

CITY OF DOVER PLANNING COMMISSION

AGENDA

Monday, July 16, 2018 – 7:00 P.M.

City Hall, City Council Chambers

15 Loockerman Plaza, Dover, Delaware

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

ADOPTION OF MINUTES OF MEETING of June 18, 2018

COMMUNICATIONS & REPORTS

- 1) The Annual Meeting of the Planning Commission typically held in July including the election of Chairman and Vice Chairman will be scheduled for a future meeting upon completion of the appointment process for Commission members.
- 2) Reminder: The next Planning Commission regular meeting is scheduled for MONDAY, August 20, 2018 at 7:00pm in the City Council Chambers.
- 3) Update on City Council Actions
- 4) Department of Planning & Inspections Updates

OPENING REMARKS CONCERNING APPLICATIONS

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval:
 - a. S-16-14 Lidl Grocery Store at North DuPont Highway and Kings Highway NE – Request for a one-year extension of the Planning Commission approval granted on July 18, 2016 of a Site Development Plan application to permit the construction of an approximately 36,185 S.F. retail grocery store and associated site improvements. The project is to include a Parcel Consolidation Plan to re-subdivide the six parcels on site into three and abandon the unimproved right-of-way known as Midland Road. Construction would involve demolition of all existing buildings on site. The property consists of 6.95 acres (7.275 acres prior to right-of-way dedication) and is located on a site bounded by North DuPont Highway, Maple Parkway, and Kings Highway. The property is zoned C-4 (Highway Commercial Zone) and IO (Institutional and Office Zone) with all site improvements to occur in the C-4 zone. The owners of record are Davis H. Wood, Wells Fargo Bank NA, and Kings Highway Land Partners, LLC. The equitable owner is Lidl US Operations, LLC. Property Addresses: 122, 136, 140 and 162 North DuPont Highway and 321 Kings Highway NE. Tax Parcels: ED-05-068.18-01-20.00-000, ED-05-068.18-01-21.00-000, ED-05-068.18-01-22.00-000, ED-05-068.18-01-23.00-000, ED-05-068.18-01-24.00-000 and ED-05-068.18-01-25.00-000. Council District 2. *Approved: Consideration of Area Subject to Tree Planting Requirement*

- 2) Update on Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28)

NEW APPLICATIONS:

- 1) C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street – Public Hearing and Conditional Use Review of Application to allow an existing one-story structure to be utilized as an annual membership club serving members and their guests. The property consists of 0.15 +/- acres. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of North Kirkwood Street, between Cecil Street and Mary Street. The owner of record is Pride of Dover Elks Lodge 1125. Property Address: 217 North Kirkwood Street. Tax Parcel: ED-05-076.08-05-02-20.00-000. Council District 4.
- 2) Series of Text Amendments to the *Zoning Ordinance*: The three sets of Text Amendments are grouped into Proposed Ordinance #2018-06. They are available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>. The Planning Commission will conduct a Public Hearing on each Text Amendment for recommendation to City Council. The Final Reading/Public Hearing at City Council is scheduled for Monday, August 27, 2018 at 7:30pm.
 - a. MI-18-05 Text Amendments: Addition of IPM3 Zone (*Zoning Ordinance*, Article 3 §20 & 24, Article 4 §4.16, Article 5 §8, and Article 12) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, principally Article 3 §20 - Industrial Park Manufacturing Zone. The proposed ordinance adds a new subsection 20B for the IPM3 Zone (Industrial Park Manufacturing Zone- Industrial Aviation and Aeronautics Center). The new zone is an industrial zone focused on permitting businesses in aviation and aeronautics-related industries. Changes are also made to the City's Bulk Standards and Performance Standards to ensure the new uses will be covered under those standards.
 - b. MI-18-06 Text Amendments: Replacement of Maximum Parking Requirement (*Zoning Ordinance*, Article 4 §4.15 & §4.16, and Article 6 §3) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance* in Article 4 and Article 6 to remove the existing maximum parking standard and replace it with new impervious cover (lot coverage) limitations where excessive parking lot size is of particular concern in commercial and industrial zones. The existing standard sets maximum parking for any use at 125% of the minimum required. Under these Text Amendments, this standard would be replaced with lot coverage limitations for the C-3, C-4, RC, IPM, IPM2, and M Zones, all of which currently lack any such limitations.
 - c. MI-18-07 Text Amendments: Vehicle Signs (*Zoning Ordinance*, Article 5 §4) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, Article 5 §4 intended to clarify what qualifies as a vehicle being used for the sole purpose of signage. Under the current Ordinance, vehicles are not permitted to be used for the sole purpose of signage. The Text

Amendments would provide a list of criteria the City Planner can use to make a determination that this provision has been violated. It also specifies that vehicles in violation are to be moved to an area of the property where they are not visible or less visible.

NEW BUSINESS

- 1) MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept – Update on the Meeting Task assigned to Staff by Planning Commission at June 18, 2018 regarding the request for Consideration by Planning Commission of an Architecture Concept for townhouse units and an Architecture Concept for single family detached dwellings (in a 55+ community format) with a request for removal of alleys within the Eden Hill Farm TND: Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record Eden Hill Residential, LLC. Property Address: area southeast of intersection Wemyss Road and POW-MIA Parkway. Tax Parcels: areas on map ED-05-076.04. Council District 2.
- 2) Project for Dover's 2019 Comprehensive Plan
 - a. Update on Project Activities
 - b. Evaluation of 2008 Goals and Recommendations

ADJOURN

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

Posted Agenda: July 6, 2018

CITY OF DOVER PLANNING COMMISSION
JUNE 18, 2018

The Regular Meeting of the City of Dover Planning Commission was held on Monday, June 18, 2018 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Roach, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert. Mr. Holden and Ms. Edwards were absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Jason Lyon, Mr. Julian Swierczek and Mrs. Kristen Mullaney. Also present were Mr. Jesse Allen, Ms. Donneisha Alston, Mr. Leonard Iacono, Mr. William Russell and Ms. Katie Burke. Speaking from the public was Mr. James McKinney.

APPROVAL OF AGENDA

Mr. Tolbert stated that the Conditional Use Application C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street will not be heard by the Planning Commission tonight due to incomplete public notice. This application and its public hearing will be rescheduled for a future meeting.

Mrs. Welsh moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Holden and Ms. Edwards absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MAY 21, 2018

Mr. Holt moved to approve the Planning Commission Meeting minutes of May 21, 2018, seconded by Mrs. Welsh and the motion was unanimously carried 7-0 with Mr. Holden and Ms. Edwards absent.

COMMUNICATIONS & REPORTS

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, July 16, 2018 at 7:00pm in the City Council Chambers.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on May 29, 2018 and June 11 & 12, 2018.

Mr. Hugg stated that the Planning Staff have been very busily involved in working on updating the *Comprehensive Plan*. They had a workshop session last Wednesday at Wilmington University with a number of representatives from higher education and some local business owners to talk about the future economy of Dover. That was part of the input to the process. Staff has been meeting weekly to refine information on the *Comprehensive Plan*. If you didn't notice on your way in this evening, out in the lobby on a desk is the Planning Survey that is both in electronic form and a hard copy for people to provide input to Planning Staff on a variety of related issues.

Mrs. Melson-Williams stated that they have an update scheduled for a little more detailed information on the *Comprehensive Plan* later in this evening's meeting.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval: None
- 2) Update on Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28)

Mrs. Melson-Williams stated that they have no new information to report to the Commission. The Committee as it currently stands includes a couple of members of the Planning Commission and the Mayor or his designee. Staff is still working to confirm the design professionals that would sit on that Subcommittee.

- 3) MI-18-03 Text Amendments: Manufactured Housing and Land Lease Communities (*Dover Code of Ordinances*, Chapter 66 and *Zoning Ordinance*, Article 3, Section 8 and Article 12) – The Planning Commission on March 19, 2018 tabled action and then on April 16, 2018 deferred action until June 2018 seeking additional information on the Review of Proposed Ordinance #2018-01 of Text Amendments to the *Dover Code of Ordinances*, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities; to *Zoning Ordinance*, Article 3, Section 8- Manufactured Housing (MH) Zone; and to *Zoning Ordinance*, Article 12- Definitions. *The Public Hearing was held on March 19, 2018. Planning Staff is working on the information requested by the Planning Commission and will provide an update report; continued review is recommended for a future meeting.*

Representatives: None

Mr. Tolbert recused himself from discussion of this application.

(Mrs. Welsh took over as Chairwoman of the meeting due to Mr. Tolbert being recused and the Vice-Chairman Mr. Holden being absent)

Mr. Hugg stated that as you recall this Text Amendment came to the Commission at the March 19, 2018 meeting. The Planning Commission reviewed and held a public hearing for this proposed Ordinance which deals with manufactured housing and land lease communities. This has been a somewhat contentious Ordinance both from the time it was introduced and passed a couple of years ago and in the process of trying to develop some amendments that correct both inconsistencies in the initial Ordinance and some refinements that we felt were important. He is pleased to tell the Commission that in addition to a lot of work by Mr. Diaz, they did meet on June 6, 2018 with Mr. Michael Morton who represents the manufactured housing community. The Staff memo that is in your packet dated June 8, 2018 lists a number of changes that they are looking at for consideration. These are ones that both Mr. Morton and Staff believe can be accommodated and have improvements made in the Ordinance itself before it comes back to the Planning Commission and then City Council. Staff will be proposing a Staff Amendment #2 to

bring back to the Commission within a month or so. He thinks that they are pretty close to having an agreement. There is a fundamental legal concern about whether the State Law effectively pre-empts the City from applying some of these standards. They kind of agreed to disagree and that particular piece will be discussed at a later date by Mr. Morton and the City's Assistant Solicitor, Mr. Bill Pepper. Staff is substantially on the same page with Mr. Morton on the rest of these items. Even though there are some that he isn't fully in favor of, Mr. Morton understands what Staff is trying to accomplish and he will ultimately be supportive.

Mr. Hugg stated that for purposes of tonight the Planning Commission could authorize the Staff to continue working on this second amendment and ask them to come back to the Commission to present either the amendment or a status report at the August 2018 meeting. If Staff is not ready at that point, they will consider a later date.

Ms. Maucher questioned if the City's legal counsel had been involved in any of these discussions to date? Responding to Ms. Maucher, Mr. Hugg stated yes. Mr. Bill Pepper has met with Staff and has also talked to Mr. Morton during this time period. The changes that Staff is recommending have all been vetted through Mr. Pepper and he feels that they are on sound legal ground to proceed with them, putting aside the question of preemption.

Dr. Jones questioned if current owners would be grandfathered in for the new rental agreement and property management contract? Responding to Dr. Jones, Mr. Hugg stated that this would be proactive as any of these items came up for renewal. The question that we run into is that there is no kind of standard that says all of these particular terms have to be in everyone's rental agreements. In order to give some flexibility, there has to be a certain agreement about what maintenance means but it may be in Park A that the contract between the tenant and the landlord has some different language than someone in Park B. As long as they meet the standard, either one would be acceptable. The idea was that as lease agreements were renewed or revisited then those provisions would be specified or clarified.

Dr. Jones stated that she believes that during the initial discussion she had a question on number 7 and she still does. The last sentence reads "there must still be an office of some kind accessible to residents." What does "accessible" mean in terms of proximity? Responding to Dr. Jones, Mr. Hugg stated that he thinks that is one of those details that they are still working on. The concern that was raised by Mr. Morton is that there are some very small parks and facilities where physically having an office present would be unreasonable and a burden; it would probably not serve the community very well. The intent in number 7 is that they can't not have an office. They have to have some office that provides service to the tenants. It may not have to be onsite but they will continue to have that discussion. He wouldn't want it to be in Wilmington or someplace remote from the site but it could be at another park or it could be at a real estate office in town or something or that nature.

