically for senior housing; therefore, the Site Plan will have to come back for consideration at that time.

Mr. Hemmig stated for clarification if the Land Use Classification change fails to pass City Council, then this rezoning would become null and void. Responding to Mr. Hemmig, Mrs. Townshend stated that City Council will be made aware that they go together and if they approve one the other will also need to be approved unless they go back and reconsider the first one.

Mr. Moore stated for clarification that he is aware that there was a tax bill that was due on this parcel of land that had not been paid by the developer. The bank was advised by its legal counsel that upon the deed being recorded, they would pay the bill. That bill has now been paid.

Colonel Welsh stated that to clarify a point for those who testified previously from the public, this is only a recommendation for a rezoning application. For those who had concerns regarding connectivity with the Modern Maturity Center, that would not be considered until they come forward with a Site Plan for the apartments.

Mr. Moore stated that they will reach out to the Modern Maturity Center with them separately. Now we have the chance to make that connection before we file a plan before the Commission so that we can talk to them about what we plan to do.

Mr. Hemmig opened a public hearing.

Mr. Leonard Iacono – Stated that he would like to make a comment about the whole aspect of this project. He challenges the bank to produce a market study that states that the need for senior housing is not required. He also suggests, as a major developer in Dover and one of the largest apartment owners here, no one has ever contacted him regarding the ability of taking the project over and developing a senior housing project. If the bank contacted someone, he has no idea who they contacted. He still does not understand the connection between the fact that the City already changed it from a condominium project to a senior housing project and is now changing it back. He just does not understand the whole flow.

Responding to Mr. Iacono, Mrs. Townshend stated that it has always been senior housing. Changing it to a condominium project is a form of ownership not a unit type. Essentially, what we have seen from the beginning has always been apartments as a unit type. Initially, the intent in that they would be condominiums for sale and then it changed to apartments; however, from a zoning standpoint there is no difference. The *Zoning Ordinance,* in terms of the housing style, specifically states multi-family; it does not state multi-family condominium or multi-family rental.

Mr. Iacono stated that it would be his error because he was under the impression that it started off initially as a condominium project and then went back to the City to request that it be a rental property and specifically a senior housing project. Responding to Mr. Iacono, Mrs. Townshend stated that it was "senior" from the beginning and was initially intended to be condominiums. They asked if they needed approval; however, Staff stated that approval was for senior housing and not necessarily the ownership or rental aspect of it.

Mr. Iacono stated that if the bank is still interested in considering a senior housing aspect; he would be interested.

Mrs. Carolyn Fredericks – Stated that her concern is that she does not know what the timeframe is for the Site Plan and when it would come back; however, the condition of her receiving a Certificate of Occupancy for her building was to build that connection. She is going to be ready to obtain a Certificate of Occupancy by the first of April because their building is almost completed. She is unsure how long the process would take before they would come back with their Site Plan.

Responding to Mrs. Fredericks, Mrs. Townshend stated that in terms of the Modern Maturity Center at this point, it is part of their Site Plan. They have received the request from the Modern

Maturity Center to come to the Planning Commission which will happen next month with their request to remove that interconnection cross access.

Colonel Welsh stated that to throw out an opinion he stated that they may want to think about this for awhile because he really thinks that it would be mutually beneficial for both of you to have that interconnectivity both for bringing new people into the Modern Maturity Center and having that use. Responding to Colonel Welsh, Mrs. Fredericks stated that they would discuss this issue next month as it is a major safety issue.

Mr. Nichols questioned when DoveView was proposed to be built, wasn't interconnectivity there at one time and they wanted to bring the road across the ditch over to that point and they abandoned the road idea; however, there would still be a small path across there to get back to the Modern Maturity Center? Responding to Mr. Nichols, Mrs. Townshend stated that there were two things. One, there was a small pedestrian golf cart type access between the two properties. There was also, at that point, even though there was not anything on the Modern Maturity side there was the requirement to provide a cross access easement on the DoveView side; however, they were not required to build it until something happened at the Modern Maturity Center. When Modern Maturity Center came through for their expansion that is currently underway, the location where the interconnection was put at DoveView was something that caused them (Modern Maturity Center) concern. It was at their request that the interconnection in terms of the location on their property was moved further to the front of the property. When DoveView comes in or the vacant parcel or anything adjacent we will have to determine how that connects with the Modern Maturity piece if it stays.

Mr. Nichols further stated that this area was originally shifted he believes to the back. Responding to Mr. Nichols, Mrs. Townshend stated yes and now has been shifted to the front because of concerns of traffic going through the parking lot and the ability of going around the front of the building.

Mr. Hemmig questioned that the Modern Maturity Center's Certificate of Occupancy is tied to completion of the interconnectivity, has that been built? Responding to Mr. Hemmig, Mrs. Fredericks stated that they have not built it yet and our building is almost completed. When they finish with their building, they cannot obtain a Certificate of Occupancy until that interconnectivity has been completed.

Mr. Hemmig further stated for clarification, this zoning is taking the property from I/O to RG-5. Under the I/O we were able to do a Conditional Use for senior housing. Under the RG-5 can it still be senior housing? Responding to Mr. Hemmig, Mrs. Townshend stated that they could voluntarily age restrict it under RG-5 or they could come back with another senior citizen PND under the RG-5. RG-5 does not preclude it from being senior housing; it just does not require it. Under the I/O, the residential uses aside from the senior citizen PND are prohibited.

Colonel Welsh moved to forward to City Council recommendation of approval of Z-11-03 DoveView Apartments located at 101-405 DoveView Drive from I/O Institutional Office subject to the Corridor Overlay Zone (COZ-1) to RG-5 General Residence Zone for mid-rise apartments and subject to the Corridor Overlay Zone (COZ-1), and for reasons stated in the Staff Report

and general discussion this evening, seconded by Mr. Nichols and the motion was carried 6-1 with Mr. Friedman and Mr. Holt absent and Mr. Ambruso opposed.

Mr. Hemmig stated that he would like to remind the public that this would be heard at the next City Council meeting on March 14, 2011.

S-11-02 C.F. Schwartz Building Addition at 1530-1536 North DuPont Highway – Public Hearing and Site Development Plan Review to permit the construction of a 24,444 S.F. building addition and the associated site improvements on a 7.83 +/- acre parcel. The property is zoned RC (Recreational and Commercial Zone) and C-4 (Highway Commercial Zone). The property is located on the west side of North DuPont Highway at the intersection with Rustic Lane. The owner of record is C.F. Schwartz Motor Company. Property Address: 1530-1536 North DuPont Highway. Tax Parcel: ED05-057.00-01-06.00-000. Council District 4. *Waivers Requested: Elimination of Sidewalk, Elimination of Curbing and Elimination of the Arterial Street Buffer. Consideration of Tree Mitigation Plan.*

Representatives – Mr. Colmcille DeAscanis, CDI Engineering; Mr. Pete Ksenish, Kent Construction; and Mr. Robert Schwartz, C.F. Schwartz Motor Company.

Ms. Cornwell provided an overview of the project.

Mr. DeAscanis stated that regarding the sidewalk waiver request as part of the DAC comments, we acknowledge most of them and we plan to incorporate them. We had some comments regarding the DelDOT comments so we set up a meeting subsequent to the DAC meeting. We went through each of the comments and had a very good conversation with them. DelDOT is requiring a separate sidewalk and is something we realize we are going to have to do. Staff recommendation was not to approve this sidewalk waiver request.

Mr. DeAscanis further stated that one of the main comments from DelDOT was the requirement of a TIS (Traffic Impact Study) because this is a 24,400 plus foot expansion and is classified as new car sales; however, that is not really what it is. The reason for this project is that Toyota is requiring them to have a repair service physically included in the new car sales structure. Rather than using the adjacent building on the same lot, they want to construct a whole new facility in the back of it. We are trying to generate new business and increase sales. DelDOT agreed with this and agreed to waive the need for a Traffic Impact Study requirement and have us pay a fee in lieu of on any future plans.

Colonel Welsh questioned if they were withdrawing their request for a sidewalk waiver? Responding to Colonel Welsh, Mr. DeAscanis stated that he would still have them vote on it and acknowledge that DelDOT has their own requirements for that.

Mr. Nichols questioned Mr. Koenig if the pumping station had been moved yet? Responding to Mr. Nichols, Mr. Koenig stated that it is currently being abandoned. He is not sure if they have actually released the property; however, they have shored the lines up. There was discussion at the Staff level that we would release the 25'x25' or 30'x30' piece of property and convert the wet well to a manhole and abandoned the need for that property there. He does not feel that it is

ready today; however, in conjunction with this project, they were going to move forward with that abandonment.

Mr. Nichols further questioned if all the sewer lines have been installed on this property? Responding to Mr. Nichols, Mr. Koenig stated that he believes so; however, they still have some clean-up to do on the property, but there is no more digging to do on the Schwartz property.

Colonel Welsh stated that he had elevations; however, no concept of color. Can you tell what the color combinations will be that you will be using? Responding to Colonel Welsh, Mr. Ksenish stated that basically the colors are going to be what would be considered the Toyota standards. They will have a nearly white cream color primary finish and will have some of the panel systems that will be the Toyota silver and then there will be red striping that will be indicative of all of the Toyota branding. The balance of it, which would be the split face block. We are going to try and blend the old buildings with the new building so it would still be the earth tones while still satisfying Toyota's need for standard colors.

Colonel Welsh further questioned if they had considered Staff's comments regarding the east elevation side that faces to the west?

Responding to Colonel Welsh, Mr. Ksenish stated that they have considered it; however, we have not made a final decision. We would like to hear what Staff is really looking for and how much of the area. Toyota has gone to great lengths of determining where they want their branding to be; and in fact, it has dictated the majority of the footprint. The one area that they were not concerned with is the road front on Rustic Drive. This was the one area that the owner was trying to save some money by using the building standard. There are some other panel systems that we are using on the north side of this site mandated by Toyota; however, they are three to four times more expensive than the panels that they are proposing on the south side. We would suggest, because of the market and the fact that Toyota is forcing his hand to do this project, we would really like Staff to consider not making that a requirement because it would present a financial burden to the developer. We could raise the split face a lot more effectively than trying to change to a different panel. We will do what we need to do to move forward.

Colonel Welsh further stated to gain his approval; you will need to do something to that face on that side of the building as there is a lot of traffic that goes on Rustic Drive to see a flat sided building with no contour to it and any windows or doors. Responding to Colonel Welsh, Mr. Ksenish stated that there are several windows and doors in it which is meant to emulate the adjacent showroom building and they feel that it ties in nicely with the existing building. If you look on the north side of their elevations, you will see that there is a flatter panel that has an embossed finish. We would be willing to do that; however, at a significant cost impact.

Colonel Welsh further stated that if you look at the west/south elevation, you have a large eighteen (18) foot door; however, you also have four (4) windows that break that up and he can't imagine that windows would be that expensive to install.

Mr. Ksenish provided a map depicting the building and how it was situated on the property. The highway side of the new building has a fifteen (15) foot aisle way between the existing showroom and the new building so that it will not be visible at all from any viewable angle. The

area described on an architectural elevation along Rustic Lane will not have split face. The bottom side is up to water table height and then it will have a panel system that will be very close to the colors that exist currently on the main showroom building. This will be the tan/white color with the silver banding that Toyota is mandating on the entire façade. The area up front, which is located on the north side, is Toyota brand and they wanted the color differential from their new car delivery and the rest of their buildings so that people know where to go. This is all mandated by Toyota so we really did not have a choice on the colors or the cost associated with the panels. It is only the back side of the building. Because of the property line, there was really no way to offset or to give any real depth or change in elevation.

Mr. Hemmig questioned as it stands now, that south elevation, when you get past the whole back section, will all be one color? Responding to Mr. Hemmig, Mr. Ksenish stated that yes, it will be all one solid color and it will have a different color for the brick banding. If we were forced to we could use the other panel to break it up. They would question what Staff would recommend and what a compromise could be and how large of an area would they have to do it on. From the owner's point of view, dressing up the back of the building does not do anything for him to help sell cars.

Mr. Nichols questioned the construction above the split face, what would that be and how is it framed? Responding to Mr. Nichols, Mr. Ksenish stated that this would be a metal building and four (4) foot on center horizontally with a steel frame.

Mr. Hemmig stated for clarification under the recommendations suggested as conditions of approval on page 4 of the DAC report Item #1: Staff recommends architecture for the south side; it should not read the west side.

Mr. Ambruso stated that since he has been on this Commission, it seems that we spend a little too much time in the area of the décor of these buildings that are going up. The business community that is footing the bill on a lot of this, it seems to him, that we should be more concerned with the Land Use Zoning requirement and not the color of these people's buildings or the number of windows they have. He thinks that this is something that should be worked out as the projects go along with Staff. He does not feel that this body should be passing judgment.

Responding to Mr. Ambruso, Mr. Hemmig stated that they got into this because years ago applicants were not even required to provide an elevation or a picture of what the building looked like and were not putting any parameters on it. As a result, we were starting to get a lot of very unusual colors of garishness and unusual shaped buildings. We decided about ten (10) to twelve (12) years ago to require elevations to at least get an idea of what the building would look like. We now have an Architectural Review Subcommittee for the Planning Commission so that if there are disputes and issues cannot be ironed out at this body, we can refer to this subcommittee and then bring forth recommendations to the body and for the applicant.

Mr. Ambruso stated that he understood; however, most people who come before this body are reasonable people who are making a very large investment. They want to put up something that is going to compliment their site. Responding to Mr. Ambruso, Colonel Welsh stated; however, on the same token there are many who do not and you have only to look at Route 13 to see what happens.

Mr. Hemmig stated that he appreciated the comments and perhaps you are the calming voice that we need so that we do not go overboard on recommendations; however, find a compromise.

Mr. Ambruso further stated that he would recommend no windows as it is a security issue because they will have expensive vehicles and automotive parts stored in this building so they would want as least amount of windows as possible. Responding to Mr. Ambruso, Mr. Ksenish stated that this is the reason the windows are seven (7) feet high for security purposes because it is a major shop.

Mrs. Townshend stated that she would add that it goes back to ten (10) years ago, the *Zoning Ordinance* does specifically instruct the Planning Commission to address the architecture of the building and is addressed in Article 5, Section 19 in terms of the orientation and the façade. Proposed buildings on corner properties shall reflect a public façade on both street frontages. In terms of the direction given in the *Zoning Ordinance* to the Planning Commission, it is within the pervue of the Commission.

Colonel Welsh suggested that this would be a discussion that should be held at one of the Planning Commission Workshops as there are new members who were not here and do not know the history or the background.

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

Mr. Nichols questioned where the fifty-seven (57) trees are to be planted, down by the river? Responding to Mr. Nichols, Ms. Cornwell stated that they will be planted somewhere within the riparian buffer. There is a planting program that is going on with the City and the State to plant trees within the riparian buffer. They could end up anywhere within the riparian buffer as there is no set location at this moment.

Mrs. Townshend stated that they are working with Mr. Bill Cooper from the Grounds Division to identify those. There is a lot of planting going on in the Silver Lake Park. They did plant a number of trees on the property adjacent to Loockerman Street near Mirror Lake. This is the corridor where we have been focusing those planting efforts recently.

Mr. Hemmig stated that there was a recommendation in the report from DelDOT about creating interconnectivity with the Sheraton property. Could the applicant address that and any progress that has been made? Responding to Mr. Hemmig, Mr. DeAscanis stated that they talked about this at the DAC meeting. At that meeting, they acknowledged that interconnectivity does exist. We brought it back to DelDOT and they also agree that it does exist. What spawned that was the Subdivision Engineer was going shopping and got stuck in the C.F. Schwartz parking lot and could not find his way around and added this in stating he wanted to discuss it. We did discuss it and they agreed that there is interconnectivity there. We will make a note on the plan to maintain interconnectivity to the adjacent Sheraton. There is the rear drive that does go all the way around off of West Rustic Lane. They were doing sewer improvements and blocked off West Rustic Lane at the back so once that was blocked off, he had to double back and tried to get around the site and got lost.

