PETITION TO AMEND ZONING DISTRICT

Before The Dover City Council
June 14, 2004

Applicants/Owners	Riverview Associates 301 East 30th Street Wilmington, Delaware 19802
Equitable Owner:	Bay Developers, Inc. 680 Forest Street Dover, Delaware 19904 302.736.0924
Location:	40 Saulsbury Road
Tax Parcels:	ED-05-076.07-01-29.00-000 portion of ED-05-076.07-01-32.00-000.
Size:	2.20+/- acres
Present Zoning:	C-3 Service Commercial and COZ-1 Corridor Overlay
Proposed Zoning:	IO Institutional and Office and COZ-1 Corridor Overlay permitting Business, professional, or governmental offices, and research, design and development laboratories; Public and institutional uses including hospitals, sanitariums, for general medical care, medical clinics, libraries, police stations, court houses, transit centers, motor vehicle storage and repair facilities accessory to a public or institutional use, schools, colleges and universities, places of worship, philanthropic and eleemosynary institutions, parks, playgrounds, public indoor recreation centers, civic centers, athletic fields and public utility rights-of-way and structures necessary to serve areas within the city; Restaurants accessory to permitted uses located on the same lot. Firearms ranges, prisons and correctional facilities, public incinerators, as a conditional use subject to the approval of the planning commission under the provisions of Article 10, Section 1.
Present Use:	Plumbing Warehouse
Proposed Use:	Charter School - Kindergarten
File Number:	Z-04-06

Findings and Recommendations of the Dover Planning Commission

This petition was considered at the May 17, 2004 meeting of the Planning Commission. The following members were present: Mr. Friedman, Mr. Nichols, Mrs. Horsey, Mr. Holt, Mr. VonReider, and Col. Welsh.

The Planning Commission recommends that this request for rezoning from C-3 and C-2A to I-O be approved (and also subject to the COZ-1). The motion for approval of the rezoning passed 6-0 of those members present.

The application is to rezone the property located on the southwest side of Saulsbury Road west of the intersection with Carver Road and north of the intersection with Forrest Avenue (Route 8). This rezoning application is for one parcel of land and a portion of a second parcel. The total area is 2.20 acres. The property is zoned C-3 (Service Commercial Zone) and C-2A (Limited Central Commercial Zone). It is also subject to the COZ-1 (Corridor Overlay Zone 1). The proposed zoning classification is I-O (Institutional and Office Zone) and subject to the COZ-1 (Corridor Overlay Zone 1). The owner of record is Riverview Associates, Inc. The equitable owner is Bay Developers, Inc. Property Address: 40 Saulsbury Road.

Surrounding Land Uses:
The property to the west is zoned I-O (Institutional & Office Zone) and is the location of the Fountainview Senior Apartments: Planned Neighborhood Design proposal for Senior Housing (C-03-08). The properties to the north are also zoned I-O.

The property immediately south of this parcel known as the Lands of Paradee were recently rezoned in early 2004 to C2-A (Limited Central Commercial Zone). Currently, this location includes a gasoline service station; however, an application associated with the redevelopment of this parcel as a drug store was reviewed by the Board of Adjustment and will be a future application before the Planning Commission. The properties further to the south across Route 8 are known as the Gateway West Shopping Center with the Food Lion supermarket, fast food restaurant, and other small commercial retailers.

To the east across Saulsbury Road, the land is zoned CPO (Commercial Professional Office), RG-1 (General Residence Zone), and C2-A (Limited Central Commercial Zone). This northeast corner of Saulsbury Road and Forrest Street is an area of transition. In recent years, a number of the residential dwellings in this area have been renovated for office use or the parcels have been redeveloped for commercial and office uses.

Other Considerations:
The subject property is also situated within the Corridor Overlay Zone (COZ-1) which sets forth specific site design, architectural, and landscape requirements that shall be adhered to through the site planning and construction process. The requirements of the COZ-1 are outlined in Article 3 §27. Compliance with these requirements and other *Zoning Ordinance* requirements will be reviewed as part of the Site Plan approval process.

Comprehensive Plan:
The Comprehensive Plan Update 2003 identifies the land use as Commercial for this property.

Recommendation of the Planning Staff:
Staff notes that on the Land Development map of the Comprehensive Plan Update "Institutional" land uses are identified differently than "Commercial" uses. Staff has determined that this rezoning request meets the criteria to be considered as a Minor Variation from the Comprehensive Plan. The criteria for consideration as a Minor Variation are given in the City of Dover's Memorandum of Understanding for the PLUS Service (established in February 2004). As outlined in the Memorandum of Understanding for the PLUS Service, Planning Staff will notify the Office of State Planning Coordination of this determination. The criteria for Minor Variations is listed below:

> Any application for rezoning or annexation that is inconsistent with The City of Dover's Comprehensive Plan Update certified September 22, 2003, or as amended*, (is subject to PLUS Review)* except where the non-conformity is of a minor, relatively insignificant nature. A rezoning shall be considered minor variation from the Comprehensive Plan when the following conditions are met:
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> a. The rezoning is of a unique circumstance and can not set precedence for other lands in the vicinity of the rezoning.
> b. The relative size of the rezoning or the variation from the land use recommended by the Comprehensive Plan is so minor that it would have no impact on the goals and objectives of the Comprehensive Plan.
> c. The proposed zoning is adjacent to or in the immediate vicinity of other similarly zoned lands and would not alter the pattern of development in the area.

The types of uses within the institutional category are comparable to commercial uses. The merits of the rezoning are consistent with the evolution of the adjacent parcels and the surrounding uses in this location. The Planning Staff recommends approval of this rezoning request to I-O.