Ms. Maucher moved to allow Planning Staff to continue working on this Text Amendment and to bring an update to the August 2018 Planning Commission meeting, seconded by Dr. Jones and the motion was carried 6-0 by voice vote with Mr. Tolbert recused and Mr. Holden and Ms. Edwards absent.

NEW APPLICATIONS:

- 1) AX-18-01 Lands of Jesse L. Allen at 3074 N. DuPont Highway – Public Hearing and Review for Recommendation of an Annexation Request and Rezoning Request for a parcel of land totaling 0.69 acres +/- located at 3074 N. DuPont Highway. The property is currently zoned BG (General Business District) in Kent County. The proposed zoning is C-4 (Highway Commercial Zone). The property is located on the east side of North DuPont Highway and north of but not adjacent to Woodford Street. This annexation will include the adjoining right-of-way of North DuPont Highway equal to the property's frontage width to connect the property to the existing City boundary on the west side of North DuPont Highway. The annexation category according to Dover's 2008 *Comprehensive Plan* is Category 1: High Priority Annexation Areas and the land use designation is Commercial. The owner of record is Jesse L. Allen. Property Address: 3074 N. DuPont Highway. Tax Parcel: ED-00-057.02-01-04.00-000. Proposed Council District 3. Ordinance #2018-04.

Representatives: Mr. Jesse Allen, Owner

Mrs. Melson-Williams stated that this is a request for annexation into the City of Dover. First, with any annexation they have to look to the City's *Comprehensive Plan*. In looking at the *Comprehensive Plan* in reference to the property at 3074 North DuPont Highway, they find that it is in a dark green area which is a Category One - High Priority Annexation Area. It is areas that are anticipated to be annexed into the City within a reasonable timeframe. They are areas that are ultimately surrounded by areas that are in the City. This is one parcel in what is a much larger area that is currently surrounded by the City on the northern part of Route 13. Moving on to the second map that they always have to look at with the *Comprehensive Plan*, they have to look at what the *Comprehensive Plan* envisions for future land use activities on a particular property proposed for annexation. In this case, this map found in the *Comprehensive Plan* identifies the land use classification as commercial. With that land use classification of commercial, Staff then looks at what is a matrix of different types of zoning that could be placed on the property. In considering the rezoning of the property to a City of Dover zoning classification, they have to look at compliance with the table and map of the Plan as well as the general character of the surrounding area such as other adjacent land uses.

This property is located on the east side of DuPont Highway, basically across the street from the Dover Town Center. The areas on the west side of Route 13 are in the City and with this annexation; it would then be connected across Route 13 to properties already in the City thus making it contiguous. The surrounding land uses in the area are focused on commercial. Its neighbors on the east side of Route 13 include a variety of different commercial uses. Further to the east is a residential area that is currently located in Kent County. This property currently has a zoning classification of BG (General Business Zone) in the County and is seeking the C-4 (Highway Commercial Zone) zoning classification in the City of Dover. C-4 (Highway Commercial Zone) is one of our higher intensity commercial zones allowing for a variety of retail and service industry type functions. Our report actually lists all of those uses that are permitted in the C-4 (Highway Commercial Zone).

As part of this process, the utility availability is looked at. The City of Dover is actually the

service provider for electric for this location. The property is currently not served by City water and sanitary sewer. In the case of water and sanitary sewer, the closest City services are actually on the west side of Route 13; however, installation of those services to cross Route 13 is challenging at best because of crossing Route 13 in the corridor and needing DelDOT approval. There are some City utility services on the east side of Route 13; however, they are not in that close of proximity to this particular location. Coming out of that, there are certainly some recommendations and additional discussions because of the challenges presented with water and sanitary sewer service provisions. Additional discussions would need to occur with the applicant as well as with the City's Public Works Office and potentially other utility providers. There is a utility provider, Tidewater in the general area. Also, utility services may mean with interaction with State agencies like DNREC and DelDOT.

The recommendation of Planning Staff is for annexation of the property, finding that the *Comprehensive Plan* supports annexation; it is a Category 1 area. The potential zoning classification of C-4 (Highway Commercial Zone) is consistent with development in the general area and again consistent with the *Comprehensive Plan*. The Development Advisory Committee Report includes the comments from the typical agencies. There are a series of advisory comments that really focus on once the property is in the City. There are a number of City processes and procedures relating to permitting and licensing that they would have to go through to either use the existing building or if they were thinking of any kind of redevelopment to place a new use there. Tonight, the Planning Commission is charged with looking at what is the appropriate zoning classification for this property that is seeking annexation into the City of Dover. They have made the request for C-4 (Highway Commercial Zone). The Planning Commission will be making a recommendation that will be forwarded to City Council.

Mr. Holt stated that it looks like there is some major stuff that needs to be done with the highway in order to get water and sewer over to this property and that could cost a lot of money. Who is going to bare that expense? Would the City do that or would the new property owner handle that? Responding to Mr. Holt, Mr. Lyon stated that the standard response is that the developer is responsible to bare all costs for new development. They have seen preliminary estimates. This would need to be bored across Route 13 so that they are not opening the road up. Preliminary costs are fairly expensive; between \$85,000 to \$100,000.

Mr. Holt questioned if that cost could come out of the taxes? Responding to Mr. Holt, Mr. Lyon stated that he could not answer that question. It's possible that the City Manager could have a different discussion but the standard procedure is that the developer takes care of the expense.

Ms. Maucher questioned if lack of water and sewer impact the ability of the new owner to develop the property as a commercial entity? Is there an Ordinance or restriction stating that a commercial property must have public utilities? Responding to Ms. Maucher, Mrs. Melson-Williams stated that there is not; however, the current property is on its own individual well and septic system. If those items cannot meet the service needs of how the property will be utilized then they may have to look to the connection to City water and sewer. DNREC controls whether you get permits for a new well or septic system. Typically in situations like that they don't allow upgrades to those current facilities that may be located on the individual property if the opportunity for connection to public water and sewer is available.

Mr. Tolbert stated that since this area is an enclave and it doesn't get any of the City water and sewer, there are other properties in that enclave. If the applicant chose to do that, what impact would it have on the other properties in that enclave? Responding to Mr. Tolbert, Mr. Lyon stated that the estimates provided were strictly for the property in question. It was for the services to go across the road, not for mains to be extended.

Mr. Allen stated that the only thing he needs is water and sewer to his property because he wants to put a hair salon there or something else to build the business up. All of the seven properties in that area are kind of an eyesore to Dover in his eyes. You have a gas station and McKinnley's that is falling apart. He can't speak for Dover but right now it's an eyesore. If you bring water and sewer to that area he is sure the other people will bow to get some water and sewer. Maybe you can make the City look a little better on that side. The other side of Route 13 looks great but his side looks like trash.

Mr. Tolbert asked if Mr. Allen has talked to his neighbors regarding his plan. Responding to Mr. Tolbert, Mr. Allen stated that he sent them all a letter but nobody has responded yet.

Mr. Tolbert further questioned if his neighbors knew that there is going to be a hearing tonight? Responding to Mr. Tolbert, Mr. Allen stated yes they did.

Mr. Tolbert opened a public hearing.

Mr. James McKinney – 52 Smith Street Dover, DE 19901

Mr. McKinney stated that on behalf of himself and his family which owns the property directly behind and the parcel two lots north that has highway frontage; they have no desire to be annexed into the City of Dover. They have wells that work great and they have their own septic. They don't want to be annexed into the City of Dover. As far as the *Comprehensive Plan* goes, he doesn't know of anyone in DuPont Manor that wants to be annexed either. They annexed Wawa which was adjoining through the old Gulf Station where the Starbucks is located now and then crossed over the State Police Headquarters. The Dover Mall was annexed in years ago. Wilmington University also got annexed in but nothing east of DuPont Manor has been annexed. It's not surrounded; its just north and south of our parcels that have been annexed. As far as Mr. Allen's need for water and sewer for his hair business, he believes there is a tie in just on the other side of Kentwood Drive for the County sewer but he would have to cross a couple of lots in order to get to it which would be a substantial cost also. Speaking on behalf of those adjoining properties, they have no desire to be annexed. They feel that this may be a foothold into basically forcing their annexation and they don't want that.

Mr. Tolbert questioned if he was just speaking for himself or for all of the neighbors? Responding to Mr. Tolbert, Mr. McKinney stated that he can speak for all of the McKinney neighbors.

Mr. McKinney stated that he does believe with Mr. Allen's need for the water and septic, the fact that no one around really wants to be included would be reason for DNREC to approve a large system for his hair business.

Mr. Tolbert stated that he is not clear about Mr. McKinney's reason for not wanting to be part of the City of Dover. Responding to Mr. Tolbert, Mr. McKinney stated that it's because of increased taxes. It's all financial. As far as even trash service, which is an expense that you must incur, they pretty much take care of that.

Mr. Tolbert closed the public hearing.

Mr. Holt stated that the present owners there that have their present wells and so forth, would they not be able to use them if they were annexed into the City? Would they all be forced to tie into the City water and sewer? Responding to Mr. Holt, Mr. Lyon stated that as Mrs. Melson-Williams stated earlier, the reason that DNREC would make anyone connect to public sewer and water is if your well or septic tank fails and you are within 200 feet of a water main or sewer main to your property. The specific issue before us tonight would only be for services to this property. There would not be a main added that these people would be in proximity too.

Mr. Holt questioned if they could still continue with the use of their well and so forth? Responding to Mr. Holt, Mr. Lyon stated yes.

Dr. Jones stated that given the fact that you already have a well, we just heard that DNREC may not recognize the current well if it's not large enough or it fails. She thinks that the applicant mentioned that he wanted to open a salon and you just need water and sewer. How does the applicant view what has been said about the uncertainty maybe of the current water and sewer? Responding to Dr. Jones, Mr. Allen stated that he has owned the place for about five years. He wants to open it up because he has been sitting on this property for five years. He figured that somebody might want to get water and sewer in that area but if they don't want it what can he say to that. He thinks that it's necessary in the area because you can't really develop land if you don't have water and sewer in Dover. You can sit on a piece of property for six or seven years and not do anything to it if you are in the County. In the City of Dover, you have to clean it up. You have to make a business out of it; you can't just sit on it. Right now, he has been sitting on this property and the County hasn't said a word to him about anything that he did.

Dr. Jones stated that the point in question is, assuming that the property is annexed, are you ready to move forward to provide the necessary utilities to the property? Responding to Dr. Jones, Mr. Allen stated yes.

Mr. Roach questioned if there was any validity behind the concerns of the gentleman in regards to the fact that his annexation could possibly affect the surrounding properties? He is trying to clarify that if he (the applicant) does get annexed in because the other properties in close proximity, would there be any issue in regards to them keeping their current sewers and wells? Responding to Mr. Roach, Mrs. Melson-Williams stated that annexation into the City of Dover is by property owner request. The City does not have provisions currently where the City could go after a person specifically and force them to annex into the City limits. Typically, property owner request means that they want to be annexed into the City of Dover. This application tonight is about one property. Yes, if it is annexed into the City of Dover then the boundary of the City of Dover does become closer to a number of properties more so than it was before. It may actually

make some (properties) easier to annex because they could then be contiguous where currently they may not be at all. The key thing is that it is a property owner request that starts the annexation process.

Mr. Lyon stated that just as a point of reference, the Kent County sanitary sewer is available in this development and Tidewater has a CPCN, which are territorial rights in this area. He can't speak to the exact location of where those mains are but that would come up. Hypothetically if your well fails, DNREC is going to look to see if there is any sort of main there. It may be Tidewater or it may be Kent County sewer but it would not be the City of Dover so they would not mandate any annexation at this point in time.

Ms. Maucher questioned if this property was in the Tidewater CPCN area? Responding to Ms. Maucher, Mr. Lyon stated no, the CPCN is to the east. He meant to say it was located behind this location.