Mr. Hemmig questioned if Staff has seen this interconnectivity? Responding to Mr. Hemmig, Ms. Cornwell stated that there is a photograph showing interconnectivity. One additional parking bumper needs to be moved and then you can get through without any interruptions between the Sheraton and the C.F. Schwartz building. Responding to Ms. Cornwell, Mr. DeAscanis stated that it was planned and constructed for that and typically you would use the back road coming off West Rustic Lane. It just happened to be closed.

Colonel Welsh moved to approve S-11-02 C.F. Schwartz Building Addition with denial of the request for the sidewalk waiver and granting the elimination of the arterial street buffer, the tree planting mitigation plan, the partial elimination of curbing and he would ask that they work with Staff to come up with some façade changes on the south facing side of the building to help break up that appearance, seconded by Mr. Tolbert and motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

S-11-03 Courthouse Parking Lot on West Water Street – Public Hearing and Site Development Plan Review, Conditional Use Review, and Architectural Review Certification to permit renovations to the existing parking lot and the expansion of the parking lot to a total of 152 parking spaces. The parking lot is intended to serve the Kent County Courthouse Building. The two properties (total of 1.95 acres) are zoned C2-A (Limited Central Commercial Zone) and subject to the SWPOZ (Source Water Protection Overlay Zone); and RGO (Residential/General Office Zone), H (Historic District Zone), and subject to the SWPOZ (Source Water Protection Overlay Zone). The properties are located on the north side of West Water Street in the block between South Governors Avenue and South State Street. The owner of record is the State of Delaware. Property Addresses: 439 South Governors Avenue and 101 West Water Street. Tax Parcels: ED05-077.09-03-51.00-000 and ED05-077.09-03-53.00-000. Council District 2. *Waivers Requested: Partial Elimination of Curbing Elimination of Opaque Barrier Fence Component. Associated Application: HI-10-11.*

Representative: Mr. Gregg Moore, Becker Morgan Group, Inc.

Mrs. Melson-Williams provided an overview of the application.

Mr. Moore stated that all of the sidewalks will be brick pavers compatible with the brick paving that is going in at the Courthouse to make the two projects look similar and that includes all of that along Water Street, all of the interconnectivities that Staff picked up into the parking lot, and then we have a section where we have benches and bicycle parking that will also be brick. In addition, we are requesting and agree with staff and the DAC report, the lighting standard that we are showing in the document you see in color and we are asking to use the existing gas light fixtures that are actually on the site. There are about eleven (11) of them there and are more ornate than this. They are the identical fixture that is being used at the Courthouse so we are trying to match the two so that this lot looks like the Courthouse. We inspected those fixtures and they are in good shape and feel that we can repaint them and put them back in service and make them look good.

Mr. Moore further stated that they have had a meeting with their neighbors regarding the opaque barrier and they want to make sure that they leave their fence there and have been very vocal about that. They actually have some fencing on our property that they had put up and we will let

them leave that there as it does not interfere with our parking lot. We are agreeing to provide the one neighbor an access into his property through our parking lot since he does not have access. We have crossed out a spot where we will have one space reduced so that he can do that.

Mr. Moore further stated that the Downtown Dover Partnership has met with Mark DeVore and there is discussion about part of this parking lot being operated by the Downtown Dover Partnership related to permits and other parking that could be distributed by the Partnership. There is not an agreement between them and he is actually the President of the Downtown Dover Partnership so we are not here telling you that agreement has been made; however, Mr. Neaton has been meeting with Mr. DeVore so that discussion is on-going.

Mr. Nichols questioned the entrance into Mr. Jackson's property. There are three (3) parking spaces; are they Mr. Jackson's or are they part of the parking lot? Responding to Mr. Nichols, Mr. Moore stated that there is access directly into Mr. Jackson's property that they are going to maintain just as it is today. There is also access into Gerry Street's parking lot and we will maintain both of those. We will respect whatever agreements that are of record between those two properties and this parking lot. The other parking lot has some folks that park in that lot that is permit parked through the Downtown Dover Partnership. That is why the discussion is occurring between the two. Since we are over parked meaning for the State of Delaware Courthouse we have that flexibility to allow some of that to be permit parking.

Mr. Nichols further questioned if a part of this parking lot would be permitted parking? Responding to Mr. Nichols, Mr. Moore stated that for the Courthouse, no. The Courthouse parking will actually be designated and signed as Courthouse parking. There are 126 parking spaces that are required so we will make sure we have those designated for the Courthouse. Beyond that number, they are in discussions for possible permits through the Downtown Dover Partnership. This is a management issue with the Downtown Dover Partnership and the State of Delaware.

Mr. Hemmig stated that you were talking about who will be parking there, will there be any control over visitors, employees, and Courthouse uses and non-Courthouse uses? How will you control who parks there? Responding to Mr. Hemmig, Mr. Moore stated that they will have signage with way-finding and identification signs. The Courthouse is also going to be doing a handout that will show folks who are coming to the Courthouse where they can park designating this area. There will be identity to this parking lot to the Courthouse. We have two routes into the Courthouse and are why we are being detailed in trying to match the lights and the bricks so that there is the appearance that they are the same. This will not be metered or charged parking.

Mr. Hemmig further questioned that the Landscape Plan shown here this evening is a lot nicer than what was presented in their package, which one will be the actual landscaping? Responding to Mr. Hemmig, Mr. Moore stated that we have removed some of the density of trees along Water Street at the discussion at the Historic District Commission meeting. There was discussion that if we were to hedge or densely put trees there, there was some security discussion and we are actually opening that up. We are; however, adding trees and hedge to account for the opaque barrier along the two neighbors on Governors Avenue. We are reducing it along Water Street and increasing it along those two residential neighbors.

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

Mr. Tolbert moved to approve S-11-03 Courthouse Parking Lot on West Water Street and to include the Architectural Review Certificate HI-10-11 and to include approval of the waiver request for partial elimination of curbing and elimination of the opaque barrier fence component. Approval of the Conditional Use for the west lot and the Site Plan review of the main lot, seconded by Colonel Welsh and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

MI-11-04 Treadway Towers Parking Waiver Request – Public Hearing for request to utilize the "Combined Spaces" provisions of the Parking Regulations within the *Zoning Ordinance* (Article 6, §3.8) to be able to lease parking spaces to the Post Office. The property is located at 9 East Loockerman Street. The property owner is Colonial Investment & Management Company. The tax parcel number is ED-05-077.05-04-52.00-000.

Representative: Mr. Bob Munion, Representative, Colonial Investment and Management Company.

Mrs. Townshend stated that the Postal Service approached Colonial Investment to discuss with them the possibility of leasing some of the parking spaces at Treadway Towers for their employees to use. Mr. Munion contacted me as he was aware there was a little bit of history. Back in 2002, the Lobby House had applied to the Planning Commission for expansion and at that point in time, they had requested the twenty (20) percent parking reduction which was not granted by the Planning Commission. Ultimately, they did a small expansion of the parking lot and a small expansion to Frazier's. With this history in mind and looking at their parking on site, what she advised was in order to lease the parking lot you would have to determine that there is actual excess in terms of Code. This is why this is being brought to the Planning Commission.

Mrs. Townshend further stated that under the parking requirements in Article 6, Section 3.8 the Planning Commission can look at combined spaces where essentially you have one lot with two or more uses that have different peaks. You have the ability to allow parking at the higher, for one of the uses, whichever one has the higher requirement. In looking at 20,317 square feet of office space, this yields a requirement of 68 parking spaces. Looking at the seat count in terms of the bar and restaurant component of Frazier's that would yield 123 parking spaces. There are currently 140 parking spaces on site. What the request would be is to allow the 123 parking spaces to meet the requirement so that the access can then be utilized by the employees of the Post Office. These parking spaces would be assigned between the hours of 6:00 AM to 3:00 PM for those employees. You are still looking at Frazier's having their peak in the evening hours and there would be the 140 parking spaces available.

Mrs. Townshend further stated that in looking at this we attached the aerial photography for the area from 2002, 2007 and 2009 which she thinks demonstrates that the parking that is there is not fully utilized. In terms, from a practical standpoint, this is going to put them in a deficiency. Staff does not believe, nor does the applicant believe that this would.

Mr. Munion stated that his understanding is that what the Post Office has requested it is not for trucks; it is for employee parking and for their earlier shift that starts at 6:00 AM to 3:00 PM. Those spots would then become available again for restaurant use in the late afternoon through the evening.

Mr. Tolbert stated that his understanding is that there was talk that the Post Office was going to move out of that area relatively soon. What happens to any lease agreement that may be made now? Responding to Mr. Tolbert, Mrs. Townshend stated that this would essentially be in place as long as the Post Office is there. At this point, the Post Office does not have any plans to move.

Mr. Nichols questioned if these parking spaces for the Post Office be designated just for them? Responding to Mr. Nichols, Mr. Munion stated that they have requested that they have their reserved spots in the section closest to the Post Office. Our thought at this time was that we would have signage with a period of reservation for them so that it would be clear that they would be open again at 3:00 PM for general use.

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

Mr. Tolbert moved to approve MI-11-04 Treadway Towers Parking Waiver Request, seconded by Mr. Ambruso and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

MI-10-20 Eden Hill Farm TND: Phase 2 Revisions – Review and Consideration of the Interpretation of Pattern Book guidelines for Townhouse Setbacks within the Eden Hill Farm TND Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record is Hill Farm Associates, LLC. Property Address: southwest of intersection West North Street and Saulsbury Road. Tax Parcel: portions of the overall parcel ED-05-076.00-01-13.00-000. Council District 2.

Representatives: Mr. Leonard Iacono, Hill Farm Associates; and Mrs. Laura Swiski, Northpoint Engineering.

Mrs. Melson-Williams stated that before you this evening is a request for the Planning Commission to consider an interpretation of the Pattern Book Guidelines for the Residential District of Eden Hill. The report starts out with giving background information about the Residential District. You will remember that most recently they appeared before you in November in regards to some of the elements associated with Phase 2 of the Residential District. The follow-up application to that to our office was application MI-10-20 which was submitted for Administrative Plan review. That involved a series of lot revisions in Phase 2; specifically, a series of properties in the area of Ruth Way which runs north/south and the area between Ridgely Boulevard and Little Eden Way, the northern part of Phase 2.

Mrs. Melson-Williams further stated that with the Administrative Review of that, Planning Staff review was looking at a Record Plan that revised a number of lots from what were twenty-five (25) foot wide townhouse units to twenty (20) foot wide townhouse units which is a permitted lot

width within the Residential District previously approved by the Planning Commission. The issue that we then identified was from Staff's interpretation that these series of townhouse lots could not meet the side yard setback requirements as prescribed in the Pattern Book. In the report, there is a chronology of events and our noted information about our review of that Administrative Plan.

Mrs. Melson-Williams stated that the applicant took exception to our interpretation; and hence, they are before you this evening so that the interpretation on the townhouse setbacks specifically the side yard setbacks can be determined. She has done some graphics to help explain this. The Pattern Book, as it exists, shows townhouse lots in groups of two. The map showed to blocks of units. Each block has multiple units to it and has a series of lots; however, the two townhouse buildings as the big picture and building there is a split that has to happen into two groups.

Mrs. Melson-Williams further stated that the Pattern Book describes the setbacks for them in two options. When you have two groups of townhouses, you can either bring the buildings close together and provide a five (5) foot setback on each lot which would be a total of ten feet between buildings of townhouses or in the second option it presents is a wider width of a side yard setback of fifteen (15) feet on each lot for a total of thirty (30) feet between buildings. The second option with a building setback of fifteen (15) feet allows for a porch setback of ten (10) feet. This is what the Pattern Book presents.

Mrs. Melson-Williams further stated that their proposal in looking at the specific block between Ridgely Street and Little Eden Way is proposed for building groups of more than two townhouses. The Pattern Book is silent on what do you do if you have more than two groupings? It was not presented in any fashion or discussed so Staff looked at a number of things to interpret what the side yard setbacks in that situation would be. We listed a number of things that we took into consideration on Page 7 of our report in focusing on the intent of the TND and how did it present other features of the TND intent wise. Staff's interpretation is shown here first in that our interpretation was for the first two groups or buildings of townhouses you could reduce it to that five (5) foot side yard setback and five (5) feet for a total of ten (10) feet. Once you move beyond a group of two adding group #3 then the separation had to be fifteen (15) feet side yard setbacks on each lot for a total of thirty (30) feet and then that system would repeat for more than three (3).

Mrs. Melson-Williams further stated that the applicant, in their interpretation of their request, is seeking that in the case of groupings of more than two (2) buildings that the first split between buildings would be the five (5) side yard, five (5) foot setback on each lot for a total of ten (10) feet and then when you move between the second and third building again you could use the five (5) side yard, five (5) foot side yard setback with a total of ten (10) feet between the two buildings.

Mrs. Melson-Williams further stated that the things that Staff looked at in making this interpretation was how it fit with the general intent of the TND. One of the things that we particular made note of was making building corners special and unique. With our interpretation, in this scenario, it gives you the opportunity to make the sides of four (4) different areas special. With the wider split between buildings you would have the opportunity to make them special and then on the ends. The applicant's request is that the only opportunities for

making the corners special exist on the far ends of the grouping. The narrowness between the sets does not allow for that type of special unique feature in those areas because of the lot width that you are looking at. In this case, with twenty (20) foot lots in this scenario, they could do a lot width of twenty-five (25) feet for that unit and move onto another twenty-five (25) foot lot.

Mrs. Melson-Williams further stated that the use of porches is found in the Pattern Book to be very significant. With this interpretation, it allows porch elements to be included both on the fronts and potentially on the sides of dwellings. This evening you are asked to consider the interpretation of side yard setbacks and what is intended for the situation when they are in groups of more than two (2) buildings within the same block. Whatever action is taken tonight, we recommend that this be a part of the Pattern Book document.

Mrs. Townshend stated that she would like to add in terms of Staff's review of this and our interpretation of the Pattern Book and the materials that we have drawn on. One other thing that is important to mention for the record is that the Pattern Book gives a degree of flexibility and also provides the standard. In balancing those items, the flexibility with the standard, if this were not a TND and was a regular townhouse community, what standard would they be held to? If you look at the RM-1 and RM-2 zoning districts at the end of the townhouse buildings the side yard is thirty (30) feet. That is not thirty (30) feet between buildings; that is thirty (30) feet between the end unit and the lot-line and then another thirty (30) feet between the end unit and the lot-line. Even with the fifteen (15) feet and fifteen (15) feet they are getting half of what they would have to do in a standard townhouse development. There is nowhere where it allows the five (5) feet. Even with the Staff's interpretation, there is still a degree of flexibility; and however, the ability to provide for opportunities for porches. When they have come before, there has been the discussion of options that they could include. Once you have set the lot-lines that are one option (porches) that can't even be included on those end unit lots.

Mrs. Swiski stated that while in their opinion this is a simple matter, it could be complex without having a visual aid to look at so Staff has provided a wonderful overview. There are a couple of other items that are worth mentioning. In our original plan that we submitted to you last fall, we proposed to have two (2) groups instead of three (3) groups. We proposed to have a group of six (6) and a group of seven (7), a group of six (6) then seven (7), and so on with the park in the center. We applied the setbacks to the fifteen (15) foot separation on each side of the townhouse groups and the fifteen (15) foot end setbacks which we felt gave a nice appearance. At the request of Staff and as discussed at the Planning Commission, we were asked to see if we could split these two groups into three groups to make smaller, more diverse appearances for the grouping. We did agree to do that and what we proposed was to do a group of five (5), a group of three (3), and a group of five (5) again. Based on the way that we reviewed the Pattern Book, we viewed the image as a typical showing of here is where the setbacks are on the street and here is what the setbacks are next to a park and here is what the setbacks are if you have two (2) groups or more of buildings next to each other. Her point to the Planning Staff was that the Pattern Book certainly did not show three (3); however, it did not need to show three (3) because it was showing a typical setback between two or more groups. It is actually the way that a lot of Ordinances are written.