Advisory Comments to the Applicant:

1) The applicant is made aware that approval of any rezoning request does not represent Site Development Plan approval. A separate Site Development Plan must be submitted, considered by the DAC and Planning Commission and approved for the development of the property. Such a review does require an elevation and rendering of the proposed building for the site. The applicant is made aware that the proposed building will be considered in the context of the neighborhood.

2) The applicant is made aware that approval of any rezoning application does not represent a Building Permit approval. A separate application submission showing all improvements is required before issuance of a Building Permit by the City of Dover.

Public Comments:
The application was represented by Doug Liberman of Larson Engineering.

No one appeared and spoke in regards to the rezoning application.

Agency Comments from DAC Report:

- Department of Public Works has no objections to the rezoning.
- DelDOT has no objections to the rezoning. Their comments note the requirement for cross-access easements with adjacent properties also undergoing redevelopment and that the north access must align with Carver Road.

Attachments to the Report:

- Development Advisory Committee Application Review Commentary (comment sheets) from the following:
  Department of Public Works
  Delaware Department of Transportation

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: April 29, 2004

CITY OF DOVER PUBLIC WORKS

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APPLICATION: Lands of Riverview Associates: Rezoning from C-3 and C-2A to I-O

FILE#: Z-04-06 REVIEWING AGENCY: City of Dover Public Works

CONTACT PERSON: Scott Koenig or Andrew Riggi PHONE#: 736-7025

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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 AND STATE CODE REQUIREMENTS:

1. Our office has no objection to the proposed rezoning.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

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: April 29, 2004

D E L D O T

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APPLICATION: Lands of Riverview Associates: Rezoning from C-3 and C-2A to I-O

FILE#: Z-04-06 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Richard A. Woodhall PHONE#: 760-2262

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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:

No Comment

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

Cross access easements to the adjoining properties will be required as shown on the overall site plan.

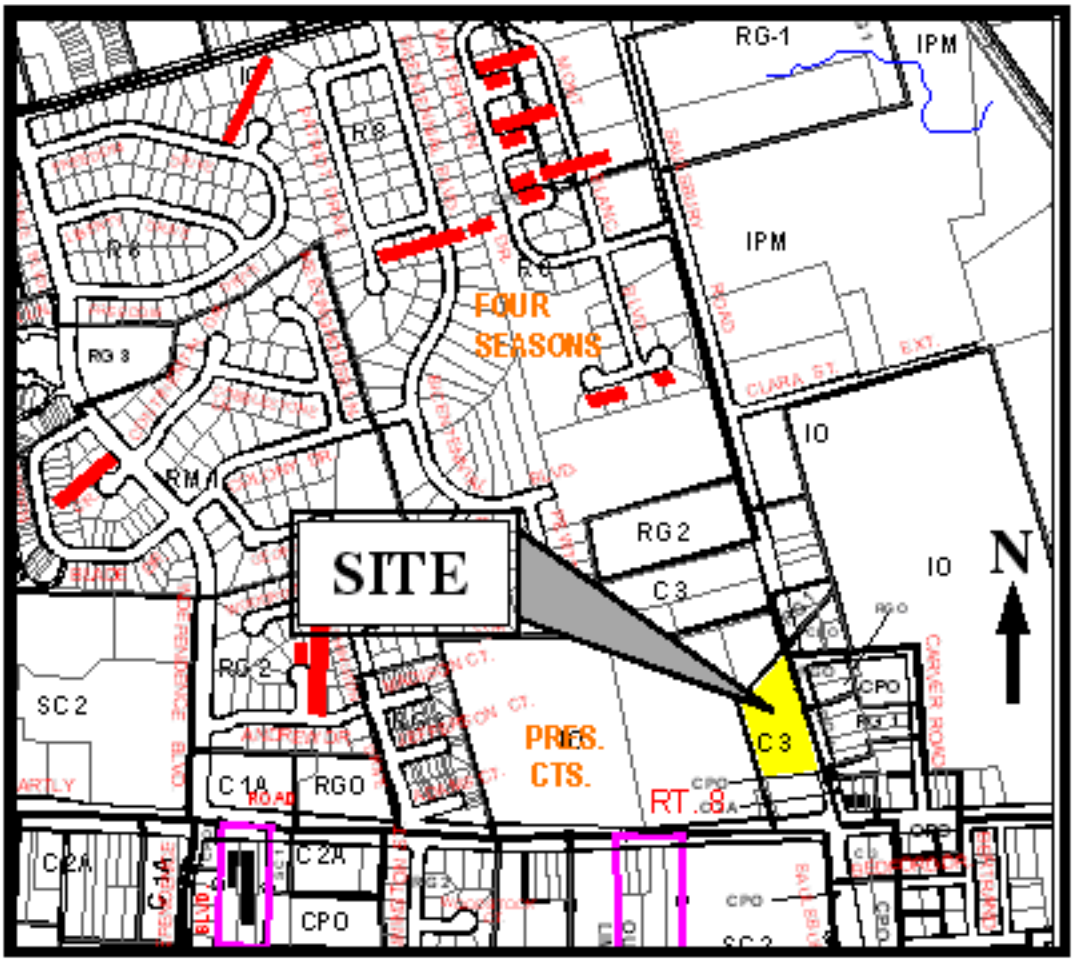
The northerly access must line up with Carver Road.

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

Application No. Z-04-06

Department of Planning & Inspections



Applicant: Lands of Riverview Associates

Owner: Riverview Associates

Date: 5/17/04

Tax Parcel No. ED-05-076.07-01-29.00

Site Area: 2.20 Acres

From: C-3, C2A, COZ-1 **To:** IO, COZ-1