Ms. Maucher questioned if it was in any CPCN area? Responding to Ms. Maucher, Mr. Lyon stated it is located in the City of Dover's area.

Ms. Maucher stated that services by Tidewater may not be an option then unless the City relinquished. Responding to Ms. Maucher, Mr. Lyon stated that the property can request a CPCN change. If Mr. Allen wants to go down that road to see if he can connect into Tidewater which would be an expense as well, that is possible.

Mr. Holt stated that the fact that some of the other property owners aren't here tonight shows that the evidently have no interest in coming into the City. Responding to Mr. Holt, Mrs. Melson-Williams stated that the notification is in regards to property owners within 200 feet; they are given notice of the application being filed. That notice was given, there is also the legal ad in the newspaper and the bright yellow sign that notes the hearings both before the Planning Commission and City Council. This is an application request for one parcel of land; the property at 3074 North DuPont Highway and that property only.

Mr. Tolbert stated that if the application was approved, the applicant is not obligated to tie into the City water and sewer system. Responding to Mr. Tolbert, Mrs. Melson-Williams stated yes, the sheer action of annexing the property does not automatically trigger a requirement for connection to City water and sewer. It makes that an option.

Ms. Maucher questioned if it obligates the City to extend services? Responding to Ms. Maucher, Mrs. Melson-Williams stated that it does not.

Ms. Maucher moved to recommend approval to City Council for AX-18-01 Lands of Jesse L. Allen at 3074 North DuPont Highway, to include the zoning classification change from BG (General Business District) to C-4 (Highway Commercial Zone), seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Holden and Ms. Edwards absent. Mr. Roach voting yes. Mr. Holt voting yes; he thinks it's a good move for the City and he thinks that in the long run everyone will be happy. Mr. Baldwin voting yes. Dr. Jones voting yes; based upon Staff's recommendation and review from the DAC. Mrs. Welsh voting yes; based on Staff's

recommendation. Ms. Maucher voting yes; it's in a High Priority Annexation Area and she concurs with the owner's concerns about that side of the highway. It will be nice to see some development going. Mr. Tolbert voting yes; we have an enclave in this area which is something of an anomaly in the City of Dover. The City is completely all around this place and he hopes that it encourages all of the people in that area to come to the conclusion that they would be willing to annex into the City of Dover. It would make it easier for everybody.

- 2) C-18-03 Kidz Business Day Care Center at 65 North DuPont Highway – Public Hearing and Review of Application for Conditional Use to permit conversion of an existing 5,148 SF one-story building into a Child Day Care Center to serve 125 children. The application involves two separate properties. The property containing the building consists of 0.53 +/- acres and is zoned C-4 (Highway Commercial Zone). There is a second property of 0.37 acres zoned RG-2 (General Residence Zone) that contains an associated parking lot. The building is located on the east side of North DuPont Highway immediately south of Maple Parkway. To the east is the parking lot property located at the intersection of Maple Parkway and Edgemont Avenue. The owner of record is The Perry Group, Inc. and the applicant (lessee) is Donneisha Alston. Property Address: 65 North DuPont Highway. Tax Parcels: ED-05-068.18-05-01.00-000 and ED-05-068.18-05-12.00-000. Council District 2.

Representatives: Ms. Donneisha Alston, Lessee

Mr. Swierczek stated that this application is for a Conditional Use review to permit conversion of an existing 5,148 SF one story building into a Child Day Care Center to service 125 children with a planned 18 staff. The application involves two separate parcels. The parcel containing the building consists of just over 0.5 acres and is zoned C-4 (Highway Commercial Zone). There is a second parcel of 0.37 acres zoned RG-2 (General Residence Zone) set further back from North DuPont Highway to the east. The existing building there has been utilized for a number of uses. These two parcels were most recently the offices of Dover Dental which was subject of a Site Plan application in 2001. These Site Plans from 2001 are the ones that the applicant has utilized and marked up for their submission to the Planning Commission for review. The building has sat vacant since 2015. The plan does not indicate a location of an outdoor play area but the applicant has stated that it will be located at the rear or eastern side of the parcel with frontage on North DuPont Highway. She has further stated that the play area will have direct access to the building and will be fenced off.

Parking for a child day care is based on the number of children and adult attendants. Based on this calculation, thirty-one parking spaces would be needed. The main parcel has nineteen regular and two handicapped spaces. Plans submitted by the applicant seemed to indicate fifty-four parking spaces on the eastern parcel; however, the exact layout is unknown as no plan of the parcel has been provided. Planning Staff does recommend that the applicant restripe all parking areas and ensure traffic circulation and signage are in place. The bicycle parking calculation is one for every twenty parking spaces. Based on this number, the required bicycle parking would be four and the location of the bike rack would need to be identified on the Site Plan as well. Dumpsters for the trash and recycling collection are required for this property. The plan which dates back to 2001 indicated a site for a future dumpster pad location; however, in visiting the site he concluded that there was no dumpster pad constructed. That will need to be identified on

the plans as well. The parcel with North DuPont Highway frontage meets the landscaping and tree requirement; however, no description or plan was provided of the parking lot parcel to the east. Based on its size, there would be four trees required on that parcel. For sidewalks, there is a paved area between the travel lanes and onsite curbing along the property street frontage of North DuPont Highway though they do not appear to meet ADA requirements. There is no sidewalk along the North DuPont Highway frontages of the adjacent properties to the south or north nor is there any pedestrian crossing facilities. There is currently no sidewalk along the Maple Parkway or Edgemont Avenue frontages either. There is no specific pedestrian access to the main building property and Staff would also recommend that sidewalks be added along the Maple Parkway frontage of the property and along Edgemont Avenue at least to a point of access to sidewalks that will lead to the entrance of the building. Planning Staff would like to recommend that if the Planning Commission members would like to approve the application with the conditions suggested by the Planning Office that the members of the Commission should specifically state the conditions in their motion. These items which are found on Page 6 of the DAC Report and were to provide sidewalks along Maple Parkway and Edgemont Avenue and to restripe the parking areas including traffic circulation and signage.

Ms. Maucher questioned if there was sidewalk along Edgemont Avenue? Responding to Ms. Maucher, Mr. Swierczek stated that there is not.

Ms. Alston stated that she currently doesn't have any concerns. She is very aware of all of those things that she needs to improve and she is working with her architect now to design the areas for the dumpster pad and the bike rack. She is also trying to figure out the sidewalk responsibilities that she has as well.

Mr. Tolbert questioned if Ms. Alston would have no problem working cooperatively with Planning Staff. Responding to Mr. Tolbert, Ms. Alston stated she would have no problem at all.

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

Ms. Maucher questioned if the main access was off of Maple Parkway or Edgemont Avenue? Responding to Ms. Maucher, Ms. Alston stated that it was off of North DuPont Highway. It's like a horseshoe. They would turn off of the main highway, make that right onto ~~Edgemont Avenue~~ (Maple Parkway) and then when they turn right onto ~~Maple Parkway~~ (Edgemont Avenue) there is one entrance in and then they will go around to the exit back out to ~~Maple Parkway~~ (Edgemont Avenue). (Note: Staff corrections identify the proper road names for area.) It's clearly defined and it's just one way traffic around the entire building. So you would not enter from North DuPont Highway.

Ms. Maucher stated then you would not be turning off North DuPont Highway into the property. Responding to Ms. Maucher, Ms. Alston stated no you would not.

Ms. Maucher questioned if there was a deceleration lane? Responding to Ms. Maucher, Ms. Alston stated that she doesn't believe so but there is a clear distinction as to where it is appropriate to turn because there is a neighborhood in that direction as well.

Mr. Tolbert stated that there was a lot of emphasis on the facility being for low income children. Is the emphasis being placed on the low income children for the facility or can any kids come? Responding to Mr. Tolbert, Ms. Alston stated that she would like to serve all children she just wants low income to feel comfortable. She likes to provide high quality care for low income families and every family that is interested in care.

Mr. Tolbert questioned if the price would be the same for everybody? Responding to Mr. Tolbert, Ms. Alston stated yes.

Mr. Roach questioned purchase of care? Responding to Mr. Roach, Ms. Alston stated that purchase of care will be available to the families that are in need of that program.

Mrs. Welsh moved to approve C-18-03 Kidz Business Day Care Center at 65 North DuPont Highway inclusive of the recommendations suggested as conditions by the DAC Staff dealing with the sidewalks and to restripe the parking areas, seconded by Mr. Holt and the motion was carried 7-0 by roll call vote with Mr. Holden and Ms. Edwards absent. Mr. Roach voting yes; he looks forward to seeing the finished product. Mr. Holt voting yes; according to the DAC comments and all of the recommendations. Mr. Baldwin voting yes; day cares are certainly needed in that area. Dr. Jones voting yes; child care is certainly sorely needed for all children and she votes yes in view of the conditions of approval. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; quality day care centers are always in need.

NEW BUSINESS

- 1) MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept – Request for Consideration by Planning Commission of an Architecture Concept for townhouse units and an Architecture Concept for single family detached dwellings (in a 55+ community format) with a request for removal of alleys within the Eden Hill Farm TND: Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record Eden Hill Residential, LLC. Property Address: area southeast of intersection Wemyss Road and POW-MIA Parkway. Tax Parcels: areas on map ED-05-076.04. Council District 2.

Representatives: Mr. Leonard Iacono, Equitable Owner; Mr. William Russell, Wye Realty Advisors; Ms. Katie Burke, NVR/Ryan Homes

Mrs. Melson-Williams stated that this is sort of an application. It does not have a public hearing associated with it; it's actually kind of a conversation with the potential purchasers and developers of the property. It was a request for consideration by the Planning Commission. There are two main architectural concepts. First, for the townhouse units and then architecture concepts for single family detached dwellings in a 55 and over community format that includes a request for the removal of alleys. This did not go through the DAC process at this point so this is just background for the Planning Commission. They wanted the opportunity to converse with the Planning Commission. Eden Hill is a Traditional Neighborhood Design project; it is the only one in the City. This request focuses specifically in the Residential District. The TND process in the

City is a very unique and is specified in the *Zoning Ordinance*. It actually begins with a rezoning process and then it involves what is called an Implementation Plan that consists of what you normally see as the various Site Plan type documents and Record Plans that establishes the lots. But then it also includes the Comprehensive Development Standards Manual which is also known as the Pattern Book. In the commentary, it shows a chart of activity in Residential District of Eden Hill. The rezoning of the property took place back in 2005. There was an Implementation Plan which really laid out how they were anticipating developing the Residential District. That came before the Planning Commission as a full application in the summer of 2006. Over time there have been a number of slight changes to both the plan related to the layout of lots and some revisions to refinement of different aspects of the Pattern Book. The most recent thing that the Commission actually saw with the Residential District was a Revised Implementation Plan back in May 2015 which really focused on changing the concept for the type of residential development for the project. It was focused on changing significant areas to what would be multi-family housing in the form of apartments. It included making a very large open space area to serve as the active recreation. That Revised Implementation Plan started through the Check Print Review process which is the process that ultimately leads to a Final Plan approval; however, it does not have Final Plan approval. They are not sure that the applicant at that time would be seeking to continue to move forward.

What exists is shown on the screen. The plan originally was slated for 665 dwelling units in a variety of housing types: singles, duplexes, and a multi-family component that originally was considered a condo type building scenario. There is a very specific Pattern Book that was initially proposed and the Pattern Book is the set of standards and guidelines for construction in the TND. It basically acts as the Code requirements for the development setting forth material selection, approaches to setbacks and layouts of lots, landscaping, how the circulation happens and a little bit of everything. That brings us to Phase I that has been built and that consists of 83 building units. They are predominantly townhouse units. There are several duplexes that are in place as well. The access is currently from POW-MIA Parkway, also known as the West Dover Connector to most by accessing through Wemyss Road which then leads you into the residential area.