Mrs. Swiski further stated in switching from our preferred configuration of two groups of six (6) and seven (7) to the group of three (3) what we were able to do with our interpretation of the

Ordinance was to put wider setbacks on both the street and the ends and in-between the units than we believe were required. With our group of five (5), three (3), and five (5) and using the twenty (20) foot wide building, we are actually able to have a twenty (20) foot building setback on both the corner and next to the park, which in our initial discussions with Staff, were the areas that they were most concerned about. We were also able, instead of having the buildings be separated by ten (10) feet in the interior groups, able to add an extra five (5) feet between each of those three (3) groups for a total separation of fifteen (15) feet instead of the ten (10). The total length of the block has not changed; it is how we are shifting buildings that are an issue here. We felt that it was more aesthetically pleasing and more in keeping with the character of what we see in Downtown Dover to have them more evenly spaced out and to give the ends special importance. This was our initial discussion that the ends be important. Northpoint Engineering did not create the Pattern Book; it was created before our involvement. Last week Mark Prada phoned Gregg Moore, Becker Morgan Group, Inc. the organization that did create the Pattern Book and asked what their intent was when they created it. He agreed that his intent was that this was to show a typical separation when townhouses were next to townhouses. Regardless of the number of them, it was suppose to be a ten (10) foot building separation. She respectfully stated that she thinks that what the Staff has done is they have decided that in addition to having the ends be special, they would like for the middle to be special also. She can respect that desire; however, she has to say, for her that is interpreting after the fact. This is coming up with reasons why the Pattern Book, in their opinion, was silent on the issue. In their opinion, it very clearly showed what a typical separation between buildings would be and they are applying what they would like to see happen. This is the reason for having a Pattern Book; however, in this case, we honestly believe that what we are proposing will give a much more consistent and attractive appearance.

Mr. Iacono stated that he finds himself repeating himself every time he comes before the Planning Commission so he apologizes. Having lived this project he wants to reiterate for the hundredth time that there is a very bold writing in the beginning of the Pattern Book that it is simply a guide. It is not meant to be interpreted as whatever is set-forth will be etched in stone because due to ever changing economy and the need to change designs as we go along, based on consumer demand, we reserve the right to make the changes.

Mr. Iacono further stated that we made this change at the request of the Planning Staff to break up a six (6) and a seven (7) pack into a five (5), three (3), and a five (5). We felt that was a good recommendation by the Planning Staff and it is more aesthetically pleasing. We submit that if you want to do an interpretation of planning that we can revert back to that. He also takes exception to the fact that comments are being made by Mrs. Townshend that is outside of the TND, this is the TND. Other ordinances that are in the City do not govern what happens here. He is under constant pressure from Ryan Homes to give them a product that they can try to sell and at the end of the day stay within the guidelines or the intent. When we went back to Ryan Homes and told them what the Planning Staff had suggested, a five (5), three (3), and a five (5) they were fine with that and is exactly what we did.

Mr. Iacono further stated that as far as the Pattern Book goes, there is no identification on what you do when you have three (3) buildings. The project was developed with two (2) building sections and the one section is separated by a park and we are still maintaining that, we are not changing that. There is no way to assume that because there are three (3) buildings instead of

two (2) buildings that the setbacks would be any different. He is confused as to why he is here because we did what we thought we were asked to do. We are now back to changing the separation. This goes against the grain that we talked about so we can just go back to a seven (7) pack and a six (6) pack. Our interpretation is that it shows against the buildings, against a park, and against the corners, all of which we are maintaining. We have not changed anything and are following the Pattern Book.

Colonel Welsh stated that as a matter of record, he agrees with you as he feels that it is more aesthetically pleasing to have the five (5), three (3) and five (5) and it would be his desire. What he does not agree with Mr. Iacono's comments is that the Pattern Book is a guide which it is; however, happens to be a guide that we approved for the total neighborhood design for Eden Hill. That does not mean that you can make arbitrary or wholesale changes to it.

Responding to Colonel Welsh, Mr. Iacono stated that he understood. The Pattern Book was a very extensive undertaking based on a lot of research, travel in the country some of which people in the City attended with us. However, at the same token, when we looked at the Pattern Book and we developed it, we tried to duplicate what was done in other TND's. This was the only project in the country where the Pattern Book was developed before the project was improved. This is why there was a provision put in that it is a guide and that it may need to be changed. He apologizes if he made it sound like doing something arbitrarily. He realizes that everything he does has to be blessed by the Planning Commission.

Mr. Hemmig questioned that he would like to clarify that the original groupings of seven (7) and six (6) were broken up at Staff's request? Responding to Mr. Hemmig, Mrs. Townshend stated that she is unsure if this was discussed the last time it came back to the Planning Commission. If you recall this is the portion of Phase II where you had essentially gave them approval up to that point.

Mrs. Melson-Williams stated that she believes that it was part of the recommendations of moving into Phase II with the townhouse styles as one of the ways to help improve the architecture. Currently, as recorded, the lots in this area are twenty-five (25) feet wide and there are two sets of five (5) and then the break for the park and then two sets of five (5). There are a total of ten (10) lots. Their initial proposal was a total of thirteen (13), hence the six (6) and seven (7); however, it has not been recorded. In order to continue to use the twenty-five (25) foot wide townhouse units, they will need to move lot lines.

Mrs. Townshend stated that she would like to address the question of why we are here. The way that the TND is structured it gives Staff the ability to do things administratively; however, the Planning Commission, on a number of occasions on the record, has stated their concerns regarding the "erosion of character" of Eden Hill. As the City Planner, she is going to be bringing things to this body if she has any doubts. This is one of those areas where again the Pattern Book is silent. Knowing what the Pattern Book says about porches and what this does in terms of the ability to put porches on some of the units is why we are here. You may be seeing more of Eden Hill because she is going to ere on the side of caution.

Mr. Hemmig questioned that Mrs. Melson-Williams seemed to imply during her presentation that they are basically proposing twenty (20) foot wide units, does it make any difference

whether you have a five (5) foot setback between these two sets of buildings or a fifteen (15) foot setback as far as the widths of the units themselves within that row of thirteen (13)? Responding to Mr. Hemmig, Mr. Iacono stated that it would have an impact.

Also responding to Mr. Hemmig, Mrs. Swiski stated that the impact they would have is that because the corner radius on the street are curved, the units that are on the corners would have to be pushed back by about eight (8) feet because otherwise, for the corner of the building we would have to use a minimum width lot, which in this case would be thirty-five (35) feet; twenty (20) feet for the building and fifteen (15) feet for the setbacks. This is the only way that we could maintain the same number of units. By pushing the units back, what that does is take an already relatively small rear yard and compress it even further. Depending on how the rest of the units were developed, either the entire grouping of five (5) would have to be pushed back, or it could be gradually stepped towards the street so that perhaps once you get towards the end of this group of five (5) you would be closer to the street and have a reasonable size back yard.

Colonel Welsh further stated that one of the thoughts that he had in considering this is what are you really going to gain with the thirty (30) feet between the buildings? He would not want a porch where he would be sitting on his porch and looking at his neighbor ten (10) feet away from him. Responding to Colonel Welsh, Mrs. Townshend stated that one of the porches that has currently been constructed has that small of a break.

Mr. Hemmig further stated that one of the other comments that he would like to make concerning this is the fact that we have been tossing around the term "block." He wants to clarify the fact that in this context a block does not mean from one street to another it means a group of buildings where they have two blocks. In the Pattern Book it is quoted as specially stating "specifically corner units of important terminus to a block of townhouses"; it does not say two or three. He does not want to influence the Planning Commission; however, in his opinion, he feels that the five (5) foot setbacks are okay.

Mr. Iacono stated that he did not want to give anyone the delusion that we do not work well with the Planning Department. The Staff has been very good to work with and you are going to have differences of opinion and it happens as this is a business environment.

Mr. Hemmig stated that one consideration that they might have if a motion is made that they approve the five (5) foot setbacks is that you cement the total number of units that can be in a block before a major break has to occur or has that already been thought of? Responding to Mr. Hemmig, Mrs. Townshend stated that she does not believe that it has.

Colonel Welsh questioned when they would start getting some of the wider townhouse units? Responding to Colonel Welsh, Mr. Iacono stated that he would be very candid in saying he would be the first one to love to see this. He is not happy with the fact that we had to change from the twenty-five (25) feet to the twenty (20) feet. From a financial standpoint, he takes a big hit so he has every incentive in the world to want to see us get back to someday bigger lots or bigger units. He has been pushing Ryan Homes to push the duplex units which are very big. They have started to market them and are starting to sell them.

Colonel Welsh stated that his concern is as we have four different variations of townhouses, so far we are only seeing one. Responding to Colonel Welsh, Mrs. Townshend stated that there are two models that are being built out there. There is the two story unit and a three story unit, all twenty (20) foot wide.

Mrs. Melson-Williams also responded by stating there are five (5) different variations of townhouses that are still there.

Colonel Welsh stated that he would hate to see Eden Hill Farms be all twenty foot wide townhouses. Responding to Colonel Welsh, Mr. Iacono stated that so would he. That is why we limited, to a point that we would have to come back to the Planning Commission if we get past Little Eden Way.

Mr. Iacono stated that unrelated to Eden Hill he also owns Senators Lake which is a project of fifty-four (54) units that he developed off of Silver Lake Road. They are twenty-four (24) foot wide townhouses and Ryan Homes has sold zero. They have been marketing these for over a year. The road, curbs, and paving are all in and they have not sold one unit.

Mr. Tolbert questioned if the twenty (20) foot wide townhouse would be cheaper than twenty-five (25) feet and you are stating that they are more difficult to sell? Responding to Mr. Tolbert, Mr. Iacono stated that yes, they are. The twenty-four (24) foot wide townhomes are more difficult to sell because of the price. The reason they are marketing the twenties is to capture the consumer.

Mrs. Townshend stated that there is no public hearing required for this application.

Colonel Welsh moved regarding MI-10-20 Eden Hill Farm TND: Phase 2 Revisions to approve the five (5) foot side setback between building groupings for the three (3) separate buildings that comprise the block for this particular area as this would be more aesthetically pleasing making everything balanced, seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Friedman and Mr. Holt absent.

Meeting adjourned at 9:36 PM

Sincerely,

Diane Metsch
Secretary

CITY OF DOVER PLANNING COMMISSION
QUARTERLY WORKSHOP
February 23, 2011

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Wednesday, (due to Holiday) February 23, 2011 at 4:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Tolbert, Mr. Shomo, Mr. Baldwin, Mr. Nichols, and Mr. Ambruso. Mr. Friedman, Colonel Welsh, and Mr. Holt were absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Ms. Cornwell, Mr. Albert, and Ms. Metsch. Also present were Mr. Gregg Moore and Mr. James Galvin.

Presentation – Dover Transit Center Neighborhood Plan
Mr. Moore provided a Power Point presentation.

Mr. Moore further stated that there are a few key things to consider with this Plan: try to get a continuous zone in the Downtown that will allow for the multi-use development to occur, the park on the Saint Jones River, and upgrading walking paths. There are a lot of other things in the book that are not a part of this that give the Downtown Dover Partnership and Staff some good tools to start implementing change.

Mr. Galvin stated that he would add that so far the MPO (Metropolitan Planning Office) and the DDP (Downtown Dover Partnership) own this Plan. We are asking for buy in from the City of Dover to use it. We have taken this Plan to several different venues and to their own MPO committees: the Technical Advisory Committee and the Public Advisory Committee and they endorsed it. We ask that you look at it and endorse it as well.

Mr. Galvin further stated that Clarence Eng, one of the principals of Renaissance Planning Group had made an arrangement with him to come and give a class on Form-Based Code. We are planning on doing that sometime in late March. This will be sponsored by the MPO and meant for Kent County folks, communities, and planners. We are involving the Delaware Chapter of the APA in that if other folks want to join from New Castle and Sussex County they can.

Mr. Moore stated that their next step will be to take the Plan to the State agencies to create a joint group that plans for office growth in our Downtown so that we know they stay in our Downtown and to leverage the state investments that are happening at the Courthouse in a way that is planned so that it works with this Plan.

Mr. Hemmig questioned the Planning Commission members if this is something that they would like to take a closer look at before they make a formal motion?

Mr. Ambruso stated that he felt that this is something that they do need to look at further. By endorsing their efforts he does not think there are people in the community who are willing to put time in to doing this. When he first looked at the plan, he was a bit upset because he was looking at all these buildings and thinking that this is a pipe dream; however, listening to the presentation it makes sense. He can see that it is doable over a long period of time.

Mr. Hemmig stated that one of the things that we need to be aware of is that at a Quarterly Workshop as this one is, we cannot take votes or action on anything. It would be more appropriate if we reserved this as an item on the Planning Commission Agenda for next month's meeting in March.

Mr. Tolbert questioned if everything was a go, how long would it take to implement this Plan? Responding to Mr. Tolbert, Mr. Moore stated that the Plan that shows identification to the west is 20-35 years. He talked about parking garages and they are 10-15 years away. We do not currently need parking garages even though everyone says that there is no parking Downtown. He goes by North Street everyday and sees fifty (50) parking spots that are open. It is not that we do not have parking. We are not getting the people to the parking and it does not have the identity. If we build some of these buildings we are going to need parking 10-15 years down the road.

Mrs. Townshend stated that she would add that the Planning Staff has already worked a number of aspects of implementation of this into our Annual Work Plan and our Staff goals. We intend to be working on this immediately. In terms of a zoning classification that better fits Downtown what Staff has talked about is taking the C-2 zoning, changing the zoning text because the bulk standards are good for the Downtown to encourage the uses that this document envisions.

Mr. Shomo stated that he was so impressed and anytime within the three (3) years that he has been on the Commission, Mr. Moore and his company is here in front of us, he is impressed with his professionalism.

Mr. Nichols stated that the City has gone down. At one time the City was a bustling place and it has, in the last two (2) years, strictly gone down. There are a few people that have come and built new buildings and have tried to enhance some areas in here. There is a lot of work to be done and there is a lot in this book. It is going to take a lot of private people and a lot of State money in order to enhance what we want and what Mr. Moore is talking about, a walking community. This is a big job to do. As he has seen it over the years, and he has watched it, he has worked here for many years and everything was congealed together. It seemed at one time, like New Street, New Street was a beautiful residential street as well as Kirkwood Street. Unfortunately, those streets have been sold to people who now use them as rentals and all they wanted was the money. They did not care about it so they just let it go down. Even Governors Avenue has gone down to nothing. Wesley College has bought a lot of properties in this area and they have helped a lot by tearing them down and just leaving them vacant lots. This can be done; however, it is going to take a lot of private people and State people in order to enhance this project.

Mr. Tolbert stated that it is also going to take good Code Enforcement and we do not have that in the City. A lot of properties deteriorate and nothing is done about it. Long before they deteriorate there should be adequate enforcement to prevent that and that it does not happen.

Mr. Galvin stated that one of the reasons to do a Plan like this is to have something on the books to say that it is a great idea; otherwise, you are leaving it up to the vagaries of development. Things happen to happen the way they happen. There is no vision for the neighborhoods or idea of what it could look like.