Tonight, they are looking at the applicant's request for consideration of architecture concepts. Over the past year, the potential owner and housing unit developer have met with Staff to discuss the continued build out of the Eden Hill Residential District. Their proposal basically focuses on a concept for townhouse units and a concept for single family detached dwellings in what would be a 55+ community. Staff identified in looking at the submissions that they made to us in discussions at the meeting that there were significant compliance issues in these concepts that they were proposing when you look at the concepts versus the Implementation Plan that is in place and the Pattern Book that is currently approved for the TND. Staff shared that finding with the applicants and they wished to continue the discussion with the Planning Commission which brings us here this evening. Included in the packet was their letter of presentation of the concept and a series of images for both the townhouse units and the single-family concept. This is meant to be a discussion and to provide guidance to them on these concepts. If they chose to move forward, this is basically a preliminary step. They would actually have to present a formal application for a Revised Implementation Plan and Revised Pattern Book document. That would go through the very specific detailed review with the Development Advisory Committee and the

public hearing process before this body. The commentary report that was provided to the Commission notes the general issues of the conflicts that Planning Staff was seeing with the concepts that they were presenting; that is found on Page 6 of 6 of the Report. Some of the conflicts that Staff was very concerned about is do the concepts coincide with the purpose and intent statements of the Traditional Neighborhood Design overall which focuses on a variety of housing, walkability, and the circulation as well as things related to materials, garage placement and the like. They have concerns about corner units and avoiding the blank wall appearance that seems to be present in the concepts that they have. There are concerns about the shutters. The Pattern Book actually describes that shutters should either function as operable or give the appearance of thereof. What has been built out there today includes these shutter brackets that make it look like they could be operable where they are not; this is in compliance with the Pattern Book. There was some concern of Staff about the lack of variation and the general appearance of housing units; that is a range from anything related to style and design, repetition of color and detailing. There are a number of things that go into avoiding that uniformity of design look. Other key components of concern by Staff were the placement of garages. The Pattern Book very clearly emphasizes the alley concept as the service and access point and that if in fact a garage is front-loaded that it is kind of a secondary feature and not the prominent element closest to the street. Their concept for the 55+ does suggest an inclination to eliminate alleys in portions of the project site. The alleys are a key concept of the TND meant to take care of the service type areas of the trash collection, your access to the property so it then frees up the streetscape as much more walkable friendly and more neighborhood feeling and not broken up by driveways every fifty feet. Their concept also makes a point about that it is also reducing density. One of the things that the Planning Office does promote is that development and density is encouraged where there is infrastructure and services available; and this is certainly in the core of the City where those elements exist. With that, this is meant to be a discussion so that the applicant can present information to the Commission and hear general feedback. Depending on the route of the conversation, they may ultimately make some type of formal application to this body.

Mr. Iacono stated that he has been before the Planning Commission many times. He has done many projects in Dover as well as owns many properties. He has worked with the Staff for many years and he has been a developer for about forty years. He thinks he knows this project better than anyone frankly because he was the one involved since inception. Back in 2005, he worked with the City and the State to put together the tri-party agreement, they put together the TND which is the zoning specific for this project and they envisioned what they thought at the time would work. They visited other communities throughout the Country to see what they thought would work for the City of Dover. He did a collaborative effort with Ryan Homes to put the initial design that you saw previously on the screen and that was the product that we call Eden Hill that was approved for 665 units. However, they were smart enough to realize that what may have worked in 2005 may not work moving forward. This is a large project especially for Dover's standards. Even though he respectfully disagrees with some of the comments made today, there are certain provisions in this TND as well as the Pattern Book that specifically state that changes will be anticipated; nothing is etched in stone. The project calls for mixed use. It states that you can mix the unit type as long as you don't exceed the 665 units. It also says in the dialogue of the Pattern Book that changes can be anticipated; and therefore, we put that provision in there because for a project of this size they didn't know if it would work or would not work.

They got it approved; they started the project and the project failed. Ryan Homes was involved in building the 83 units that are there now to the architectural styles that you saw. For a period of 4-5 years they sold 83 homes and that drove the project into bankruptcy because it couldn't carry economics, it couldn't carry the debt and it could carry the expense of a project this size. This project has been around for about 12 years. He does not own it now; he represents the equitable owner. To him, the reason why he is here and the reason why he is suggesting these changes is because they want to do something that they feel will work. Ryan Homes are the only ones willing to step up to the plate to develop this project. Ryan Homes has restrictions on what they feel they can do economically here and what they feel the demographics will support and fundamentally if Ryan Homes cannot do what they want to do then the project, in his eyes, won't proceed. They tried working with Staff to present their reasons of why they want to make these changes. As he said earlier, even though he sympathizes with their concerns, the facts are either the project is going to be successful or it's not. They can't go forward with a project that is going to fail before it gets off the ground. The proof is out there for everyone to see. It's been sitting vacant for quite some time and it will remain vacant unless someone else steps in if he walks away. He doesn't feel that they have to go through the entire process either because he is allowed, in his opinion, with substituting units counts and unit types. He doesn't feel that he has to make an application to go back to square one. He is not interested in spending years to go through this process again. As far as the Pattern Book, even though he feels they can make changes to that, he does agree that if this project is approved that they will revise the Pattern Book to show those changes. What they want to do is simply take this project and split it in half. The northern half would remain as townhomes and the southern portion of the property would be changed over to a 55+ community. In the 55+ community, the alleys are not feasible based on the design and concepts that he has from Ryan Homes. He can't speak to the economics, but he has Mr. Russell and Ms. Burke from Ryan Homes that can speak to those points. As he said before, what he is trying to do is resurrect a project that is otherwise vacant. To try to build something that won't work doesn't serve Dover, and it certainly doesn't serve him because he is not interested in getting involved in a project and it failing. He was not the owner when it failed but he was the owner when he put the TND together and worked with the City and State to come up with this concept.

Mr. Holt questioned if this project went through any type of real estate company that was involved mainly with the sale of the units? Responding to Mr. Holt, Mr. Iacono stated no; Ryan Homes markets their own product.

Mr. Holt further questioned if trash collection would be through the City of Dover and if so would the trash cans would have to be out in front of the units? Responding to Mr. Holt, Mr. Iacono stated yes; it is City collection. The alleys would remain in the townhouse section, but they are not proposed in the 55+ community.

Mr. Tolbert stated that he is not understanding what the concern is with eliminating the alleys. Responding to Mr. Tolbert, Mr. Iacono stated that it doesn't layout according to Ryan Homes and they can speak to more detail to that. The configuration doesn't layout the way the houses themselves are configured.

Mr. Tolbert stated that Ryan Homes was the only contractor willing to do something with this property. Responding to Mr. Tolbert, Mr. Iacono stated the only builder. There are many small type builders that would have an interest, but he won't live long enough to see this project built out because their pace is so slow and the economics won't work. He needs velocity in order for this project to meet the requirements of the banking and financing. They need to sell a certain number of units per quarter, otherwise the project won't work. For him to go out to a small builder that is only going to build maybe a dozen units per year wouldn't work. You need to have someone in there that has the ability to perform. In his proposed contract language with Ryan Homes, they have to take down a certain amount of units every quarter on both the townhouse product as well as the 55+ in order to achieve a reasonable built out of approximately 6 years.

Mr. Tolbert stated that he understands what Mr. Iacono is saying but he was just wondering if Ryan Homes was the only builder. Responding to Mr. Tolbert, Mr. Iacono stated yes, the only potential builder of their magnitude.

Ms. Maucher asked for more information on how the project failed. Responding to Ms. Maucher, Mr. Iacono stated that when the project was first designed back in 2005, they called for 24-foot-wide townhomes. By the time they got the project approved, the 24-foot-wide townhomes were not marketable, so they came to the Planning Commission and got the first section changed to 20-foot-wide. Ryan Homes anticipated building 24-foot-wide townhomes but that didn't work so they went to 20-foot-wide. Once again, in the Pattern Book and in the drawings, they feel that changes like this can be requested without going through the entire process. However, even though they changed it from a 24-foot-wide to a 20-foot-wide townhome, they lowered the price range but still over a period of 4-5 years only sold 83 townhomes. 83 townhomes over a period of 5 years doesn't make the matrix; it doesn't work. The interest carry alone on the project wind up throwing this project into bankruptcy. The bank foreclosed on it, they went to Sherriff sale, it was purchased and here we are today.

Ms. Maucher questioned if the 83 townhomes were occupied today? Responding to Ms. Maucher, Mr. Iacono stated yes, there are people living there currently. The rest of the property is vacant.

Ms. Maucher further questioned what the median price range for homes are? Responding to Ms. Maucher, Mr. Russell stated that he is from WYE Realty Advisors. They are a regional brokerage and advisory firm with a specialty in residential bulk lot sales operating in Delaware, Maryland and Pennsylvania. Ryan Homes was the original builder and they built 83 homes over a 5-year period. That is about 4.15 homes per quarter. Just to put that in perspective, there are 650+ lots in the community of which 83 units have been sold. If you do the math it would take 34 years at that pace to build out the rest of the community. That is not a sustainable business plan for any homebuilder or developer and while it was a difficult time frame for home sales, that presents strong evidence that the product wasn't appropriately priced for the marketplace. It needs to be finetuned to the target market which is Dover. They believe a well-designed affordable home product tailored to the market will sell much better. In its current dormant state, the Eden Hill community lacks critical mass and it really doesn't benefit the City in that state. If we can get changes which would enable us to bring a marketable home product to the market

place it would provide a diverse housing source serving multiple segments of the market and its residents. It will create an economically viable addition to the Dover tax base and it would stimulate homeownership and reinvestment back in homes and in the community. Rejuvenating the community and repositioning the housing product will enable a successful sales campaign to monetize vacant lots and translate them into residences occupied by homeowners. As Mr. Iacono said, that involves two things; Tailoring the townhome product to the market demographics and to price points that will escalator the pace of sales and then introducing a significant 55+ housing component to the market.

Mr. Russell passed out a Site Plan that graphically shows how the community would be developed.

Mr. Russell stated that they think that introducing the 55 and older community has real benefits to the community in terms of regenerating the project. Also in doing so, it will place less demands on the Capitol School District. It will reduce the impact of traffic during peak commuter hours and it will add a 55+ component which has a high propensity to spend on entertainment, dining and health care. Under the proposed redevelopment plan, you will see that in the northern section above the yellow line they would continue to build townhomes and some duplexes which is consistent with what's being built there now with different architectural features. To the south, you would have a new separate community. It would have the same street layout but it would include elimination of the alleys and a separate access to the POW/MIA Parkway. He will have Ms. Burke from Ryan Homes talk about the elimination of the alleys but he knows that it relates to security and services and that the buyer wants a backyard and deck overlooking an area that they own and control. Notably, the proposed density under this plan is about 550 units. It's about a 15% reduction in what's currently approved. In addition to that, the most recent plan that was circulated by the perspective developer that was going to add multi-family rentals to the project increased its size to 740 units which is a 15% increase. He believes density in areas that are designed to serve it is a good thing but the current density is 83 units. Until we can target the product to the market to something that can be sold or leased, it's going to stay stagnant. It seems like 550 well designed and well-priced homes stimulating homeownership and reinvestment in the community would be a good end result.

Mr. Russell passed out a table of statistics from the Federal Reserve Bank of Saint Louis.

Mr. Russell stated that basically what he has done is laid out certain economic statistics which are relevant to home building construction and homeownership for all three counties in the State of Delaware spanning the period of 2008-2018. From that he has developed trends as to how each of those statistics has progressed. It shows how Kent County has performed relative to New Castle County and Sussex County. While it may not specifically generate or affect the Commission's decision making, it will give them a sense of why they think it's imperative to appropriately price the housing product to be developed in Eden Hill to make it a marketable community and get it off of the ground.

Mr. Russell stated that the median household income for the State of Delaware has increased over that ten-year period by about 14.5%. The statistics suggest that Kent County's has decreased by 2.1%. The home price index, notwithstanding, they couldn't make the project work

in 2008 when the home prices were higher. You will see that the home prices suggest that there was a big dip between 2008 and 2017 but they haven't fully recovered in any market in the State. Kent County's recovery has been lesser than that of the other two counties of the State. Homeownership has declined in all three counties but it has declined at a greater extent in Kent County than it has in the other two counties. Building Permits have increased across the State over that period, although Kent County lags in that area. In terms of credit quality which affects the ability of people to borrow to get mortgages to buy homes, you can see that the subprime credit percentage has decreased across all three counties but Kent County's rate of decrease is lesser than that of the other counties.

Ms. Burke stated that she is a general manager for Ryan Homes in the North Division and she was involved with Eden Hill years ago when they were first selling the community. They are excited about the opportunity to get back into Eden Hill both for the ability to provide affordable homes for the City of Dover and also to help complete the community as Mr. Iacono mentioned. Their parent company is NVR and they are headquartered in Reston, Virginia. They are one of the largest home builders in United States. They operate in fourteen States and they sell under a few different names. Ryan Homes is probably the most popular name that you would be familiar with but also Envy Homes as well as Heartland Homes. In 2017, they settled about 16,000 homes company-wide. In Delaware, they operate in all three counties primarily under the Ryan Homes brand but they do have Envy Homes that they sell at the beach in Sussex County. In the Delaware market itself, they settled over 1,100 units in 2017. By volume, they are the largest builder in the State. With their size and ability to be able to differentiate using different brands they are able to target homebuilding products to specific markets and really segment based on the geography and demographics of the homebuyers. They are reminded often that they don't create the market; they simply serve it. About 15 months ago they had some members of their team who met with some representatives from the Planning and Inspections Department for the City of Dover. They included representatives from their operations team, their sales team and their land team to discuss Eden Hill. They appreciate good design as well and they recognize that offering floor plans that are both affective with attractive architectural features and affordable homes is what's really going to help them sell. In each community, they carefully assess their market and they are tailoring their products to be able to meet the needs and also most importantly the affordability of their potential homebuyers. At Eden Hill, they think that this is going to have a couple of different components. One is going to be the townhome product and a component of a 55+ or active adult buyer product as well. The townhomes are nicely tailored to fit with the TND concept that was originally created for Eden Hill. This particular product is really all about simplicity. It's really to be efficient and to be affordable. Simply Ryan is the brand and if you are familiar with Clearview Meadows which is in Dover, this is a product that they are building currently with a tract record of success. In Clearview Meadow, they have sold about 50 townhomes in 2017. To speak to the product, they do not have products that alley load with their townhomes but they are planning to make some changes so that they can accommodate the alleys that exist in Eden Hill and then also agree to make some modest architectural changes based on some feedback that they received to help better align with the Pattern Book. The other product that they have is the Lifestyle product. This is their 55+ product and they have four different floor plans and two different elevations.

Mr. Roach questioned if the ones without the garage are more like the ones in Cannon Mills? Responding to Mr. Roach, Ms. Burke stated yes.

Mr. Roach further questioned if the one with the garage are more like the Silver Lake townhomes? Responding to Mr. Roach, Ms. Burke stated that she was not familiar with Silver Lake townhomes.

Mr. Iacono stated that they developed the Silver Lake townhomes and yes, the homes with the garage are similar to the Silver Lake townhomes.

Ms. Burke stated that the Lifestyle product that they offer is for a 55+ section of the community. They talked earlier about alleys; and from their perspective and feedback that they have received from buyers is that the alleys are just not favorable. There are a couple of reasons for that but the primary reason is safety and security. Having the garage at the back of the home and then their driveway that feeds out into the alley which allows people to drive behind their home does not lend itself for their active adult buyers to be very comfortable with that. The other piece is the loss of the yard; not having as much of a backyard space, being about to utilize that space and have more of a privacy feel with the backyard compared to having your driveway and then backing into an alley. The Lifestyle plans are single level ranch homes. They are low maintenance and they do have front entry garages which she knows has been a point of discussion. They also offer open floor plans, easy up keep, modern features and their offerings of these homes are limited to having the garages that feed onto the street. They don't have any plans that would allow the garage to be in the back of the home to have the design that would work for an alley. That is a big reason of why they are asking to have the alleyways eliminated so that they are able to make this product work for their active adult residents.

Ms. Maucher questioned with the elimination of the alleys, wouldn't they be able to increase the density rather than decreasing it? Responding to Ms. Maucher, Mr. Russell stated that the primary reason they density is reduced is because of the elimination of the multi-family units from the most recently approved plan. You eliminate those boxes of vertically constructed product and everything goes horizontal single story or the townhomes with are multi-story.

Mr. Tolbert stated in the Bahama elevation, it looks small. How many bedrooms are in that unit? Responding to Mr. Tolbert, Ms. Burke stated that they have four different plans and they range in terms of size and bedrooms but 2 to 3 bedrooms is the average size of the homes.

Mr. Holt stated that they seem to be doing fairly well in Clearview Meadows but it looks like you are competing against yourself as opposed to trying to get more development at Eden Hill. You are selling your homes in Clearview Meadows but shouldn't you be trying to push more into the Eden Hill area? Responding to Mr. Holt, Ms. Burke stated that they would love to be able to sell into Eden Hill. In Clearview Meadow, they have been selling that project for a couple of years and their townhomes are now completely sold out. They received really great feedback from the market and they were able to sell through that community. The majority of the sales were last year but they finished up and they are completely sold out of townhomes. They are completing the single-family section currently.

Mrs. Welsh stated that she would have liked to have seen a color rendition of the two-toned siding on the townhouses the way that you have done these color renditions so that she has a clearer idea of what they are planning there. Responding to Mrs. Welsh, Ms. Burke stated that they do have a color rendition. If you can see on the end units, the color differentiation on the front of the end units would carry over along the side to give some architectural interest on the corner units.

Dr. Jones questioned what would be the approximate square footage for the 55+ homes? Responding to Dr. Jones, Ms. Burke stated that they start somewhere in the 1,300 to 1,400 square foot range and go up to about 2,000 square feet.

Dr. Jones further questioned what has been considered as a general price range from the 1,300 to 2,000 square feet? Responding to Dr. Jones, Ms. Burke stated that it is not set in stone at this point but she would say low \$200,000 up to a mid \$200,000 range for an average single family home.

Mr. Roach stated that in regards to the removal of the alleyway that is not including with the two and three story section with the townhomes, it's just strictly with the 55+ community where you are asking to have the alleys removed. Responding to Mr. Roach, Ms. Burke stated yes; the removal of the alleys is for the single family homes in the 55+ community.

Mr. Roach questioned the amount of space and rooms in the three story townhome versus the two story townhome? Responding to Mr. Roach, Mr. Burke stated that the townhomes are approximately 1,200 square feet. The Plan 1220 actually indicates the square footage of the home. With either plan they have three bedrooms and then they also have two full bathrooms. There is an optional powder room as well. There is a great room area and a kitchen with that plan that is on the main level. With the three story product, there is the garage and then behind that would be some unfinished storage space as well.

Mr. Roach further questioned if Ryan Homes was the company who built the ones that are existing? Responding to Mr. Roach, Ms. Burke stated yes, they built the previous homes in Eden Hill.

Mr. Iacono stated that they are not the entity that what bankrupt. They remained a financially viable company throughout the period that has been discussed.

Ms. Maucher questioned if that in their market research, condominiums are not high on the list of interest of buyers, especially for 55+. Responding to Ms. Maucher, Mr. Russell stated that condominiums have traditionally worked in much higher density higher income areas particularly where there is transit. They work well around the D.C. suburbs and they have worked well in some Baltimore, MD markets. They don't even have a lot of them in Wilmington, DE. They have been developed along the Riverfront close to the Wilmington Train Station. Condominium development in general other than in urban situations has declined significantly since what he will call the decline in 2008. Right now, what's working very well is affordable housing product, attached townhomes for the entry level buyer and then multi-family

rentals. They think that there is strong benefit to homeownership versus rental product in most any community.

Dr. Jones stated that for those of us who live below the canal, we think there are just lots and lots of people who have moved to this area. To what extent does your marketing plan include/consider the influx of New Yorkers, Pennsylvanians and people who are looking for a better way of life in our communities? Responding to Dr. Jones, Ms. Burke stated that she would agree with Dr. Jones. They have many communities that they are currently selling today in Kent County and they do see exactly that. They see people who are coming down from New York and from Pennsylvania who are looking to improve their quality of life and get out of the city in many cases and have a higher affordability of the ability to purchase a home. For many of them in the areas that they are currently living in, that is not an option. That is currently big piece that they see today in their markets. She thinks that Eden Hill would help to continue to offer that opportunity of homeownership at a price that is affordable. That is really the goal here, is to help make it affordable and obtainable for people because in today's world there are very few options that are going to be as affordable as they would be able to offer which really broadens the ability for more people to become homeowners instead of renters.

Mr. Roach questioned if the numbers in this plan were inclusive of the already developed project? He sees 26 duplexes and he didn't see anything in the new plan. Were those the homes that were already built? Responding to Mr. Roach, Mr. Russell stated that the original 83 homes include 6 duplexes so there are an additional 20 duplexes in the proposed land plan. The plan that was handed to the Commission includes the 83 homes that have been sold. In addition to 6 of those 83 which are duplexes, there would be another 20 proposed duplexes in the Revised Plan.

Ms. Maucher stated that the TND predates her arrival on the Commission. Will it be part of the *Comprehensive Plan* to look at those designs? Does the Planning Staff believe that there is sufficient flexibility built in or is it something that needs to be looked at? Responding to Ms. Maucher, Mrs. Melson-Williams stated that the TND does have flexibility built into the district requirements that the *Zoning Ordinance* sets up. It does have flexibility built into the Pattern Book because there are selected options for materials. It sets forth the requirements for what would be a type of a single family lot versus a townhouse lot given the dimensions. How you arrange those lots is where some of the flexibility is. One of the things with the Eden Hill project is the block sizing that is established which allows for the interchangeability of lots. Where there currently is a single family lot, the width is there that it could be broken into two duplexes. The puzzle pieces can fit together differently so there is certainly flexibility there. Eden Hill is the only one that we have that went through this process and it is somewhat unique. From a *Comprehensive Plan* standpoint, she thinks that they would be looking at more over-arching housing goals and trends City-wide and not focused on a particular area. This from a *Comprehensive Plan* standpoint, has a land use classification of mixed use so it's a mix of residential and with the other districts brings in the institutional, office and commercial aspects to the overall TND. There is flexibility but she is not sure how much the *Comprehensive Plan* would target this differently. There is discussion in the *Comprehensive Plan* specifically about Eden Hill but that plan dates to that early timeframe when Eden Hill was just really getting started from a *Comprehensive Plan* perspective. It recognized Eden Hill as a unique situation, probably not ever to be replicated anywhere else in the City because of the land ownership that

was started and the interaction with the City and the State in what became the land planning for that location.