Mr. Baldwin stated that this is a great long range plan; however, for his own edification he would ask a question. When he first came on this Commission, we went through a similar project like this and it was called the West Side Entrance and he has not heard anything else about it. Is that a part of this Plan or is that West Side Entrance something different that will be addressed later on? We had similar books and how the West Side was going to look with some type of traffic circle around the clock near the Duncan Center. It was a beautiful layout to beautify the West Side which went along the railroad tracks with a rail corridor from Dover to the Wilmington area for commuters. Responding to Mr. Baldwin, Mr. Hemmig stated that this was another longer term plan. It overlaps a little bit with this area; however, it was more concentrated on Loockerman Street going across the railroad tracks to the West Side of the tracks and that whole industrial area along that side of the tracks. That Plan still exists with its concept.

Also responding to Mr. Baldwin, Mrs. Townshend stated that it does still exist and portions of it, if you look at the Duncan Center, something like that was contemplated in this area. The Downtown Dover Partnership has purchased some of the property in the industrial area on the Chesapeake Supply site. The City of Dover has been working with Century Engineering with federal funds on a concept for the extension of Clarence Street up to Forrest Street that would essentially open up this area. Part of the challenge of implementing the Plan for the West Side particularly on the West Side of the tracks is that this area of land is somewhat land locked as it does not have good road access. At the end of the environmental review process, we will determine an alignment for an extension of Clarence Street. Once that happens, it will help to open up the area between what will be Clarence Street and the tracks. The Downtown Dover Partnership did complete the clean-up of the Capitol Scrap site which was also part of the West Side plan and now is the site of the new NAPA Plan that is under construction. Next year you might see something from the Inter-Cultural City League on the south side of the property.

Planning Commission Comments and Concerns

Mr. Hemmig asked for any comments or concerns and at this time, there were none from any Commission members.

By-Laws

Mr. Hemmig stated that Staff has been undertaking a review of our By-laws and are making recommendations for changes based on what we desire and to do some clean-up to make things better.

Mrs. Townshend stated that the only thing that Staff has done is incorporate the language that was voted on back in August regarding election of officers on a secret ballot and a three consecutive one year terms for the Chairman and Vice-Chairman. What Staff did determine is that the By-laws, prior to those two small changes, had not been updated since 1995. What Staff wants to do is give you a proposal that takes out the stuff that is very dated or irrelevant. Staff will bring forward that presentation at the next Quarterly Workshop.

Parliamentary Procedure

Mr. Hemmig stated that he asked Mrs. Townshend to place this on the agenda. A presentation was provided to this Commission last June and although it is not a requisite that we formally adopt "Robert's Rules of Order" or anything else he would like the chance to talk about it and see if there were any thoughts or changes that you would like to implement. One of the things

that stood out in his mind was the fact that in normal parliamentary procedure a motion always is stated in the affirmative. A lot of times our motions are very negative such as "we move to deny this." Responding to Mr. Hemmig, Mrs. Townshend stated that this is an affirmative action. It is not, not approving it.

Mr. Hemmig further stated that there were other things presented for streamlining for instance if the Chairman reads the next agenda item that actually becomes the motion on the floor or if someone wants to make a formal motion, you can then amend the motion along the way and have votes on those amendments and then take a final vote on the amended full motion."

Mr. Hemmig further stated that he would like for you to look this (Handouts from Parliamentary Procedure Training) over and think about it. If you have any comments or recommendations please let me know.

Mrs. Townshend stated for those Commission members that were not on the Commission at that time, there was a full presentation given by the parliamentarian who was here so we can forward a copy to you to look at.

Mr. Hemmig stated that one of the things that was brought up was the more you adhere to proper rules of order, the better chance you have of maintaining your position should something go to court. A couple of our decisions have been taken to court. Often something could be overturned if not following the "Robert's Rule of Order."

Mr. Shomo stated that up until the last few meetings, we have always, after the Pledge of Allegiance said a moment of silence and we are not doing that any more. Is there any particular reason for that? Responding to Mr. Shomo, Mr. Hemmig stated that he as Chairman has the authority to set the agenda for the meetings. His personal feeling was that the Pledge of Allegiance was sufficient as far as opening the meeting with some form of ceremony. In City Council they have an actual prayer and a Chaplain available to lead a prayer and he felt this was just too formal for this body and this meeting. If members of the Commission feel strongly the other way, he would be glad to listen to that. He felt uncomfortable creating a prayerful situation.

DEPARTMENT OF PLANNING AND INSPECTIONS UPDATE

Status of Ordinance Amendments

Ms. Cornwell stated that 2010 was a rather busy year for text amendments as we did almost a half dozen or a little bit more than that. Currently, in the review process that you will be seeing next month, there is a "Solar and Wind Energy System Amendment" that will be coming forward. We are currently in the middle of drafting Article 10 which is the process and procedures of Conditional Uses, Site Plans, and Historic District Commission. Staff is also working on swimming pools. As part of our Work Plan the Planning Office does annually, we have come up with almost a dozen more areas and topics that need to be updated regarding text amendments. With the Airport Environs Overlay Zone, the Air Force Base adopted a new Noise Zone Study so the City will have to update that so we will be looking at that. Also, a lot involving the charrette and looking at the Commercial and Industrial zones making sure they are up to date and relevant.

Mrs. Townshend stated that while Staff is not inundated with applications, it is a good time to get our Code into good shape so when the applications start coming in we are ready for them. The Industrial and Commercial zones are some of the more antiquated in terms of some of the provisions and were a recommendation of the Comprehensive Plan coming out of the business community. That will be a big project.

Mrs. Townshend further stated that the Department's Annual Report for 2010 would be provided to any Planning Commission member who would like a copy of it. Staff will also be placing this document on the website.

Summary of 2010 Applications

Mrs. Townshend stated that in 2010 the application volume was actually up a little bit. Some of that, if you look under Miscellaneous, any text amendments we did are characterized under the miscellaneous as it is internally generated. It is not 97 applications from the outside; however, it is showing a pick-up over the previous year where we also did have some of the miscellaneous text amendments. We went from 29 Site Plans in 2009 to 33 Site Plans in 2010 still ten (10) less than we were in 2008. We are still where we were in the early and mid 2000's. We saw a big drop; however, a significant increase in 2006/2007.

Other Projects and Research Activities

Mrs. Townshend stated that Article 10 update is the article of the *Zoning* Ordinance that essentially addresses all of the process and procedures. Section 1 of Article 10 is Conditional Use, Section 2 is Site Development Plan, Section 3 is Historic District Commission, Section 4 is Development and Phase, and Section 5 is Rezoning. Staff started back in the summer to try and update this. It is the melding of a number of directives from City Council into one large project because we had been asked to streamline processes and increase public notice requirements. We are bringing forward something that better reflects the way that things would naturally go through the processes. Coming up with Site Plans for a tiered approach where if it is a change of use where there would be no site changes, no additional pavement, or building addition then it could just go through a zoning review to confirm that it is a permitted use. This is an area where a lot of this stuff has not been updated in fifteen to twenty years.

Mrs. Townshend further stated that the update on the Planning Office 2011 Work Plan is the Ordinances that Staff will be working on and the other major projects. One of the things that Staff has taken over in the Planning Office is responsibility for the City's Stormwater Permit from DNREC which is under the Federal Clean Water Act and updating the Historic District Guidelines with most of the Work Plan being ordinance work.

Mr. Nichols asked Mrs. Townshend to explain the Stormwater Permit. Responding to Mr. Nichols, Mrs. Townshend stated that the City is under a permit from DNREC for stormwater which is the municipal separate storm sewer system that are storm sewers throughout the City. Under that permit, there are six (6) measures that we have a number of activities to perform in each measure. Some of it is public outreach, some of it is Code changes, and some of it is housekeeping practices and mapping of the City's storm sewers. All Departments within the City take part in the various activities. We are now responsible for reporting and tracking.

Mr. Nichols further questioned if this refers back to the Kent Conversation District as well? Responding to Mr. Nichols, Mrs. Townshend stated that we are in the process of developing an MOU (Memorandum of Understanding) with the Kent Conservation District because a number of things that we are required to do it would appear that we have jurisdiction over stormwater. We cannot do it without the jurisdictional body on board with us.

Educational and Training Opportunities

Mrs. Townshend stated that there is an APA Audio/Web conference "Mitigating Hazards through Planning" being held on March 16, 2011 at the Kent County Administration Building. We have provided all of the Audio/Web conferences for the year in your packet. One of her favorites is the Planning Law Review" that is where you have the National experts in the area of Land Use Law going through what the major court decisions were that affect how we operate.

IPA Training Series

Mrs. Townshend stated that the Institute for Public Administration flyers for classes that are coming up in March, April, and May have been provided in your packet. If you have not been, these are very good classes. There are three (3) very knowledgeable people training on that: Ed O'Donnell, retired from New Castle County, Linda Raab, has worked in Delaware and Maryland for over thirty (30) years, and Max Walton, an Attorney who litigates on behalf of government in Land Use cases.

Meeting adjourned at 5:28 PM

Sincerely,

Diane Metsch
Secretary

McBRIDE & ZIEGLER, INC.

LAND SURVEYORS • PLANNERS • ENGINEERS

2607 EASTBURN CENTER
NEWARK, DELAWARE 19711
PHONE (302) 737-9138 FAX (302) 737-2610

February 24, 2011
Ms. Janelle Cornwell, AICP
City Of Dover
Planning Department
P.O. Box 475
Dover, DE 19903

Re: **SOUTH DOVER PLAZA**
EXTENSION REQUEST
MASTER SITE DEVELOPMENT PLAN
M&Z PROJECT #20044055

Dear Ms. Cornwell:

We are hereby requesting a one (1) year extension from the Planning Commission for the above-referenced project. We are proceeding through the review and approval process and have received comments from DelDOT prior to receiving a Letter of No Objection from them. We are currently addressing those comments. The owner of the property does not have a major tenant for the site at this time, thereby necessitating the extension, and we believe that this is a function of the sluggish economy we are all experiencing. We understand that if the extension is granted we must have Administrative Site Plan approval within one year from April 2011 and be under construction or the plan will expire..

Thank you for considering this request for an extension. If you have any questions, please call. Thank you.

Very truly yours,
McBride & Ziegler Inc.

Monika B. Sloan, P .E.
Cc: S.H.E. Holdings, LLC

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MAR 01 2011
CITY OF DOVER
PLANNING & INSPECTIONS

City of Dover

DATA SHEET FOR SITE PLAN REVIEW

DEVELOPMENT ADVISORY COMMITTEE MEETING OF March 10, 2011

PLANNING COMMISSION MEETING March 21, 2011

Plan Title:	Modern Maturity Center: Building Addition S-10-11
Plan Type:	Site Plan Revision
Applicants/Owners:	Modern Maturity Center, Inc.
Location:	North side of Forrest Avenue west of Saulsbury Road
Addresses:	1121 Forrest Avenue
Tax Parcel:	ED05-076.07-01-25.00-000
Site Area:	13.6 acres +/-
Zoning:	IO (Institutional and Office Zone) COZ-1 (Corridor Overlay Zone)
Present Use:	Active Living/Senior Care & Meeting facility

Proposed Use of Building Addition: Adult Day Care with Offices and Medical Clinic

Building Area:	Existing Buildings (total)	74,015 S.F.
	Building Addition (to Rear Building)	14,486 S.F.
	Total Building Area (all buildings)	88,501 S.F.

Sanitary Facilities:	City of Dover
Water Supply:	City of Dover
Waivers Granted:	Reduction in Bicycle Parking Requirement

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: March 10, 2011

CITY OF DOVER PLANNING

APPLICATION: Site Plan Revisions to Modern Maturity Center at 1121 Forrest Avenue

FILE #: S-10-11 REVIEWING AGENCY: City of Dover Planning Office

CONTACT PERSON: Michael J. Albert, AICP PHONE #: 302.736.7196

SITE PLAN HISTORY

This application appeared before the Planning Commission in May 2010. At that time, the project was granted Conditional Approval by the Planning Commission, including a waiver request and a requirement that the project incorporate site interconnectivity as required by the Corridor Overlay Zone. Final Plan approval: October 22, 2010 Construction of the building addition is underway by Building Permit #10-1615

PLAN SUMMARY – Revision Request

This request for revision proposes to remove the site interconnectivity on the eastern portion of the property that would tie this Modern Maturity Center project into several adjacent development sites including a pharmacy, bank, and proposed apartment complex. The request has been generated in response to proposed changes to the DoveView Senior Housing PND which is now potentially to be used as a standard multi-family apartment complex should its rezoning request be approved and a subsequent Site Plan filed and approved. The cross-access easement and location as provided would connect the existing Modern Maturity Center site to other commercial and residential uses in the area. The applicant wishes to remove the required cross-access easement citing that with the removal of age restriction to the DoveView development, that there is no longer a reasonable need for site interconnectivity. Further, the applicant states that there are potential safety hazards associated with the proposed interconnectivity.

The City of Dover Planning Staff finds the applicant's concerns regarding the potential change to DoveView's housing make-up immaterial to the stated goals and objectives of the Corridor Overlay Zone. Further, a removal of the required cross-access for the site would be in stark contrast to the successful and measured approach that the Corridor Overlay Zone has implemented along Route 8 in regards to reducing traffic and vehicle trips. Additionally, it would be contrary to the recommendations of the *Delaware Route 8 Concept Plan and Operations Study*. Where the applicant references concerns over safety due to the implementation of the cross-access easement, Staff finds those concerns to be without merit. Where the availability of inter-site access has real and tangible benefits, concerns over safety regarding this cross-access are vague and non-specific, and could be mitigated through improved

circulation management on Modern Maturity Center site.

The property is zoned IO (Institutional and Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The owner of record is the Modern Maturity Center, Inc. The property address is 1121 Forrest Avenue. The property is located on the north side of Forrest Avenue west of Saulsbury Road. Tax Parcel: ED05-076.07-01-25.00-000.

SITE CONSIDERATIONS

The following is an excerpt from the May 2010 DAC report (S-10-01) regarding the Modern Maturity Center project and its interconnectivity with adjacent sites:

> Interconnectivity
> In the development plan for the adjacent property to the east (DoveView Planned Neighborhood Design: Senior Citizen Housing Option), two points of interconnection with the Modern Maturity Center were approved. The first is a pedestrian connection near the rear drive aisle of the main building. The second is a vehicular connection at the rear of the property east of the proposed building addition. This plan does not provide information on the implementation of these interconnections on the Modern Maturity Center property.
>
> The applicant has stated in a letter dated May 4, 2010 that they object to the implementation of the previously required interconnectivity. The applicant bases their objections on, "The safety and well being of their clients."
>
> In summary, where the Corridor Overlay Zone speaks to interconnectivity it specifically mentions that
>
> > Article 27.64 (d) [*Cross-access.]* Cross-access shall be provided among abutting uses of similar use categories, whenever possible, to provide linkage between properties as an alternative to re-entering the corridor to access both existing and future neighboring properties.
>
> **Cross-access for the site, both in terms of the pedestrian and vehicular kind must be implemented as required by Code. In order to avoid the required cross-access elements and interconnectivity for the plan, the applicant must clearly demonstrate to the Planning Commission that the use of the Modern Maturity Center and its Adult Day Care facilities are a dissimilar use category from both the existing pharmacy, bank, and the Senior Citizen Housing known as DoveView, all of which are directly adjacent to the Modern Maturity Center and would share access with it. When the Planning Commission reviewed the DoveView application, the Planning Commission required a cross-access easement with the Modern Maturity property.**

The minutes from the May 2010 Planning Commission hearing on this matter are attached to this report.

Following public hearing and questions from the applicant, the Planning Commission, the cross-access was moved south on the site to a location more compatible with current traffic movement.

COZ-1: Corridor Overlay Zone
The Modern Maturity Center and the adjoining parcels are within the COZ-1 (Corridor Overlay Zone). The *Zoning Ordinance* details the requirements of the COZ-1 in Article 3 §27 and its subsections. The Corridor Overlay Zone as a planning and growth management tool is designed

to foster and attractive, efficient, and economically vibrant commercial corridor along Route 8/Forrest Avenue and Saulsbury/McKee Roads. To this end, more stringent standards are applied to commercial development taking place in the corridor.

SUMMARY

Since the Modern Maturity Center application was heard in May of 2010, only one aspect of the surrounding site conditions has been significantly altered. The change to the DoveView Apartments by removing the age restriction is the only change to the conditions as heard by the Planning Commission in May. (Note: The Site Plan for DoveView has expired. Currently, a Comprehensive Plan Amendment (MI-11-01) and Rezoning Application (Z-11-02) are under consideration.) With that being the case, it is the strong recommendation of the Planning Staff that the requirement for interconnectivity remain in place.

The portion of the *Zoning Ordinance* that applies in this request is from Article 3, Section 27.64(d). It reads as follows:

> (d) [*Cross-access.]* Cross-access shall be provided among abutting uses of similar use categories, whenever possible, to provide linkage between properties as an alternative to re-entering the corridor to access both existing and future neighboring properties.

The Modern Maturity Center currently abuts three different uses to the east: a bank, a pharmacy, and a residential apartment complex. When DoveView was restricted to senior housing, there was a focus on the relation of the senior housing to the Modern Maturity Center's senior services. However, the removal of the senior housing restriction changes very little about the abutting uses and their similarity to the Modern Maturity Center. Having direct access to a pharmacy and bank and removing travel trips from the corridor is clearly a stated goal of the *Zoning Ordinance* provisions.

Removing the senior housing restriction from the adjacent property will not preclude seniors from living in the DoveView Apartments and as a location that is centrally available to grocery shopping, banking, and a pharmacy, the adjacent DoveView site is a likely site for affordable housing for seniors, many of which will utilize the facilities at the Modern Maturity Center. With all of these things considered, it must also be noted that the Modern Maturity Center does not provide programming and events exclusively to seniors. For example, it provides conference facilities to the general public as a commercial activity, medical services, and other programs and classes. Direct access to the adjacent sites, even if the DoveView site has its senior housing requirement removed, would be in keeping with the stated goals and objectives of the Corridor Overlay Zone and the *Delaware Route 8 Concept Plan and Operations Study*.

The following notes should be also be considered in any motion that the Planning Commission makes on this request:

The applicant has stated concerns in regards to safety where the cross-access is concerned. However, in evaluating the site, Planning Staff notes the following:

- The primary safety issue in the Modern Maturity Center parking and drive aisles relates to a lack of clarity in directional markings, lane demarcations, and signage.
- Traffic entering the site from the adjacent properties to the east would actually be diverted away from the main entrance of the building due to a separation distance of

approximately 150 feet and the parking lot circulation pattern which includes a mandatory right turn away from the rear entrance of the main building.

- The circulation drive immediately adjacent to the rear entrances of the buildings is one way travel.
- The Applicant for the Modern Maturity Center opposed a recommendation to extend the pedestrian safety walk through the site (running north-south between the main building and rear building) during the previous application hearing, and the Planning Commission supported the Modern Maturity Center's request.
- Several small improvements to the existing parking lot drive aisle conditions would readily address safety concerns on the site including: improved markings, controlled stops, pedestrian guidance, and traffic control measures mandating the traffic away from the rear entrance to the Modern Maturity Center building.

The applicant has stated concerns regarding traffic entering the Modern Maturity Center conflicting with their operations and member activity. However, in evaluating the site, Planning Staff notes the following:

- Traffic exiting from any of the adjacent sites would have more direct access to surrounding roads by exiting through the shared exit extending from DoveView to Forrest Avenue/Route 8 or to Saulsbury Road. There would be little reason for traffic to cut through the Modern Maturity Center site.
- From observing events on the Modern Maturity Center site, it appears that the cross-access will allow for easier traffic dispersion following events. Conference activity looking to exit from the Modern Maturity Center site stacks both in front of the building and on the western drive aisle in order to utilize the only exit from the site at the signalized intersection with Route 8. The cross-access will allow for more vehicles to access Route 8 or Saulsbury Road with less impact on the existing lighted entrance to the Modern Maturity Center has a light.
- Cross-access allows for patrons of the Modern Maturity Center to access the amenities to the east without re-entering the Route 8 corridor to do so.
- Cross-access establishes a second means of access to the Modern Maturity Center site for emergency response.

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

CITY AND STATE CODE REQUIREMENTS:

1) Should the Planning Commission approve this request to revise the cross-access easement and entrance, the Site Plan must be accordingly revised with all relevant calculations and plan sheets updated to match.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

1) Staff recommends implementation and construction of the cross-access connection (vehicular and pedestrian) to the adjoining property on the east. Staff contends that the

Applicant has not provided sufficient or relevant objections to the implementation of this design element and should be held to the original requirement.

2) Planning Staff believes that the applicant's assertion regarding pedestrian safety to be in error. The applicant's current desire to avoid implementation without any sufficient evidence regarding safety concerns should not outweigh either the previously approved adjacent development requirements nor should it outweigh the current requirement of the Corridor Overlay Zone in regards to interconnectivity.

ADVISORY COMMENTS TO THE APPLICANT:

1) In the event, that major changes and revisions to the Site Plan occur in the finalization of the Site Plan contact the Department of Planning and Inspections. Examples include reorientation of building, relocation of site components like stormwater management areas, and increases in floor area count. These changes may require resubmittal for review by the Development Advisory Committee, Planning Commission, or other agencies and commissions making recommendations in regards to the plan.

2) Following Planning Commission approval of the Site Plan, the Plan must be revised to meet all conditions of approval from the Development Advisory Committee or as otherwise noted. A Check Print must be submitted for review by Planning Office Staff and the other commenting agencies. Upon determination that the Plan is complete and all agency approvals have been received, copies of the Plan may be submitted for final endorsement.

3) Other agencies and departments which participate in the Development Advisory Committee may provide additional comments related to their areas of expertise and code requirements.

4) Construction may have an effect on the adjacent property owners and nearby travel lanes. Any work requiring the closing or rerouting of potential customers, residents, or visitors to adjacent properties should be coordinated as to offer the least amount of inconvenience to the adjacent property owners.

5) The applicant shall be aware that Site Plan approval does not represent a Sign Permit, nor does it convey permission to place any sign on the premises. Any proposed site or building identification sign shall require a Sign Permit from the City of Dover prior to placement of any such sign.

6) The applicant shall be aware that Site Plan approval does not represent a Building Permit and associated construction activity permits. A separate application process is required for issuance of a Building Permit from the City of Dover.

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

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: MARCH 3, 2011

CITY OF DOVER
PUBLIC UTILITIES
DEPARTMENT

APPLICATION: **MODERN MATURITY CENTER ADDITION**
1121 FORREST AVENUE

FILE #: **S-10-11**

REVIEWING AGENCY: **City of Dover Public Utilities Department**

CONTACT PERSON: **Steve Enss - Electric**
Sharon Duca, P.E. - Water, Wastewater, Stormwater

CONTACT PHONE #: **302-736-7070**

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 / WATER / WASTEWATER

1. Our office has no comment regarding the removal of the cross access easement.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER / STORMWATER / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC / WATER / WASTEWATER / STORMWATER / GENERAL

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.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: March 10, 2011

D E L D O T

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APPLICATION: Modern Maturity Center at 1121 Forrest Avenue: Building Addition
FILE#: S-10-11 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Julio F. Seneus 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:

1. DelDOT has no comments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

- The Department recommends the interconnection between the two parcels of lands. Also, per the Delaware Route 8 Study, the recommendation for the interconnection between the two sites was suggested.

ADVISORY COMMENTS TO THE APPLICANT:

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

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE:

Dover/Kent County Metropolitan Planning Organization

APPLICATION: Modern Maturity Center at 1121 Forrest Avenue: Building Addition

FILE #: S-10-11 REVIEWING AGENCY: Dover/Kent County MPO

CONTACT PERSON: James Galvin, AICP PHONE #: (302) 387-6030

The MPO will limit comments to projects, development proposals and applications that may lead to new development. Issues of concern to the MPO are effective transit, reducing the amount of vehicle emissions by shortening or eliminating trips, and facilities for alternative modes of transportation, including bicycle and pedestrian access. The MPO considers the bicycle facilities required by the City of Dover to be the standard for all applications, not to be waived.

City of Dover Planning Commission 3/21/2011
Project Review
S-10-11 Modern Maturity Center at 1121 Forrest Avenue: Building Addition

This request is to revisit a previously approved Site Plan to consider a request tp remove a required cross-access easement. The MPO conducted a study of DE 8 in Dover, from the Norfolk Southern line to Artis Drive and included the Modern Maturity Center. The study recommended cross access arrangements to effect the traffic volume using DE 8 for short trips. The cross access facilities were recommended as a general policy but also in several places in the corridor including between Modern Maturity and the uses to the east. The MPO recommended the cross access be required for the site when the proposal originally came before the Planning Commission in 2010.

The MPO continues to recommend the cross access be retained as part of the plan for both sites; Modern Maturity and the Dove View/Walgreens/TD Bank sites. The vehicle/ pedestrian interaction can be kept to a minimum through directed traffic flows and signage. The cross connection will likely benefit patrons of the Modern Maturity Center that wish to access the services of the bank and drug store. The future development of the Dove View site, while not specifically designated for a 55+ population, may serve as a residence for Modern Maturity's patrons. The rationale for the connection does not rely on such use.

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 PLANNING COMMISSION
May 17, 2010

The Regular Meeting of the City of Dover Planning Commission was held on Monday, May 17, 2010 at 7:00 PM with Chairman Friedman presiding. Members present were Mr. Friedman, Mr. Baldwin, Mr. Tolbert, Colonel Welsh, Mr. Nichols, Mr. Holt, Mr. Hemmig and Mr. Ambruso. Mr. Shomo was absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Mr. Albert, Mr. Koenig and Ms. Cornwell. Also present were Mr. David Braun, Mr. Matthew Mitten, Mr. Ed Ide, and Mrs. Carolyn Fredericks. Also speaking from the public was Mr. James Galvin, Mr. Bob Brown, and Mrs. Joyce Braizer.

S-10-11 Modern Maturity Center at 1121 Forrest Avenue: Building Addition – Public Hearing and Review of a Site Plan to permit the construction of a two story, 14,486 S.F. building addition to the building located at the rear of the property and associated site improvements. The project is located on one parcel of land totaling 13.6 acres ± and is zoned IO (Institutional/Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The subject area is located on the north side of Forrest Avenue west of Saulsbury Road. The owner of record is Modern Maturity Center Inc. Property Address: 1121 Forrest Avenue. Tax Parcel: ED05-076.07-01-25.00-000. Council District 1. *Waiver Requested: Reduction in Bicycle Parking Requirement.*

Representatives: Mr. Ed Ide, i3a Consulting Engineers; and Mrs. Carolyn Fredericks, Modern Maturity Center.

Mr. Albert provided an overview of the application.

Mr. Ide stated that regarding the bicycle parking Staff had recommended a full implementation of the bicycle parking. We agree with reducing that down to perhaps one bicycle rack located up next to the existing building because the patrons who visit this site typically would not ride their bicycles.

Mr. Ide further stated that the recommendations are to have designated a pathway for pedestrians between the two buildings through the parking lot. This was an implementation item to the plan for the 2005 building that was built. His clients have not constructed this path for several reasons. First, regarding the interconnectivity for the primary building that is in the front along the main corridor to the back building, there is no reason for their clients to go back that far as it is a fairly long distance and it reduces the total number of parking spaces by twenty (20) so they respectfully request to keep the site as it is now without that interconnectivity between the two site buildings.

Mr. Ide further stated that there is a recommendation for cross access between the adjacent parcels to the east. His understanding is that there is an existing access that was proposed in 2005 which was for pedestrians as well as golf cart traffic. The new request has been to place an access point at the northeast portion of the site to Doveview which would be for vehicle access. The owner wishes to not place that access because of safety requirements as well as they do not know what the disposition of Doveview is. Previously approved Doveview was for a 55 plus community and

certainly there is some sharing between the sites; however, at this point, we do not know what the disposition is. A recommendation by the applicant at the DAC meeting was to implement the access; however, to reduce it down to where emergency vehicles could gain access from their site and put up some mountable partitions or barricades to allow that to reduce vehicle traffic from anyone entering the site.

Mr. Ide further stated that with regard to parking that was mentioned currently, the site has 523 parking spaces which consists of some parking that was implemented during an overlay project several years ago. The proposed plan allows for 505 parking spaces which many of you may know this parking lot is full some of the time. The owner is asking to keep every parking space that they can on this site.

Mr. Ide further stated that with regards to tree planting, they will count the trees on site to determine if one to one tree count is the way to do it. In our plan application on the Site Plan, we provide the woodland area. If you subtract the woodlands, there are 184 trees required on the site. As he counts the existing trees out there now, there are approximately 128 trees on site requiring approximately 56 trees. This does not take into account the buffering strip in the back which has 59 Leyland Cypresses. If they were to be counted, which he knows Code does not allow for it that would provide for about 197 trees on the site.

Mrs. Townshend stated that with regards to what is happening with the Doveview development, when they came through cross access easement was required. Doveview provided that on the northwest corner of their site which lines up where the construction activity begins with this site. Doveview is currently in bankruptcy with one of the buildings further along than the other. When that development came to the Planning Commission it was approved as a Senior Citizen PND. As long as this is residential it can only be senior citizen housing because the property is zoned I/O which only allows for institutional uses. From the perspective of cross access, the code specifically mentions where you have similar uses: "Cross access shall be provided among abutting uses of similar use categories whenever possible to provide a linkage between properties as an alternative to re-entering the corridor to access both of these existing and future neighboring properties." The question becomes that if Doveview does become viable and residents of Doveview want to go to the Modern Maturity Center and they have a golf cart, do they then have to go out to the corridor to turn into the Modern Maturity Center or if someone is visiting the wellness center and wants to fill a prescription at the Walgreens, do they have to go out to the main corridor to do that? These are the types of issues that the cross access is in the code to address.

Mr. Nichols questioned where the cross access stop does it go to the property line or does it have to go over to the Doveview property? Responding to Mr. Nichols, Mrs. Townshend stated that Doveview constructed parking spaces in the back; however, it is listed on their plan as a cross access easement so if they do resume construction, they would then be required to build to the property line. Currently, it is not constructed to the property line.

Also responding to Mr. Nichols, Mrs. Fredericks stated that the cross access that is over there right now on the Doveview property would make the connection right in front of the building where older people are getting off of the bus as adult daycare clients as well as people who are going in on

walkers and crutches to go to physical therapy. In essence, this becomes a road in front of that facility and she feels that this if very dangerous to their clientele that they serve. She does not have a problem with having an access for emergency vehicles. If people are coming from Doveview to make the light she feels that this would become very dangerous.

Mrs. Fredericks further stated that with regard to the parking issue they discussed that some days they still do not have enough parking so she would ask that they not lose any parking spaces. With regards to the crosswalk, the walking area from the front to the back, no one ever does that. If they are in the one building for one thing and have to go to the other building they will drive their car as it is too far for them to walk.

Colonel Welsh stated that they have an item on the plan that states that there is future opportunity for cross access to the parcel. Is this where Doveview has placed their cross access point? Responding to Colonel Welsh, Mrs. Townshend stated that this is the area that is planned for pedestrian and golf cart use, it is not for vehicles.

Also responding to Colonel Welsh, Mr. Ide stated that he has the plan from Doveview where it shows the area for potential cross access at their northwest corner of the property. It looks like the dumpsters would have to be moved in order to allow for that cross access easement to happen. Colonel Welsh further stated that he does feel that we need to maintain the cross access easement or at least a place or provision for creating that cross access easement if and when Doveview becomes viable and construction begins again.