Mr. Russell stated that he is not too familiar with Sussex County but in New Castle County there are four TND projects that he is aware of. Bayberry is a very successful project that he is aware of in which the first phase was laid out in a TND design with alleyways. The majority of the project in subsequent phases was transitioned to a more traditional layout without alleys driven by economics in competing neighborhood projects which there are multiple homebuilders competing against that project. The first phase was successful; it was built before the crash and the subsequent phases have been successful but they have abandoned the TND model. Darley Green which is the very northern part of Delaware was a TND project. It went through similar foreclosure after a small number of townhomes were built. The developer of that project converted a majority of the project to multi-family rental. The remaining for sale product has been built in a TND design. It does have a transit option; it's near a train station and the TND product has been pretty successful but it has been limited to townhomes. The single family product has been replaced by multi-family rental. Whitehall is a community that is currently being built in New Castle County up near the canal. It is a TND product and it competes directly with multiple projects which aren't TND in format. It hasn't abandoned its TND approach; it's been marginally successful and has been under sales for four years. They really haven't sold many units. It's a challenge to compete because people unfortunately want backyards and they buy the traditional product because it's more affordably priced. It's actually more affordable to build and therefore you can keep the house price where the homebuyer can qualify for a mortgage. There is one other TND project in Odessa called Odessa Commons which has had some very stringent TND requirements and a commercial component. To date, no one has been able to make that project work and that project has been available for sale to developers and/or homebuilders for probably 8 years now; It's not gotten off of the ground.

Mr. Roach stated that in regards to the existing townhouse units, in what proximity would you say the 55+ community would be located in regards to the existing townhomes and to where you plan on building the other ones? Responding to Mr. Roach, Mr. Russell stated that the south portion of the community would become 55+. It would have its own separate entrance from the Parkway. The alleyways would be eliminated and the main roads would be kept. Everything above would be a combination of townhomes and duplexes. He thinks that it is important to note that the community is currently laid out has one common area with the clubhouse and open space. There are multiple open space parks. They would continue to be there but they would now separate amenities. There would be separate clubhouses for each community.

Ms. Maucher questioned how many units for the 55+ community? Responding to Ms. Maucher, Mr. Russell stated 207 units. The active adult is a single family product; it is just age restricted.

Mr. Roach stated that he is 32 years old so could the people who are 55 and up let him know their feedback in regards to how you would feel with an alleyway versus a yard. If it was his grandmother living in the home, he would not want her to have an alleyway.

Mrs. Welsh stated that people in that age range probably prefer a back yard. Right now, there is nothing she likes better than sitting on her back deck. She sees the point there and understands it. People want to have the security aspect with that age range.

Ms. Maucher stated that she has an alleyway behind her home and she likes not having to haul the trash out once a week because it's just always there. She wonders if the City looks at the difference in cost between the alley versus on-street pickup. Responding to Ms. Maucher, Mr. Lyon stated that alleyways present a problem for our trash pickup vehicles for the simple fact that the alleys were originally built very narrow and the trucks have gotten nothing but bigger. They deal a lot with property damage when the trash trucks try to go down alleys and they clip a fence or they go through someone's yard to make the turn. There is an operational impact for alleyways as opposed to street pickup. The street pickup does have other issues of course with people moving stuff back and forth but the operational impact with alleys are taken into account.

Mr. Holt stated that he has an alley and he likes it and he is not worried about security.

Dr. Jones stated that she just recently built a new home and one of the considerations was the perceived security of the home in terms of selecting the lot where the house would be built. She enjoys going out on the deck and would not be really comfortable with an alley. It's perceived security but that's what would be important to her and certainly to her family.

Mr. Roach stated that there are seven things listed as issues in regards to the TND. Obviously from the conversation we know that there is something that was done a long time ago and there is supposed to be flexibility within it. What are some of the things that the Commission can look at as far as original concerns? We spent a lot of time discussing the alleys but is there anything else that may be helpful to talk about? He is not a homebuilder so he doesn't know if whether changing the color just to add more variation or things of that nature would help. Responding to Mr. Roach, Ms. Burke stated that the colors they mentioned earlier but for townhomes she knows that there was a big focus on an end unit when it's in a prominent corner. Their plans typically do not call for the same color variation on the front of the townhomes to carry along and wrap around the side but that was an area for them where they compromised and said that they would certainly be willing to make that change to give some more architecture appeal. Another piece of feedback that they received was regarding the lack of variation with shutter and front door colors. Currently, their specs call for one consistent color which is black for the shutters and the front door. That was an area for them where they could be flexible as well and offer some variations. They certainly have tried when they have the ability to be flexible. They area that makes it difficult of them is adding additional items that have a significant cost like additional windows and other things that would drive up the cost. As they talked about previously, the point of this for them and for their marketing strategy is to really offer affordability and as soon as they start to add additional items then that does increase the cost which goes against what they are trying to do which is offer housing that can be affordable and allow people the option to become homeowners.

Mr. Roach stated that looking at it from the original plan, he can definitely see their concerns going from 651 to 547 as it pertains to density but he also has the mindset that he would rather have some development than not at all especially in the City that he loves when he knows that

we are lacking housing. He knows that you have to give a little to get a little, so he was just wondering how difficult it would be to make some of these things happen.

Mr. Holt questioned if they offer or build in any kind of security in the 55+ homes as part of the package for the homeowner? Responding to Mr. Holt, Ms. Burke stated that in many of their 55+ communities today they have a security system package that is available and it's something that they are able to have constructed when the home is built. They haven't confirmed their plan for the new floor plans that they have just discussed. Whether they would have it built with us or even after the fact, that would certainly be something that would be option and they would be able to recommend a company for them that they would be able to use.

Mr. Holt stated that he thinks that would be a big plus to allow for older homeowners. He is just surprised that this whole thing didn't fly because he remembers when it came before the Planning Commission years ago when they got their first Pattern Book. He thought that it looked great and that it would go like hotcakes. He is surprised that it faltered like it did but maybe we can get it off of the ground with a lot of new ideas. Go to the Modern Maturity Center and do a lot of presentations. Responding to Mr. Holt, Ms. Burke stated that was a great idea. They are in agreement with him; they would like to be able to see this community revived and completed as well.

Mr. Roach questioned if they have done any research in regards to the success rate as it pertains to purchasing in a 55+ community that are that close in proximity to townhomes that aren't a 55+ community and in such close proximity to North Street and the new highway? Some people might be reluctant to purchase a home in that area just because of the fact that it is so close to the other townhomes and the hospital, but he guesses that would be a good reason to be there. Responding to Mr. Roach, Ms. Burke stated that was a marketing strategy that they will use for sure. They have other active communities today where they have multiple products within the community; 55+ with townhomes and having that diversity is something that she thinks is appreciated.

Mr. Tolbert stated that he remembers when the Pattern Book first came before this body for the original development. He was relatively new on the Planning Commission then and he thought it was the most impressive development that he has seen. He was just anticipating that it was going to be developed. He has no idea that we would be at this point in time, still talking about Eden Hill but it just floundered, and he was depressed that it floundered. Will you continue to work with the Planning Staff to deal with the issues in this development? Responding to Mr. Tolbert, Mr. Iacono stated that has always been their motivation is to work with Planning. As he said earlier in his opening remarks, he understands that they are in a precarious position of trying to figure out what the City Planners would like and whatever the case may be. He has been involved from the very beginning; he never thought in a million years that it would flounder as well. As a developer who has been doing this for forty years, you have failures and you have successes, but you don't want to make the same mistake twice. He is not here because he is trying to increase the bottom line. He is here because he is proposing something that he thinks will work. He used the word "think" because if it doesn't then he doesn't know what else he can possibly do. He can tell them that if he doesn't have an able and willing bodied partner, i.e. Ryan Homes that is willing to embrace this project then there is no sense in him even starting it. He

also wants to say that they all work well with the Planning Department and they have done that for years. They know the process and understand the process; however, he just wants to underline that he feels that if this is approved, he feels that this is an administrative process. He does not want to reinvent the wheel. He doesn't want to go through the entire approval process. To him, this is an administration situation where you are going to have some engineering changes, some lot reconfiguration which he thinks in his opinion, is allowable under the TND. He doesn't want to reinvent the wheel; he can't afford to reinvent the wheel. He doesn't want to be dealing with this two years from now. His request is not only to accept the proposed changes to the building designs and the concept plans but also the due process.

Mr. Roach questioned if the Commission needs to vote on anything since this was just a conversation or do we continue to converse about how we feel about it? Responding to Mr. Roach, Mrs. Melson-Williams stated that this has been a conversation; that is what it was intended to do. There are certainly some things that could be dealt with administratively but there are other things that would require a more formal process. Just in looking at the plan that was handed out this evening, in the townhouse area the changing of lots from one unit type to another and creating the townhouse areas where the alleys are remaining intact, that can be handled more through an administrative process because the flexibility is there in both the Pattern Book and related to the Implementation Plan. What you have to have catch up, is kind of the Record Plan that actually shows the lot layout and what impact it may have to construction meaning specific utility infrastructure. Such as going from those areas that were shown to be one big apartment unit building which probably had one service connection to individual lots each with their own service connections; that's some of the engineering work. What she thinks needs certainly a more formal process with application would be the area that is proposed for the 55+ community. When you are talking about eliminating alleys and the whole combination of what they are labeling as a clubhouse open space, that really needs to go through a public hearing process because those are major changes to what would be the Implementation Plan when you start eliminating alleys. The other question would be that there are a number of other park spaces; are they going away or staying the same? When you get into that active recreation component for a 55+ community it is quite different than what was probably planned for active recreation in this southern portion of the site. She sees that as most certainly needing a more formal application process. Some of the other items that were listed as their concerns are elements of the Pattern Book. There is a Pattern Book that exists in multiple pieces, so it is very difficult to review applications. There is the original Pattern Book and then there has been five addendums which means certain words on certain pages have been changed over time but we don't have one final version. With their concepts here, there are certainly some things that are Pattern Book elements that are in black and white in that Pattern Book that they wish to not comply with which is not an option. There is flexibility in the Pattern Book but some of the things that they are listing are a must do in the Pattern Book. The shutters are one of the them. Some of the other things are more subjective in nature as to how do you make that corner unit special. The other things that are somewhat locked-in in the Pattern Book is the garage placement. The garage placement throughout the document is very specific that it is secondary in nature to the front of the building. In their version for the 55+, it is exactly the opposite; the garage is the closest thing to the street. That is a different concept that would have to go through a process before the Planning Commission as to if you are doing front loaded garages and they are going to be the prominent feature on the lot, here is how you do that. Our Pattern Book right now does not give the

guidance about how you do that. The answer for tonight is, I think you have had a conversation and you can certainly do some type of motion to reflect your conversation recognizing that there are certain elements of their concepts that could move forward administratively while other certainly would require a formal review process. As she said, this has not gone to our DAC reviewers.