Mrs. Townshend stated that there are some constraints further south on the property particularly the stormwater management pond; however, if you want it to be flexible as to where you can require that it be noted on the plan that cross access will be granted, the problem is that if you don't build it then it never ends up lining up.

Colonel Welsh stated that you know where you would want it to go is there any way for the two of you to work that out? If Doveview becomes something else other than senior housing then they need to have the use of that property for their functions.

Mr. Ide stated that probably the best space for vehicle access would be up where the existing pedestrian and golf cart access is and where it would be middle way of the site as opposed to the far northeast corner. That way we are not concerned with vehicles crossing by the adult daycare and our site is conducive enough to allow that to happen.

Mr. Hemmig questioned if we had a plot plan of the Doveview project that shows the approved cross access easement on their side of the property and also if it would show the potential to be placed somewhere else? Responding to Mr. Hemmig, Mrs. Townshend stated that yes they do and that plot plan was provided.

Mrs. Townshend stated that the area of potential of cross access that was shown on the plan and mentioned by Mr. Ide, there are dumpsters in this areas that would have to be moved. The other potential site for cross access would be where golf cart, bicycle or walking is located. Staff could

work with Doveview if it resurrects itself which she is sure it will at some point, we could work to create that into a full access.

Mr. Hemmig further stated that in his opinion they do need to allow for future vehicular cross access easement and it does make sense to put it up front as opposed to placing it in the back by the adult daycare.

Mr. Friedman opened a public hearing.

Mr. Jim Galvin – Dover/Kent County Metropolitan Planning Organization: (Handed out a copy of his statement). Stated that in the interest of full disclosure his son actually worked for the Modern Maturity up until about a year ago and has not worked there since last spring; however, he did at one time. The Dover/Kent County MPO commissioned a study of the Route 8 Corridor from the train tracks out to Artis Drive. That study included an analysis of all the intersections, traffic, and properties that are adjacent to the road to Route 8. He would like to read a quick quote from the executive summary of the study. "Route 8 is an important local and regional corridor for Delaware within the City of Dover limits. It serves as a primary western gateway into the City and the purpose of the study is to conduct a planning level study of Route 8 that will develop a concept of the corridor as an aesthetic gateway to the west side of Dover and address the need to provide a safe and efficient traffic flow, accommodate multiple modes of travel, and provide access to the adjacent land uses. In addition, the concept plan will evaluate land use issues in order to develop strategies to guide future transportation and land use decisions."

Mr. Galvin further stated that the plan did go on to talk about interconnections adjoining Route 8 and identified several areas where it was appropriate. One area of the plan that was deemed appropriate was between Doveview and the Modern Maturity Center. It has been included in the plan and was adopted by the Council of the MPO in March of 2008 and presented to this body on March 16, 2009. We support and encourage cross access between the parcels for both vehicles and pedestrians. Speaking out of turn he was part of this body back then in 2005 and does remember additional requirements for the parking lot when we heard testimony and voted on the medical offices of the back building which included additional improvements to the parking lot.

Mr. Bob Brown – Stated that he was on the Modern Maturity Center Board for about thirty (30) years and Chairman of the Board for three (3) or four (4) years. He was also responsible for drawing the first plans for the first building and at that time, we had no mention of a requirement for trees at all. When they went for the second building that issue did come up and we did count the trees; however, his memory does not serve how many. They did go through and count and there were way too many trees to worry about one per three hundred; however, we did discuss this and at that time, we thought we were in good shape and we followed that for the added parking. He feels that they should go out and count the trees because it would put them way above the count. We did meet one day at the site and talked about the crosswalk from the back to the front. We go to the back for medical; however, he does not walk all the way across to the front as it is just not used that way. It would eat up about twenty (20) spots as the parking is all diagonal so you would cut out two or three spots with each lane you cross. The most important of all points which was brought up to him is when he was Chairman of the Board when they started the buildings next door they wanted

to use our back parking lot, the passage of a twenty-four (24) foot fire lane as an exit to the stop light. What that would do is turn that into a street. The traffic through there would be terrible for people going to the medical building and for the daycare for adults who need help it would be extremely dangerous. If you have to do it he would agree that golf carts could be used. A lot of times when you have cross access you have something between the sites that each one can come out to a center and exit. He does not argue the feasibility of a cross access; however, he does see a tremendous danger in coming through our parking lot and turning it into a street in order for people to get to the light as it would be extremely dangerous.

Mrs. Joyce Breasure – Currently the Chairwoman of the Modern Maturity Center Board of Directors – Stated that she has been involved with the finances as treasurer and on the board for some time and her concern is making any through road through their parking lot. Who becomes responsible for what happens? Right now, we are responsible for what happens in our parking lot; however, when someone is crossing through from the drugstore to get to that light then who becomes liable for that activity when a car strikes one of our people who is putting "Meals on Wheels" deliveries into their car? She feels that they need to be real careful when making a thoroughfare through the drugstore, the bank, and Doveview. Doveview she completely understands as that is a wonderful process; however, when you open up a major road through a site it's a major public thoroughfare to get to the light, it is going to be a real issue.

Colonel Welsh questioned if Doveview would have access to Route 8? Responding to Colonel Welsh, Mrs. Townshend stated that there is access to Route 8 on the east side of the bank and the west side of the bank. There would be no reason at all for someone to come off of Saulsbury Road to come to the Modern Maturity Center light because they would accomplish the same thing by either turning onto Saulsbury Road or cutting through and coming out through the bank.
Mr. Friedman closed the public hearing after seeing no one else wishing to speak.

Mr. Hemmig questioned if there have been any accidents in their parking lot? Responding to Mr. Hemmig, Mrs. Fredericks stated that they have had one accident in the parking lot. It was on the first road where people come in. They hit the person that was coming into the facility and he actually did not stop and he hit a client. He stated that he did not stop because he did not want to hold up traffic. No one has ever been hit walking through the parking lot.

Mr. Hemmig further stated with regards to the aspect of the crosswalk from the front building to the back building, is your adamancy about that because you think that people are going to walk across or was it to make it more convenient for people to park to find a way through the parking lot to the front building? Responding to Mr. Hemmig, Mrs. Townshend stated that it is a little of both. To the degree that you can encourage people to walk from one building on a campus to another. With the Site Plan approved in 2005, her understanding is that at that time, there was the same objection. The Planning Commission stated that part of the problem is the issue of safe path of travel. There is also the requirement in the Corridor Overlay Zone to have the parking broken up and not have more than twenty (20) continuous spaces without a landscape island so that requirement accomplished both of those. The challenge becomes when you have a site that was improved previously under previous code requirements and they come forward, to what degree are they held to what the code is now versus what you consider an existing condition. What they do not have is the landscape islands

after you hit twenty (20) spaces so in 2005 this was a requirement of the Planning Commission. Again, it was never implemented.

Mr. Tolbert questioned if the Modern Maturity has ever incurred any liability by virtue of visitors to the center having accidents? Responding to Mr. Tolbert, Mrs. Fredericks stated that no, they have not.

Mr. Ambruso questioned regarding the interconnectivity what does this do to your insurance premiums? Responding to Mr. Ambruso, Mrs. Fredericks stated that she would like to be able to tell you that this will make her insurance go through the roof; however, it will not. However, their liability for the property will be greatly increased.

Mrs. Fredericks stated that she would like to address the issue regarding the walkway between the two buildings. She wanted you to know that it is a safety issue with people getting out of their cars and walking to the building. She will tell you she has worked here for thirty-seven (37) years and has been at this building since it was built. These people get out of their cars and take the most direct route to the door. They are not going to walk down the parking lot and get in the crosswalk and walk to the building so they really need all the parking spaces they can get.

Mr. Hemmig moved to approve S-10-11 Modern Maturity Center at 1121 Forrest Avenue: Building Addition. He moved to approve the new building and to address the following items specifically: 1) Bicycle Parking: the client has agreed to a reduction in bicycle parking rather than full elimination and will let Staff determine how many bicycle parking spaces that ends up being. 2) Designated Pathway through the Parking Lot: He is inclined to believe that since this parking lot has been in existence. He is very disappointed in the Modern Maturity Center that they did not meet the requirements in the original plan when they approved the medical building; however, not withstanding that, he will agree that parking here is a necessity for the amount of people they have come to the center for special events and because of that and what he agrees with what he has observed, that you have people that walk directly from their car to the closest door in as straight a line as they can, putting a center path in the middle of the parking lot is not going to encourage people to come to the middle and walk up to the building so he would approve the elimination of the pedestrian path through the center of the parking lot. 3) Cross Access Easement: he believes that it is a necessity to have this available and he does agree that being in the northeast section of your property would not be the right place for it. It would be properly located in line with the drive path that currently goes east to west directly behind building #2 because if people come from Doveview they are not going to drive past building #2, turn right then left to go down the lane that goes to the left instead they will probably turn left to come up through the parking spaces and around the front of the building. This would be the place that they would designate for interconnectivity to allow vehicular traffic. He does not feel that it would be a major roadway because it would only be a two small lane roadway that would not be driven through at high speed and it would not hurt to have a stop sign. He has already proposed eliminating the pathway which eliminates cutting out the long expanses of clustered parking into twenty-six (26) spaces which would eliminate parking spaces so he is in favor of waiving the twenty (20) parking space cluster requirement for parking basically grandfathering the parking as it is existing excluding the bus parking areas that will be taken out anyway to allow for the new building. 4) Tree Planting Requirement: the site was developed under

other requirements so he feels that the original tree planting requirements should be grandfathered in at this point. The front of the building is nicely landscaped for great frontage for the Corridor Overlay Zone presentation of a major corridor and parking is located behind the building so he does not feel that enhancing the parking lot with trees is going to enhance the look on the corridor. Adding more trees somewhere on the lot just to get their numbers he does not feel they need to do. He believes that the current tree planting does exist and should meet code and requirements for the Site Plan. 5) Parking: they would set the parking at 505 parking spaces, seconded by Colonel Welsh and the motion was unanimously carried 8-0 with Mr. Shomo absent.

Mrs. Townshend stated with regards to the Doveview issue, according to the *Zoning Ordinance,* when construction has ceased for a period exceeding one year they would have to come back to the Planning Commission.

Mr. Friedman questioned if they would have to say that this includes both sides; therefore, when they do come back it is part of their requirement? Responding to Mr. Friedman, Mr. Hemmig stated that the intent of this motion is that it is incumbent upon the Modern Maturity Center to put a cross access easement in that location and to construct it to the property line. When Doveview becomes active again, it will be impositioned upon them at that point to also put in a cross access easement.

Mr. Albert stated for clarification when the motion maker stated to approve the tree planting as they exist, did you mean as prescribed by the Code or the requirement in 1999 not as it exists currently? Responding to Mr. Albert, Mr. Hemmig stated that what they currently have meets their requirements.

Mr. Albert further stated that they do not know what those numbers are so as long as they meet what was approved previously, is what the motion is intended to state. Responding to Mr. Albert, Mr. Hemmig stated yes that is correct.

Mr. Ide questioned how they would determine this count, by actually going out and counting each of the trees in the woodland area to see if it adds up to 184 trees? He believes that the previous agreement with David Edgell was that he was accounting for 50% of that and it met the tree requirement because one (1) per 3,000 square feet was a Code requirement in 1998. Responding to Mr. Ide, Mr. Albert stated that yes that is how you would count the trees. Those numbers are not on the current plans so we cannot just say that it meets it without having documentation.

Mrs. Melson-Williams questioned with regards to the cross access easement, the construction of that is to allow for vehicular and pedestrian cross access? Responding to Mrs. Melson-Williams, Mr. Hemmig stated that yes there should be a sidewalk at least along one side of the access to allow for safe pedestrian crossing.

Mr. Ide questioned if there was any relief to allow for the construction of the cross access to happen when Doveview becomes vital again? Responding to Mr. Ide, Mrs. Townshend stated no because this is where we always get into trouble.

S-10-11

Consulting Engineers Construction Managers

P.O. Box 498 Smyrna, DE 19977 Ph: 302-659-9090 Fax: 302-659-0909

February 14, 2011

Mrs. Ann Marie Townshend, AICP
Planning and Community Development Director
City of Dover
P.O. Box 475
Dover, Delaware 19903

RE: ***Modern Maturity Center – 1121 Forrest Avenue, Dover***
Site Plan Application - Modification to S-10-11

Dear Mrs. Townshend:

As requested by the Executive Director of the Modern Maturity Center, Ms. Carolyn Fredericks, we are submitting this letter and revised drawings as indicated by your February 7, 2011 correspondence to Ms. Fredericks.

The reason for this submission is in response to a planned request by the adjacent property owners (Doveview) to have removed the age restriction of a 55+ community and allow any age family. The Modern Maturity is seeking to relief from the interconnectivity requirement imposed by the Planning Commission at their May 2010 public hearing. The Modern Maturity reluctantly agreed to the interconnection, but listened to the reasoning that the properties have similar uses in that Doveview was approved as a "Senior Citizen PND."

Modern Maturity Center respectfully requests that if the Doveview site approval for "Senior Citizen PND" is lifted, they would like to remove the requirement of adjacent property interconnectivity.

As always, please do not hesitate to call should you have any questions.

Respectfully Submitted,

Edward H. Ide, III, P.E.
President
i3a consulting Engineers . Construction Managers

cc: Ms. Carolyn Fredericks

PROPOSED AMENDMENTS TO THE *2008 COMPREHENSIVE PLAN*

Public Hearing before the
Dover Planning Commission
March 21, 2011

Proposed Amendment to the *2008 Comprehensive Plan* Part B:

A summary of the proposed amendment to the *2008 Comprehensive Plan* follows. A detailed description and analysis of the proposed amendment is provided in the following pages of this report.

Land Use Classification Change from Industrial to Residential High Density (Map 12-1): This is an applicant-initiated request to change property from an Industrial and Public Utilities land use classification to a Residential High Density land use classification. The property is located north of College Road, just east of the railroad tracks. (Z-11-02)

This proposed amendment was initially part of the amendments reviewed at the February 22, 2011 meeting of the Planning Commission, but it was delayed due to an administrative error involving the associated rezoning application.

Ordinance Number: 2011-08

File Number: MI-11-01

CITY OF DOVER PLANNING

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: March 10, 2011

APPLICATION: Proposed Amendments to the *2008 Comprehensive Plan* – Part B

FILE#: MI-11-01 REVIEWING AGENCY: City of Dover Planning Office

CONTACT PERSON: Ann Marie Townshend, AICP PHONE#: 736-7196

Project Background:

The *2008 Comprehensive Plan* was adopted by City Council on February 9, 2008, and subsequently amended on November 23, 2009 in conjunction with the 2009 Comprehensive Rezoning Project. As adopted, the *Comprehensive Plan* sets forth a process by which the *Comprehensive Plan* can be amended on an annual basis. Amendments to the *Comprehensive Plan* can be initiated by staff or requested by members of the public. For amendments to the *Comprehensive Plan* that involve rezoning of property, the requests are processed concurrently.

The process to amend the *Comprehensive Plan* is detailed in the *2008 Comprehensive Plan*, Chapter 15: Implementation, specifically on pages 183 and 184 of the Plan.

The proposed amendment was initially part of the series of amendments reviewed by the Planning Commission on February 22, 2011, but due to an administrative error involving the associated rezoning application, the proposed amendment was delayed, along with the rezoning application.