Mr. Hugg stated that he thinks Mrs. Melson-Williams has summarized what the steps are. It seems to him that there are three and they may be separable to that they can work under each with their own sort of schedule. Clearly, the component that deals with the townhouses could proceed pretty quickly. As Mrs. Melson-Williams stated, is mostly an administrative kind of process. We might want to separate that off and get it moving forward. The second thing is that they need a new Site Plan or Subdivision Plan for the 55+ community that simply shows what is actually going away and what is not going away and what is being changed. We have seen some sketches on that but even the one that was handed out tonight with the large open spaces still has alleys in it. We would need to have the proposal that shows the plan that they are looking at. He thinks we need to narrow down what pieces of the Pattern Book that Staff can't administratively waive that are going to have to get approval from the Planning Commission and say what is being proposed to change so that we have something to bring back to the Planning Commission and actually have them make the formal amendment. He thinks that the dilemma that the Planning Staff is in as a result of the history of all of this, leads him to wonder if this is really a Traditional Neighborhood or really just another neighborhood development of mixed uses. He is not saying that plus or minus he is just saying that the concept of a TND versus what is being built may be a misnomer and he doesn't know if that needs to be addressed or not. Responding to Mr. Hugg, Mr. Iacono stated that in the TND you have to look at the entire body of the property. What you have proposed in this complex is a residential component, a medical facility component and a shopping center component. Eden Hill in itself, the residential portion, does not comprise the TND. When this 200-acre farm was taken into the TND zone back in 2005, the TND encapsulated the entire property. You had the residential section which is what we are speaking about today. You had the shopping center section which is floundering, and you have the medical center which has been a very successful component. That is the tri-party agreement; that constitutes the TND. The original design that the City had for this TND had retail with housing above it. They shot that down from the very beginning and said that did not work. This is not Washington DC; that went out the window. He forgot the name of the firm that the City hired to put that plan together. As he said, he traveled the Country with the City Planners as well as the State to come up with this design. As far as the 55+ community is concerned, it is a name plate. This project always contemplated carriage homes, single family homes, townhouses, condos, etc. He is not changing the format. He does agree that they are eliminating the alleys but conceptually, he is doing what this project allowed him to do at least in his opinion. As far as the Pattern Book is concerned, if we can get the Pattern Book issue resolved, which in his opinion was simply a guide. It was a component derived from a project that we visited in the Carolinas. By the way, their Pattern Book was designed after the TND project. This is only project where the Pattern Book was put together before the TND and that was a mistake. He argued that point, but it fell on deaf ears. They tried to accommodate all of these moving parts. Administratively, in his opinion, simply by taking these carriage homes or these single-family homes and making them a 55+ single-family home should be an administration situation. Yes, it has to be re-engineered but that is your normal approval process of engineering. If he has to go through

Planning and City Council and we are two years from now, they may not be interested. This is not an idle threat; he is just telling them frankly. In order for this project to work, we have to develop both the 55+ community simultaneously with the townhouses. Ryan Homes is not interested in doing half a job. He can't afford from a banking perspective and his absorption rate to develop the townhouse and then develop as a second component, the 55+ community. They have to be done concurrently, otherwise the project doesn't work economically. He is not saying all of these things because he is trying to make demands on Planning Staff. He is just citing the facts and it is up to the Planning Department to determine what they will allow and not allow. As he said earlier, he is the equitable owner so if he doesn't get what he wants because this is what he has to have to make it work, then you will deal with someone else because he can't afford to continue to process. He doesn't mean to be blunt like that but the facts are the facts.

Mrs. Melson-Williams stated that the Planning Commission can certainly react to the discussion. Staff has put on the record what they think the process needs to be under their Code provisions for the process. This would not involve City Council. The review responsibilities for revising an Implementation Plan which would be what would be happening when you are talking about the alley elimination and the clubhouse scenario in the southern portion is a Revised Implementation Plan. The other sections of the TND have certainly done that and that would be kind of Staff's take on what their Code allows them to do administratively and not administratively. She thinks that they can work with lot adjustments in the townhouses but the other is more than just a minor concept change. It's significant enough that it would require the Revised Implementation Plan. The Commission can certainly react to their comments to give them some guidance, but you can't necessarily just approve everything that they have presented in now swoop tonight and have it happen.

Dr. Jones stated that she thinks that there has been beneficial and healthy conversation this evening about this project. It seems that there may be some barriers with the process going forward without a new application of some sort. She would like to see the Planning Staff be very clear with the applicant about where there can be flexibility. She knows that Mrs. Melson-Williams has mentioned several things this evening but one of the things that she just heard is that there is a new name on the 55+ community. Responding to Dr. Jones, Mr. Iacono stated that what he was trying to imply is that they approved Record Plan that sits there today allows for carriage homes, single-family homes and other different types of homes; it's just not called a 55+ community. They could change it to single-family homes and have it a non-55+ community but based on Ryan Homes and Mr. Russell's research, demographics and demands, they felt that the 55+ community is the best fit. To build a community of 500 townhouses or other types of single-family homes that they feel they would not be able to market would not make any sense. He knows a little bit about 55+ communities because he developed The Grande apartment complex. He can tell you that the 55+ is a misnomer; no body in there is 55. The average age is 70+. At the end of the day, he went through a lot of process and sat in this room when the bank foreclosed on the previous developer. They wanted to change it (The Grande) to a market rate apartment and he said it was a mistake. They did it and then he bought it and came back and changed it back to 55+; it's a great project. The Modern Maturity is a great amenity. There are a lot of old people around here. At the end of the day, the demographics show that Kent County has a large population of older people. We feel that we can serve those needs so that is how they came up with the 55+ community.

Dr. Jones stated that it is a marketing strategy. Responding to Dr. Jones, Mr. Iacono stated that they put a separate entrance off of the West Dover Connector which when he bought the Eden Hill property ten years ago, he was promised that it was going to be built ten years ago and it never was. He already paid for new the entrance from Eden Hill onto the West Dover Connector in anticipation of this project.

Mr. Russell stated that if it helps give perspective, with the requested changes to the two product types, the architectural changes to the townhome product and the conversion of the 207 units to 55+, the projected sales pace once roads are in and lots are available, model homes have been built and the amenity packages are available to the new homebuyers, the projected sales pace in each product type is in the 10 units per quarter. That would be 40 per year per product type versus the 83 that were sold over a 5-year period under the prior development plan. Presuming that the objective is to see positive development, ratables and home product targeted to the marketplace, that would seem to be a pretty good end result.

Dr. Jones stated that it sounds like we are at somewhat of an impasse so what are they willing to do based upon this conversation: to comprise or to be flexible to meet the City's requirements? Responding to Dr. Jones, Mr. Iacono stated that a first start would be to see if we can have a meeting of the minds to come to an agreement on the Pattern Book. If we can't get past that hurdle, then there is no sense in him going forward anywhere else. The first step is to see if we can agree to the Pattern Book; that is strictly between Ryan Homes and the City. As a developer, he has no input on this because they are the ones who are building the homes. He is just putting the development in. If we can get past that hurdle, then we can decide moving forward what process they have to go through and how formal they have to be. He is concerned over time and time is money. He is afraid that if there is a market shift yet again, then he might be here again. He is trying to capture the moment and no offense to the City, but he deals with every municipality in Delaware, Pennsylvania and Maryland and things don't move quick in Dover. It takes a lot of time to get through the process and a simple change that you would think take a couple of months takes a year or two. He doesn't have that kind of time. He is not trying to be difficult he is just trying to state the facts as he honestly feels in his heart.

Dr. Jones stated that as a Planning Commissioner she agrees with that.

Dr. Jones moved that the Planning Staff and others concerned meet with Ryan Homes to have a serious discussion about this Pattern Book and how we go forward. This would be a meeting that would take place at a mutually convenient time in the near future, seconded by Mrs. Welsh.

Mr. Holt questioned if they should put a date on that? Responding to Mr. Holt, Dr. Jones stated that she thinks that would be left up to the Planning Staff and Ryan Homes.

Mr. Holt questioned if maybe the meeting could happen before the next Planning Commission meeting? Responding to Mr. Holt, Mr. Tolbert stated yes it should happen before the next meeting. Time is of the essence for this project.

Mr. Russell stated that they have had three meetings of that nature and there has been some flexibility with respect to the architectural product and that is what got them here this evening. They are happy to meet with Planning Staff again but they want to use their time efficiently and ours. He is not sure what to recommend in terms of a motion.

Mr. Tolbert stated that we have a motion on the floor and it needs to be disposed of. He is only suggesting that the motion be amended to state a definite time that the discussion should take place between Staff and the applicant.

Ms. Maucher questioned if the motion could be amended to include Staff looking at what could be done to reduce some of the barriers? Responding to Ms. Maucher, Mr. Tolbert stated that the motion has been amended by Mr. Holt to include a definite timeframe and we must dispose of that motion.

Mr. Russell stated that one of the key questions as part of the next step being dialogue, is that they really need guidance on the alleys. The elimination of the alleyways is so key to entirely half of the revised project and he realize that there are some planning procedures that need to happen for that to be approved but it would be nice to have some guidance from the Planning Commissioners as to whether that is okay. Responding to Mr. Russell, Mr. Tolbert stated that would be part of the discussion that Dr. Jones is calling for and that Mr. Holt stated should take place on or before the next meeting.

Mr. Holt stated to make sure the alleyways are in the motion as well.

Dr. Jones moved that the Planning Staff meet with Ryan Homes prior to the next Planning Commission meeting with consideration on the matter of the alleys, seconded by Mr. Holt and the motion was carried 7-0 by roll call vote. Mr. Roach voting yes; with the comment that through the dialogue between Planning Staff and this project that we figure out the process to be able to move it forward. Whether that be an amendment to the TND, whether it be the applicant filing something with the Planning Staff to be able to rectify the issues in regards to the front-loading garages and alleys so that you can continue to move forward with the project. Mr. Holt voting yes; he thinks that it is long overdue and hopefully they can get things straightened out and get this project moving ahead again. Mr. Baldwin voting yes; for the aforementioned statements. Dr. Jones voting yes; she thinks this project is worthy of further discussion and resolution where ever possible. Mrs. Welsh voting yes; she concurs with Dr. Jones. Ms. Maucher voting yes; she thinks this project is important to the City and we need to work better to overcome these kinds of barriers between getting things done quickly. Mr. Tolbert voting yes; in considering the time that we have dealt with the Eden Hill project he would like to see the thing get through and finalized.

2) Project for Dover's 2019 Comprehensive Plan

a. Update on Project Activities

Mrs. Melson-Williams stated that in the packet there was a Project Update on the 2019 *Comprehensive Plan*. It was actually presented to the City Council Committee of the Whole and along with a Power Point presentation. In that Report, they laid out what are really five phases to the *Comprehensive Plan* project, taking us from what we are doing now as information gathering

all of the way through the certification process. This chart was actually included in the Report that is in the packet. They are currently in the information gathering stage which means data. They are looking at the current plan. They have been through the Pre-Update Review through the PLUS process and have gotten comments back. They have been meeting with some agencies and have had some engagement events. One of those was the Economic Development Forum that Mr. Hugg focused on earlier that was held last Wednesday that brought a number of people together. They are continuing to gather data and will be doing so this summer. There are a number of things that they will continue to be working on. One of the things that is hot of the press as of last week is what is called the questionnaire/the survey. There is a hard copy version on the Commissioner's desks of the Survey. There is also a bright yellow card that gives the Survey link that is available online for people to take the Survey online. She certainly encourages the Commissioners to do that and share it with all of your friends and neighbors. It goes through a whole series of topics on the City of Dover and Staff wants to know your input and thoughts. Staff has worked pretty hard on that and will be doing more outreach to get that Survey notice out there and have people either take it in hard copy form or online, either one is fine. Hard copies can be returned to the Planning Office. They have put up a *Comprehensive Plan* web page that is part of the City's web page and that will be where we report on updates and things. That is also noted on the card.

b. Evaluation of 2008 Goals and Recommendations

Mrs. Melson-Williams stated that she has six out of nine Commissioners that have submitted your goals homework. Five of the nine have completed the recommendations homework. They gave that same homework to assignment to City Council and the Council Committee of the Whole members last week. She has not seen any of those come back yet. The Historic District Commission had the same homework assignment and she has had at least four of the five participate in that. Mr. Roach and Mr. Baldwin need to do the recommendation section and Ms. Maucher, we still need to hear from you.

Meeting adjourned at 9:51 PM.

Sincerely,

Kristen Mullaney
Secretary



BOHLERTM
ENGINEERING

18958 Coastal Highway, Suite D
Rehoboth Beach, DE 19971
PHONE 302.644.1155
FAX 302.703.3173

July 6, 2018
Via Electronic Email

City of Dover
Planning & Inspections
15 Loockerman Plaza
Dover, DE 19901

Attention: Dawn Melson- Williams

RE: Lidl Grocery Store
122, 136, 140, 162 Dupont
Highway & 321 Kings Highway
Tax Map#: ED-2-05-068.18-01-2000,
2100, 2200, 2300, 2400 & 2500
City of Dover
Kent County, DE
BEVA # DE140040

Dear Ms. Melson-Williams:

Pursuant to our conversations last week, on behalf of Lidl US Operations, LLC, we hereby request to extend the Planning Commission approval, dated July 25, 2016, for the above referenced project. It is our understanding that if this request is approved, the Planning Commission approval will be extended for one (1) additional year.