The attachments include: Map 12-1B – Amendments to the Land Development Plan Map and a table titled "2011 City of Dover Land Development Plan Map Changes 12-1". This table lists the parcels proposed to be amended in the proposed amendments to the *2008 Comprehensive Plan.*

Land Use Classification Change from Industrial to Residential High Density (Map 12-1)

This proposed amendment is an applicant-initiated amendment, where the applicant is requesting that certain properties located north of College Road to the east of the railroad tracks be changed from Industrial and Public Utilities land use classification to Residential High Density land use classification. This is associated with application number Z-11-02 Lands of College Road Management at Railroad Avenue. (Identified as items 18-21 on Attachment 2) The affected parcels include the following:

- ED-05-067.00-02-53.00-000
- ED-05-067.00-02-54.00-000
- ED-05-067.00-02-55.00-000
- ED-05-067.00-02-56.00-000

According to the applicant:

> *The property is currently zoned industrial/manufacturing. It is adjacent to residential zoning and institutional zoning (Delaware State University). Its zoning as RG-5 is the same as a large adjacent parcel (Mishoe Towers). As such, the proposed comprehensive plan amendment and zoning is more compatible with neighboring uses. It is a unique isolated parcel, not likely to result in an undesirable precedent for other parcels. The pattern of development as high density residential is more consistent with surrounding development than would be manufacturing.*

The subject parcel is a somewhat land-locked group of parcels, bound on the west by the railroad tracks, on the south by College Settlement and Mishoe Towers, on the east by Fork Branch, and on the north by a large agricultural parcel that lies in Kent County. There are a number of unimproved and/or marginally improved platted streets that connect the parcels with College Road, both along the railroad tracks and through College Settlement. The subject property was annexed into the City in 2006, and was the subject of subdivision application number SB-08-01C – College Road Professional Park. This proposed subdivision did not proceed to the preliminary or final phases of subdivision, and has expired.

There are a number of constraints on the site that would need to be addressed in the context of a development application for the site. These include: access, brownfield considerations, and the presence of flood plain and wetlands along the stream corridor.

Regarding High Density Residential uses, on Chapter 12 – Land Development, page 147 and 148, the *2008 Comprehensive Plan* recommends the following:

> The Comprehensive Land Development Plan recommends that high density residential be dispersed throughout the City along arterial roadways in close proximity to other high-density residential uses, schools, neighborhood commercial areas, transit service, and other compatible non-residential land use areas. High density residential development is also appropriate in some areas of the downtown, most of which are shown as mixed use on the Land Development Plan.

The subject site is located along College Road, which is identified as an Urban Minor Arterial in the *2008 Comprehensive* Plan. It is within proximity to North Dover Elementary School, Delaware State University, a number of employers, other high density residential development, and transit service. However, the railroad tracks provide an impediment to accessing some of these services by foot. There is no supporting commercial use in the immediate vicinity. Additionally, the limited road access to the site combined with the environmental constraints make it less suitable for high density residential development. Apartments could be constructed on the site under a medium density zoning classification. Based on the recommendations of the *2008 Comprehensive Plan* relative to medium density residential versus high density residential,

a medium density residential designation would support up to eight dwelling units per acre, while high density designation would support density greater than eight dwelling units per acre.

While in most cases, changing the land use designation from Industrial and Public Utilities would be viewed as hindering opportunities for economic development, in this case, site access will likely include using the street system in College Settlement, a residential area.

Recommendation of the Planning Staff:

Land Use Classification Change from Industrial to Residential High Density (Map 12-1)
Staff recommends against changing the land use classification of properties north of College Road from Industrial and Public Utilities to Residential High Density. Staff supports amending the Land Development Plan Map in this area to Residential Medium Density land use classification. These are identified as items # 18-21 in Attachment 2.

The reason that staff would support Residential Medium Density rather than Residential High Density relates to the constraints inherent in the site, particularly site access and environmental constraints. While the site does have access to transit and proximity to some services, site access, environmental constraints, and the lack of commercial and other supporting services make it less suited for high density residential development. Because access to the site would most likely be provided through College Settlement, the request for a residential use is more compatible with the area than the current Industrial and Public Utilities classification. Adequate access to the site must be addressed in any subsequent development application.

These recommendations are being made without that benefit of hearing the comments of surrounding landowners and residents. A public hearing is required on this matter and the Planning Commission should give those comments consideration.

Attachments: Attachment 1 – Map 12-1B
Attachment 2 – Table entitled "2011 City of Dover Land Development Plan Map Changes 12-1"

City of Dover, Delaware

Map 12-1B
Land Development Plan
Proposed Amendments



Legend

- Residential High Density
- Dover Boundary
- Dover Parcels

Adopted February 2009

0 1,100 2,200 4,400 6,600 8,800 Feet

Map Created By:
Planning Office
Date Map Created: 12-14-10
Date Map Printed: 2-24-11

2011 City of Dover Land Development Plan Map Changes 2-11 (MI-11-01)

ID	Parcel #	Property Address	Existing Land Use Classification	Proposed Land Use Classification	Use	Current Zoning	Proposed Zoning	Reference	Staff Recommendation	Planning Commission Recommendation	City Council Recommendation
18	ED-05-067.00-02-55.00	College Settlement	Industrial	Residential High Density	Vacant	M	RG-5	Z-11-02	Residential Medium Density		
19	ED-05-067.00-02-54.00	College Settlement	Industrial	Residential High Density	Vacant	M	RG-5	Z-11-02	Residential Medium Density		
20	ED-05-067.00-02-53.00	Grove St.	Industrial	Residential High Density	Vacant	M	RG-5	Z-11-02	Residential Medium Density		
21	ED-05-067.00-02-56.00	College Settlement	Industrial	Residential High Density	Vacant	M	RG-5	Z-11-02	Residential Medium Density		

FIRST READING

CITY OF DOVER
ORDINANCE #2011-08

AN ORDINANCE AMENDING THE 2008 COMPREHENSIVE PLAN BY REPLACING MAP 12-1: LAND DEVELOPMENT PLAN

WHEREAS, the City Council of the City of Dover, on February 9, 2009, adopted the 2008 Comprehensive Plan pursuant to Title 22, Section 702 of the Delaware Code; and

WHEREAS, the Honorable Jack Markell, Governor of the State of Delaware, certified the 2008 Comprehensive Plan on April 24, 2009; and

WHEREAS, the City Council of the City of Dover, on November 23, 2009, adopted the 2009 Comprehensive Rezoning Project and 2009 Comprehensive Plan Amendments; and

WHEREAS, the 2008 Comprehensive Plan allows for an annual amendment process; and

WHEREAS, a property owner has requested an amendment to the Land Development Plan Map (Map 12-1) in accordance with the process set forth in the 2008 Comprehensive Plan, and an administrative error caused incomplete public notice with regards to the rezoning application associated with this request, causing a delay in the Planning Commission hearing the application on the originally scheduled date of February 22, 2011; and

WHEREAS, the Planning Commission held a public hearing on March 21, 2011, after which the Commission made a recommendation in regards to the proposed amendments to the Land Development Plan related to the above request.

NOW, THEREFORE, BE IT ORDAINED THAT the Mayor and Council of the City of Dover hereby amend Map 12-1: Land Development Plan of the 2008 Comprehensive Plan, as amended on November 23, 2009 and on March 14, 2011, by replacing the referenced map with the Amended Map 12-1 presented to City Council on April 11, 2011.

SYNOPSIS

The proposed ordinance would adopt amendments to the 2008 Comprehensive Plan, as amended on November 23, 2009 and March 14, 2011.

PETITION TO AMEND AND ZONING DISTRICT
Public Hearing before the
Dover Planning Commission
February 22, 2011

Applicants/Owners:	College Road Management Inc. Loralex Company, LLC Kent Storage Facilities Inc.
Address:	1.696 Ac. Grove St., Dover LT 207-211 College Settlement, Dover LT 212-215 College Settlement, Dover LT 197-201 College Settlement, Dover
Location:	North side of College Road, east of the Railroad tracks, north of College Settlement and Mishoe Towers
Tax Parcel ID #s:	ED-05-067.00-02-53.00-000 ED-05-067.00-02-54.00-000 ED-05-067.00-02-55.00-000 ED-05-067.00-02-56.00-000
Size:	30.78+/- acres
Present Use:	Vacant
Present Comprehensive Plan Designation:	Industrial and Public Utilities
Proposed Comprehensive Plan Designation:	Residential High Density
Present Zoning:	M (Manufacturing Zone)
Proposed Zoning:	RG-5 (General Residence for Mid-Rise Apartments Zone)
Reason for Request:	To allow for the development of residential dwellings.
File Number:	Z-11-02

CITY OF DOVER PLANNING

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: February 10, 2011

APPLICATION: Lands of College Road Management at Railroad Avenue – Proposed Rezoning from M to RG-5

FILE#: Z-11-02 REVIEWING AGENCY: City of Dover Planning Office

CONTACT PERSON: Ann Marie Townshend, AICP PHONE#: 736-7196

This rezoning application consists of four parcels of land totaling approximately 30.78 acres, owned by College Road Management, LLC; Loralex Company, LLC; and Kent Storage Facilities, LLC. The property is currently zoned M (Manufacturing Zone). The proposed zoning is RG-5 (General Residence Zone for Mid-Rise Apartments). The subject area is located north of College Road and Mishoe Towers and east of the railroad tracks. Tax Parcel: ED-05-067.00-02-53.00-000, ED-05-067.00-02-54.00-000, ED-05-067.00-02-55.00-000, ED-05-067.00-02-56.00-000.

The rezoning proposal is made in conjunction with a request to amend the *2008 Comprehensive Plan*, Map 12-1 Land Development Plan, to change the subject parcel from Industrial and Public Utilities land use classification to Residential High Density land use classification. Analysis of this request is in the report for file MI-11-01 – 2011 Comprehensive Plan Amendments.

Existing Property:
The subject parcel is a somewhat land-locked group of parcels, bound on the west by the railroad tracks, on the south by College Settlement and Mishoe Towers, on the east by Fork Branch, and on the north by a large agricultural parcel that lies in Kent County. There are a number of unimproved and/or marginally improved platted streets that connect the parcels with College Road, both along the railroad tracks and through College Settlement. The subject property was annexed into the City in 2006, and was the subject of subdivision application number SB-08-01C – College Road Professional Park. This proposed subdivision did not proceed to the preliminary or final phases of subdivision, and has expired.

There are a number of constraints on the site that would need to be addressed in the context of a development application for the site. These include: access, the presence of a brownfield area, the presence of flood plain and wetlands along the stream corridor.

Surrounding Land Uses:

There are a variety zoning classifications and land uses surrounding the subject property. Immediately south of the subject site, between the subject property and College Road, are a series of properties that are zoned RM-2 (Medium Density Residence Zone), RG-5 (General Residence Zone for Mid-Rise Apartments), and IO (Institutional and Office Zone). The RG-5 property is Mishoe Towers, a mid-rise apartment building directly adjacent to the subject site. The RM-2 properties are a combination of residentially developed properties and vacant properties comprising College Settlement. The IO property includes the Delaware State University Sports Annex and Peoples Place shelter and transitional housing.

The property to the east of the subject parcels, across the Fork Branch, is zoned IO (Institutional and Office Zone) and is the Delaware State University campus. The property to the north of the subject site is in unincorporated Kent County, and consists of an approximately 146-acre agricultural parcel that is zoned RS-1 (Single Family Residential District) and bisected by the railroad tracks. This area is identified in the *2008 Comprehensive Plan* as Industrial and Public Utilities land use classification.

To the west of the subject site, across the railroad tracks, is the College Road Business Park, which includes M (Manufacturing Zone) and CPO (Commercial and Professional Office District).

Comprehensive Plan:

In the *2008 Comprehensive Plan*, the Land Development Plan (Map 12-1 as amended, dated 11/23/2009) recommends that this property be used for Industrial and Public Utilities Uses. As previously stated, the rezoning request is associated with a request to amend the *2008 Comprehensive Plan* to reflect the land use on Map 12-1 as Residential High Density. The requested zone is consistent with the requested land use classification, but not with the existing land use classification.

The Land Development Plan (Chapter 12) of the *2008 Comprehensive Plan* states the following with regard to high density residential development:

> The Comprehensive Land Development Plan recommends that high density residential be dispersed throughout the City along arterial roadways in close proximity to other high-density residential uses, schools, neighborhood commercial areas, transit service, and other compatible non-residential land use areas. High density residential development is also appropriate in some areas of the downtown, most of which are shown as mixed use on the Land Development Plan.

The subject site is located along College Road, which is identified as an Urban Minor Arterial in the *2008 Comprehensive* Plan. It is within proximity to North Dover Elementary School, Delaware State University, a number of employers, other high density residential development, and transit service. However, the railroad tracks provide an impediment to accessing some of these services by foot. There is no supporting commercial use in the immediate vicinity.

Request for RG-5 (General Residence Zone for Mid-Rise Apartments)

Within the RG-5 Zone, the following uses are permitted: one-family detached dwellings; mid-rise apartments; public buildings, structures and uses; raising of field and garden crops, vineyards and orchards, and nurseries.

According to Article 12 of the *Zoning Ordinance*, the definition of mid-rise apartments is as follows:

> *Mid-rise apartment:* Multiple dwellings where individual dwelling units share a common outside access, and elevators serve each floor. The dwelling units share a common lot area, which is the sum of the required lot areas of all dwelling units within the building.

The following is a summary of the bulk standards, as specified in Article 4, Section 4.6.

			For Multiple Dwellings:
Minimum required:			
	Lot area (sq. ft.)		900 per dwelling unit
	Lot width (ft.)		100
	Lot depth (ft.)		125
	Front yard (ft.)		25
	Side yard (ft.)		At the ground level or at any setback level, one-sixth of the height of the nearest outside wall of the building measured in each case from the average level of thefinished grade along the side of the building, but in no case less than 25 feet.
	Rear yard (ft.)		At the ground level or at any setback level, one-sixth of the height of the nearest outside wall of the building measured in each case from the average level of the finished grade along the rear of the building, but in no case less than 25 feet.
	Off-street parking spaces		2/Du
	Accessory commercial uses parking spaces		1 per employee or 1 per 300 sq. ft. of floor area, whichever is greater.
	Open space		25% of the lot area shall be devoted to open area, not including parking areas.
Maximum permitted:			
	Building height		
		Stories	6
		Feet	70

Recommendation of the Planning Staff:
This request is to rezone land from M (Manufacturing) to RG-5 (General Residence Zone for Mid-Rise Apartments). This request is made in conjunction with a request to amend the *2008 Comprehensive Plan*, Map 12-1 Land Development Plan, as it relates to this property. The approval of this rezoning request is contingent upon the approval of the associated amendment to the *2008 Comprehensive Plan*.

As stated in the report for MI-11-01 – 2011 Comprehensive Plan Amendments, staff does not support the change from Industrial and Public Utilities to Residential High Density, and the associated rezoning of the subject property from M (Manufacturing) to RG-5 (General Residence Zone for Mid-Rise Apartments). Staff believes that the constraints on the site, specifically the environmental constraints and limited street access to the site make it unsuitable for high density residential use. Staff supports changing the site from Industrial and Public Utilities to Residential Medium Density in the *2008 Comprehensive Plan* rezoning the subject parcels from M (Manufacturing) to a medium density zoning classification (RM-1, RM-2, or RG-2) accordingly. A medium density zoning classification could be coupled with the Planned Neighborhood Design (PND) to cluster the units on the site.

This recommendation is being made without that benefit of hearing the comments of surrounding landowners and residents. A public hearing is required on this matter and the Planning Commission should give those comments consideration.

ADVISORY COMMENTS TO THE APPLICANT:

1) The applicant shall be aware that any application for Site Development Plan and/or Subdivision approval will need to address access to the site from College Road. If a future development plan includes 150 or more residential units, two access points to public streets will be required.

2) The City's records from the previous Subdivision application include documentation of abandonment of Grove Street and Railroad Avenue in this vicinity; however, these rights-of-way continue to show on property maps In order to incorporate any abandoned rights-of-way into the subject parcels, deeds will need to be amended and recorded.

3) The applicant shall be aware that approval of any rezoning application does not represent Site Development Plan or Record Plan approval. A separate Site Development Plan must be submitted and approved if development activities are proposed on the property.

4) The applicant shall be aware that approval of any rezoning application does not represent a Building Permit or other construction activity permit approval. A separate application submission showing all improvements is required before issuance of permits by the City of Dover.

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

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: FEBRUARY 3, 2011

CITY OF DOVER
PUBLIC UTILITIES
DEPARTMENT

APPLICATION: **LANDS OF COLLEGE ROAD MANAGEMENT INC., KENT STORAGE FACILITIES INC. & LORALEX COMPANY, LLC AT RAILROAD AVENUE**

FILE #: **Z-11-02**

REVIEWING AGENCY: **City of Dover Public Utilities Department**

CONTACT PERSON: **Steve Enss - Electric**
Sharon Duca, P.E. - Water, Wastewater, Stormwater

CONTACT PHONE #: **302-736-7070**

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 / WATER / WASTEWATER

1. Our office has no objection to the rezoning of tax parcels ED05-067.00-02-53.00-000, ED05-067.00-02-54.00-000, ED05-067.00-02-55.00-000 and ED05-067.00-02-56.00-000.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER

1. None.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC

1. None.

WATER / WASTEWATER

1. Should this site be redeveloped, which includes modifications to the use, the applicant / developer will be responsible for all costs associated with providing the appropriate service to this site based upon the use including any necessary system upgrades or extensions. The appropriateness and adequacy of water and sewer services and meters will be assessed at that time. Should the existing services no longer be required based upon the proposed use, they must be properly abandoned at the mains in accordance with all City of Dover Public Utilities Department standards and specifications.

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

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: February 3, 2011

D E L D O T

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APPLICATION: Lands of College Road Management Inc. Kent Storage Facilities Inc. & Loralex Company, LLC at Railroad Avenue

FILE#: Z-11-02 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Julio F. Seneus 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:

- The Department has no comments for the proposed rezoning.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

1. The department will require the applicant to provide the proper forms, fees, and plans in order to be issued an entrance permit.

2. According to Kent County Classification Maps, KCR 91 (College Road) is classified as a minor arterial road, which requires an 80-foot wide right of way (40-feet from the centerline). The department will require a Right-of-Way dedication for public use.

3. A Traffic Impact Study (TIS) will be required if the proposed development exceeds 50 VPH or 400 VPD.When the study is completed, DelDOT will review it and send recommendations for the improvements to the City. The improvements contained in

the study will be implemented by the developer per DelDOT's discretion. Please, contact Mr. Troy Brestel at (302) 760-2167 or e-mail: Troy.Brestel@state.de.us to set up a scoping meeting for this project.

4. If the proposed development exceeds 200 ADT, a pre-submittal meeting will be required prior to submitting plans for review.

5. A Traffic Generation Diagram will need to be included turning movement counts, frontage road posted speed limit, site ADT, truck percentage for the site, existing frontage road AADT from DelDOTs Traffic Summary 2009, Total ADT (site ADT + frontage road AADT), and reference the ITE Manual, 8th Edition. Right turn lane, left turn lane or bypass lane warrants and pavement sections will be determined using the site ADT and total AADT.

6. Offsite improvements will be required in order to prevent accumulation of vehicles on the railroad track cause by the left turning traffic into the site.

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

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: February 10, 2011

Dover/Kent County Metropolitan Planning Organization

APPLICATION: Lands of College Road Management, et. al., at Railroad Ave

FILE #: Z-11-02 REVIEWING AGENCY: Dover/Kent County MPO

CONTACT PERSON: Jim Galvin, AICP PHONE #: (302) 387-6030

The Dover/Kent County MPO has participated in the State's Preliminary Land Use Services (PLUS) process for several months. The MPO requested the opportunity to bring the recommendations on issues of our concern to the City as well. The MPO will limit comments to projects to development proposals and applications that may lead to new development. Issues of concern to the MPO are effective transit, reducing the amount of vehicle emissions by shortening or eliminating trips, and facilities for alternative modes of transportation, including bicycle and pedestrian access. The MPO considers the bicycle facilities required by the City of Dover to be the standard for all applications, not to be waived.

City of Dover Planning Commission 2/22/2011

Project Review

Z-11-02 Lands of College Road Management, et. al., at Railroad Ave

The Dover/Kent County MPO typically does not comment on rezoning. This rezoning, however, is adjacent to the Railroad right-of-way (ROW) and tracks used to transport freight to and through Dover and Kent County. A concern of the MPO is to preserve the railroad as a method of transporting goods and materials in the area. One of the most threatening issues is the construction of residential developments adjacent to the ROW and then the noise and safety issues inherent with trains . In an attempt to lessen the interaction, the MPO requests no residential lots be created within 100 feet of the ROW. We further request no activity be promoted within the 100 feet buffer.

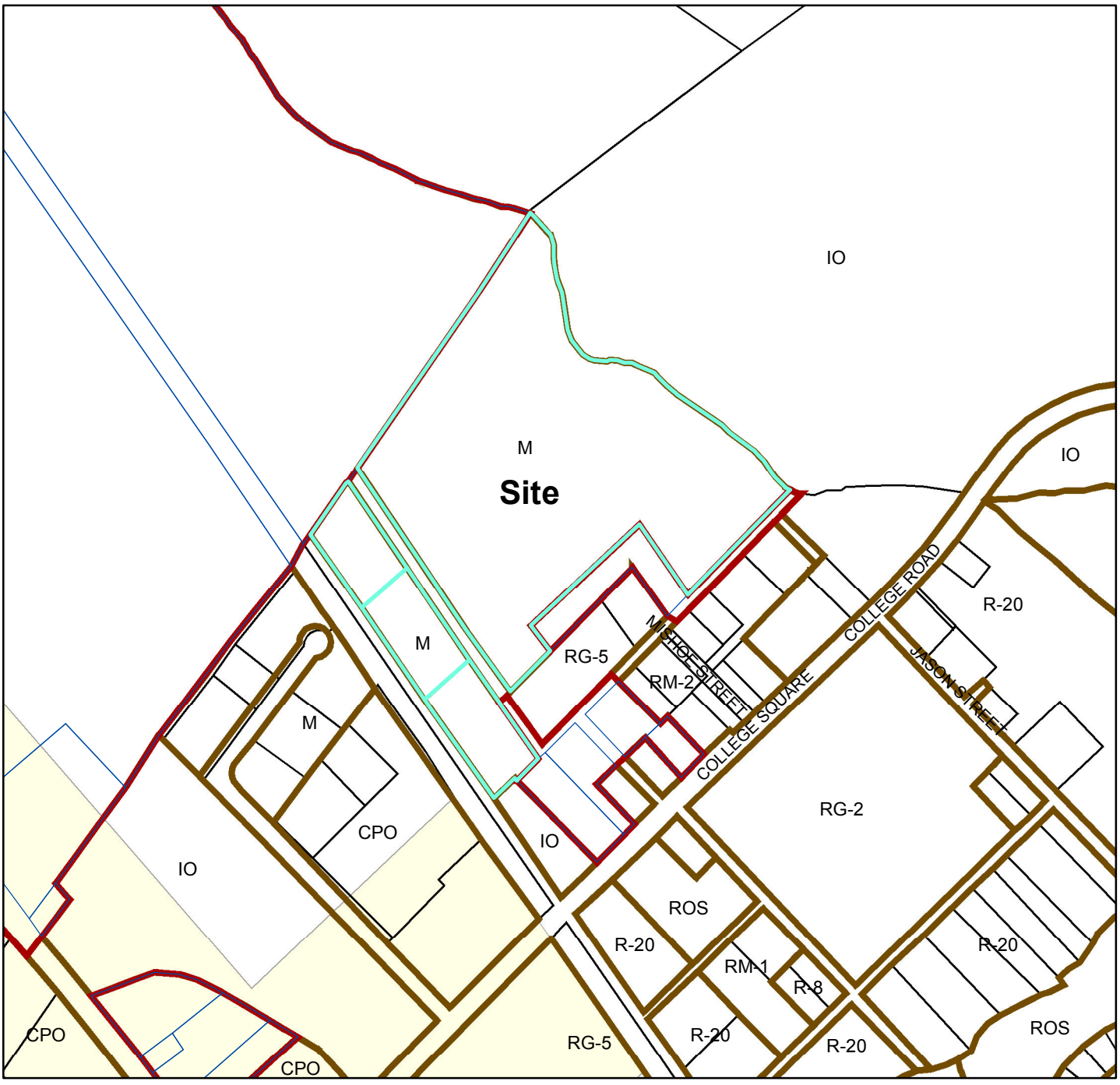
This is the standard for Dover created with the subdivision of Eden Hill Farm to preserve railroad access through the community while lessening the potential impacts on residents.

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

Department of Planning & Inspections

Application No.: Z-11-02



Plan Title: College Road Management, LLC
Location: Railroad Ave.
Plan Type: Rezoning
Tax Parcels: ED-05-067.00-02-56.00
ED-05-067.00-02-55.00, ED-05-067.00-02-54.00, and
ED-05-067.00-02-53.00
Current Zoning: IO
Propsoed Zoning: RG-5
Owners: Kent Storage Facilities, LLC., Loralex Co, LLC
and College Road Management, LLC
Date: 1-13-11

Legend

- Dover Parcels
- Dover Boundary
- Zoning
- Corridor Overlay Zone

0 300 600 1,200 Feet

N W E S

PETITION TO AMEND ZONING ORDINANCE TEXT
Public Hearing before the
Dover Planning Commission
March 21, 2011

Proposed Zoning Change:	Amendment to *Zoning Ordinance*, Article 5 – Supplementary Regulations, (New) Section 20, and Article 12 - Definitions
Summary of Amendment:	Staff developed the proposed ordinance in support of the recommendation in the *2008 Comprehensive Plan*, to promote green energy and building practices by removing obstacles in the Building Code and *Zoning Ordinances*. The proposed ordinance would allow small wind energy systems and solar energy systems as an accessory use within all zoning districts. The proposed ordinance sets standards, such as height, setback, and screening, to ensure that placement of such structures protects the character of the surrounding area. In developing the proposed ordinance, staff reviewed the provisions of the State statute regarding small wind energy systems, which limits the ability of local governments to regulate these systems in residential districts. The standards set forth in the State statute are mirrored in the City's proposed ordinance. The proposed ordinance also adds definitions for "small wind energy systems" and "solar energy systems".
Ordinance Number:	2011-01
File Number:	MI-11-02

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: MARCH 3, 2011

CITY OF DOVER
PUBLIC UTILITIES
DEPARTMENT

APPLICATION: **TEXT AMENDMENTS: SOLAR & WIND ENERGY AMENDMENTS**

FILE #: **MI-11-02**

REVIEWING AGENCY: **City of Dover Public Utilities Department**

CONTACT PERSON: **Steve Enss - Electric**
Sharon Duca, P.E. - Water, Wastewater, Stormwater

CONTACT PHONE #: **302-736-7070**

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 / WATER / WASTEWATER

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

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER / STORMWATER / GENERAL

1. None

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC / WATER / WASTEWATER / STORMWATER / GENERAL

1. Please be advised that the final location of these proposed structures will also need to meet other requirements within the code. For example, the Water / Wastewater Handbook states "No structures, including permanent signage, may be located within ten feet (10') of water and wastewater utility infrastructure."

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

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: March 10, 2011

DELDOT

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APPLICATION: Solar and Wind Energy Amendments
FILE#: MI-11-02 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Julio F. Seneus 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:

1. DelDOT has no comments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

- Solar panel structures will not be allowed to be placed within the State's right-of-ways.

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.

FIRST READING

CITY OF DOVER
ORDINANCE #2011-01

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

That Appendix B - Zoning, Article 5 – Supplementary Regulations be amended by adding a new section 20 as follows:

Section 20. Solar and small wind energy systems.

Solar energy systems and small wind energy systems shall be permitted as accessory uses within all zones subject to the following requirements:

20.1 *Residential Zones.*

20.11 Solar energy systems shall be subject to the following:

(a) Ground-mounted solar energy systems shall be permitted only in the rear yard.

(b) Ground-mounted solar energy systems shall be set back a minimum of five feet from side and rear property lines, or the height of the tallest point on the system, whichever is greater.

(c) Ground-mounted solar energy systems shall not exceed 15 feet in height.

(d) Ground-mounted solar energy systems shall be visually screened from adjacent properties to a height of six feet by either an opaque fence or a dense vegetative screen.

(e) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.

(f) Roof-mounted solar energy systems must comply with all building height requirements for the zoning district where the system is to be installed.

20.12 Small wind energy systems in residential zones shall be subject to the following restrictions:

(a) Small wind energy systems shall be set back 1.0 times the turbine height from adjoining property lines. Turbine height means the height of the tower plus the length of one blade.

(b) The aggregate noise or audible sound of a small wind energy system shall not exceed five decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line of the parcel where the wind system is located.

(c) Small wind energy systems shall be free from signage, advertising, flags, streamers, decorative items, or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for non-building integrated systems.

(d) Small wind energy systems shall not be permitted within the H (Historic District) Zone.

(e) Any small wind energy system shall be visually screened to a height of six feet by either an opaque fence or a dense vegetative screen from any properties or structures included on the National Register of Historic Places.

20.2 Non-Residential Zones.

20.21 Solar energy systems shall be subject to the following:

(a) For the purposes of this subsection, a use is considered accessory if it is located within a complex or campus that includes one or more contiguous lots under common ownership and management, where the principal use of the complex or campus is other than a solar energy system, and the energy generated by the solar energy system is intended to primarily reduce on-site consumption of utility-supplied energy.

(b) Ground-mounted solar energy systems shall not occupy more than 30 percent of the lot area of the complex or campus for which the solar energy system is proposed.

(c) If ground-mounted solar energy systems are proposed to occupy more than 30 percent of the lot area of the complex or campus, their placement shall be subject to conditional use approval by the Planning Commission.

(d) Ground-mounted solar energy systems shall not be located between the principal structure and the street upon which the principal structure fronts.

(e) All exterior electrical and/or plumbing lines must be buried below the surface of the ground and placed in a conduit.

(f) Solar energy systems, whether roof-mounted or ground-mounted, must comply with all building setback and height requirements for the zoning district where the system is to be installed.

20.22 Small wind energy systems shall be subject to the following restrictions:

(a) Small wind energy shall be set back 1.0 times the turbine height from adjoining property lines. Turbine height means the height of the tower plus the length of one blade.

(b) The aggregate noise or audible sound of a wind system shall not exceed five decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line to the parcel where the small wind energy system is located.

(c) Small wind energy systems shall be free from signage, advertising, flags, streamers, decorative items, or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for non-building integrated systems.

(d) Small wind energy systems shall not be permitted within the H (Historic District) Zone.

(e) Any small wind energy system shall be visually screened to a height of six feet by either an opaque fence or a dense vegetative screen from any properties or structures included on the National Register of Historic Places.

20.3 *Decommissioning.*

Solar energy systems and/or small wind energy systems must be maintained and kept in a state suitable for immediate operation. When it can be demonstrated that a solar energy system or small wind energy system, as approved in accordance with this section, is in a state of disrepair and is not suitable for immediate operation, that system shall be removed and the accessory use terminated.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 12 – Definitions, be amended to add the following definitions:

Solar energy system. Any solar collector or other solar energy device, or any structural design feature, mounted on a building or on the ground, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.

Small wind energy system. A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics which is intended to primarily reduce on-site consumption of utility-supplied energy.

SYNOPSIS

The proposed ordinance adds solar energy systems and small wind energy systems as accessory uses within all zoning districts; sets standards for these systems to ensure protection of the character of the zones, as well as public health, safety and welfare; and adds definitions for such systems to the *Zoning Ordinance*.

Actions History:

January 24, 2011 – Proposed First Reading - Council

January 10, 2011 – Introduced at Utility Committee and referred back to staff for changes.