As discussed, Lidl and Bohler continue to work towards refining the updated site layout. Once finalized, Bohler will coordinate with your office to re-schedule the review from the DAC and Planning Commission.

Should you have any questions, please do not hesitate to contact this office at (302)644-1155. Thank you.

Sincerely,

Bohler Engineering VA, LLC

David M. Kuklish, P.E.

cc: Rachael Kashuda, Lidl U.S. Operations, LLC
Eddie Diaz, City of Dover Planning & Inspections
Christopher Mondoro, Bohler Engineering, VA, LLC
File

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DATA SHEET FOR CONDITIONAL USE SITE PLAN REVIEW

DEVELOPMENT ADVISORY COMMITTEE MEETING OF May 30, 2018

PLANNING COMMISSION MEETING OF July 16, 2018

Plan Title:	Pride of Dover Elks Lodge at 217 North Kirkwood Street, C-17-06
Plan Type:	Conditional Use Plan
Property Location:	East side of North Kirkwood Street between Cecil Street and Mary Street
Property Address:	217 North Kirkwood Street, Dover
Owner/Applicant:	Pride of Dover Elks Lodge 1125
Tax Parcel:	ED-05-076.08-05-20.00-000
Present Zoning:	RG-1 (General Residence Zone)
Site Area:	0.15 ac. +/- (6534 SF)
Prior Use:	Annual Membership Club
Proposed Use:	Annual Membership Club
Building Area:	unspecified (the existing building footprint is less than 4,122 S.F.)
Off Street Parking:	Existing – 1 space
Sewer & Water:	City of Dover

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
D.A.C. MEETING DATE: May 30, 2018

APPLICATION: Pride of Dover Elks Lodge at 217 North Kirkwood Street

FILE #: C-17-06

REVIEWING AGENCY: City of Dover Planning

CONTACT PERSON: Dawn Melson-Williams, AICP

PHONE #: (302) 736-7196

This application was previously reviewed by the Development Advisory Committee in late 2017 and then requested that consideration of the application by the Planning Commission in December 2017 be deferred. The application is resuming the review process and has submitted additional information. The Report has been updated to reflect consideration of the additional information received in May 2018. Originally scheduled for the June 2018 Planning Commission meeting, the application was postponed due to incomplete public notice. The application is now scheduled for the July 16, 2018 Planning Commission meeting.

I. PLAN SUMMARY

Application for Conditional Use Review to allow an existing one-story structure to be utilized as an annual membership club serving members and their guests for the Pride of Dover Elks Lodge. The property consists of 0.15 +/- acres. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of North Kirkwood Street, between Cecil Street and Mary Street. The owner of record is Pride of Dover Elks Lodge 1125. Property Address: 217 Kirkwood Street. Tax Parcel: ED-05-076.08-05-02-20.00-000. Council District 4.

Previous History of Site

Identification Site of Non-Conforming Use

The building at 217 North Kirkwood Street previously was operated as the Lodge building of the Pride of Dover Elks Lodge 1125 (the Lodge). Our electronic records indicated that it held a Public Occupancy Permit as a "Clubhouse" from 1998 through May 2017.¹ There are other permits and licenses related to fire protection elements in the building (i.e. hood system in commercial kitchen).

In August 2016, this property at 217 North Kirkwood Street was identified as a non-conforming use in a residential zone² and the owner was notified. The use of the building as the Lodge was not a permitted use in the RG-1 zone; such a use (as an annual membership club) was only

¹ The electronic records of City permits/licenses exist from 1998 to the present utilizing the Naviline/H.T.E. software system. Prior records are paper sources that are not readily searchable.

² In December of 2015, the Dover City Council directed the Department of Planning & Inspection to begin enforcing the provisions of the *Zoning Ordinance*, Article 7, Section 1.53 related to the sunseting of non-conforming uses in residential zones. A study was conducted in 2015-2016 to identify such non-conforming uses and notification to property owners made so that options for coming into compliance could be addressed.

permitted through a Conditional Use process. Since the Lodge use was established prior to the enactment of the *Zoning Ordinance* (and thus prior the requirement for the Conditional Use process), it could be continued if it was in operation as an annual membership club open only to Lodge members and their guests. In October 2016, representatives of the Lodge provided documentation to Planning Staff confirming that by their Constitution and By-Laws the Lodge was open only to members and guests. However, upon notification of access of public (without sponsorship of a member) it was determined to be a non-conforming use and given notice to cease operations (Planning Director's Letter of January 11, 2017).³ The Public Occupancy Permit as a "Clubhouse" was inactivated. In July 2016, the building was identified as a Vacant Building under the property of the Vacant Building Ordinance of the City (Code Enforcement Case #17-2096).

II. PROJECT DESCRIPTION

With this application, the applicant proposes to use the existing structure at 217 North Kirkwood Street as an annual membership club serving members and their guests. This would be to reopen and recommence operations of the Pride of Dover Elks Lodge. From the application documents (description and plan dated 11/3/2017 and information packet of 5/18/2018), there appears that no changes to the site or the building are proposed. The use as an annual membership club requires Conditional Use Review by the Planning Commission in order to be established.

The submitted description (dated 11/3/2017) describes the site and building along with the immediate surroundings of the area. It notes that the building was originally constructed in the 1950s as a Lodge and the internal spaces include offices, a commercial kitchen, meeting space, and a basement lounge area with bar. The membership club intends to make use of on-street parking opportunities as the parking on the site is limited to only a small paved area for drop-off/loading.

The submitted information packet (received 5/18/2018) describes the Pride of Dover Lodge #1125 (men) and Pride of Dover Temple #784 (women) and the organization of these groups and their events/activities. In the proposal, they discuss operation of the kitchen, a future plan to serve alcohol, implementation of security measures, identification of members (cards), establishment of committees for management of facility & activities, and a Visitor/Guest book system. They indicate their willingness to meet with the Police Chief to discuss their plans; a meeting was held on May 17, 2018 with the Mayor and the Dover Police Chief.

Adjacent uses to the site are primarily one-family residences in the RG-1 (General Residence Zone). The Lodge is owner of the adjacent house to the north of the subject property; it has an active Rental Dwelling Permit from the City. The next parcel north is also owned by the Lodge and is a large open lot with trees and grass.

III. ZONING REVIEW

RG-1 Zoning District

The property's proposed use as an annual membership club would be conditionally permitted in the RG-1 Zone. According to *Zoning Ordinance*, Article 3 §2.11, the permitted uses in the RG-1

³ City was notified by Lodge access achieved by undercover agents of Division of Alcohol and Tobacco Enforcement (enforcement activities associated with the Lodge's holding of a liquor license). Letter of January 11, 2017 is on file in the Planning & Inspections Office.

Zone includes any uses permitted in the One-Family Residence zones (*Zoning Ordinance*, Article 3, Section 1). *Zoning Ordinance* Article 3 §1.14(c) includes the following permitted conditional uses for One-Family Residence zones:

Article 3 - District Regulations

Section 1. One Family Residence zones.

1.14 The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in section 10.1 and to any specified requirements set forth below:

(c) Country clubs or other annual membership clubs, catering exclusively to members and their guests, and accessory private playgrounds, golf courses, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, provided that the following operations shall be prohibited:

- i. Outdoor entertainment, live or mechanical;
- ii. The use of outdoor public address systems for any purpose; and
- iii. Exterior lighting producing glare at the lot line other than that essential for the safety of the users of the premises.

No building erected under the provisions of this paragraph [subsection 1.14(c)] shall be so erected nearer than 50 feet to any street or property line.

The proposed use will be located in an existing building that predates the adoption of the *Zoning Ordinance*. As the existing building does not meet the setback requirement of 50 feet from any street or property line as prescribed in the Code, the building is considered a legal non-conforming building. The building can continue to be located where it was originally constructed (*Zoning Ordinance*, Article 7 – Nonconforming Buildings and Uses).

Conditional Use Review

Conditional Uses are subject to the requirements of Article 10 §1 of the *Zoning Ordinance*. With Conditional Use applications, the Planning Commission reviews the proposed project to determine whether or not the intended use is appropriate in type and scale for the immediate neighborhood. The Commission must also consider whether or not the proposed use will have an adverse impact on the future orderly development of the surrounding area. Below are the objectives of the *Zoning Ordinance* which the Commission should consider in reviewing Conditional Use applications:

Article 10

Section 1. - Approval of conditional uses.

On application and after public notice and hearing, the commission may authorize the issuance by the city planner of permits for any of the conditional uses for which this ordinance requires, in the district in which such use is proposed to be located. In approving any such use, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

1.1 *Accessibility for emergency response.* That all proposed structures, equipment or material shall be readily accessible for fire, ambulance, police, and other emergency response;

1.2 *Harmony of location, size and character.* That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;

1.3 *Residential zones.* That, in addition to the above, in the case of any use located in, or adjacent to, a residential zone:

1.31 The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood; and

1.32 The location and height of buildings, the location, nature and height of walls and fences, the nature and extent of landscaping, and other improvements on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

If the Planning Commission approves a Conditional Use, the use is granted as a Conditional Use Permit. Such permits may be permanent, subject to limitations outlined in *Zoning Ordinance* Article 10 §1.41, or be required by the Commission to undergo periodic renewal, using the procedure described in Article 10 §1.42. Any Conditional Use Permit, permanent or not, may be revoked using the procedure described in Article 10 §1.43 if the conditions prescribed by the Commission in conjunction with the issuance of the Conditional Use Permit have not been, or are no longer being complied with.

For a property seeking Conditional Use approval which does not need associated Site Development Plan approval (due to occupying an existing building), Article 10 §1.8 outlines the submission requirements. These requirements include a map of the property showing existing conditions with the appropriate legal data and a written description of the proposed use.

IV. PARKING SUMMARY

Parking regulations in the RG-1 Zone are listed only for residences. Article 6, §3.1 of the *Zoning Ordinance* also does not list parking requirements for annual membership clubs. Therefore, the *Zoning Ordinance* does not have any specific parking requirements for the proposed use.

There is a paved area that may allow for one parking space on-site. On-street parking is available in the surrounding area, especially north of the site.

Bicycle Parking

The site does not currently appear to have bicycle parking. Because a Site Development Plan is not associated with this application, there is no automatic requirement to provide new bicycle parking.

V. SITE CONSIDERATIONS

Sidewalks

There is existing street frontage sidewalk along North Kirkwood Street. There is a paved area leading to the building entry.

Dumpsters

There is not a specific Dumpster requirement for the use as an annual membership club. The property is currently on City trash collection services. The collection containers appear to be stored on the north property line adjacent to a fence and then moved curbside for collection.

VI. BUILDING ARCHITECTURE

The building is an existing building and no changes are currently proposed to its exterior appearance. The building has the outward appearance similar to a one-story residence

VII. TREE PLANTING AND LANDSCAPE PLAN

All projects requiring approval by the Planning Commission must provide enough trees to meet the minimum tree density specified in Zoning Ordinance, Article 5 §16.62. Based on the 6,534 SF property size, the site must have three (3) trees. The submitted plan does not identify tree locations so it is not known how many existing trees there are on site. If there are fewer than three, additional trees must be planted.

VIII. CITY AND STATE CODE REQUIREMENTS

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:

- 1) The applicant as part of their Conditional Use Plan submission has provided a plan diagram of the property, a written description of the property and its surroundings, and an information packet on the organization. These items provide details on the Lodge operating as "an annual membership club serving members and their guests."
- 2) Update the submitted Property description to correctly identify the zoning of the property as RG-1. Also check statement on fire code items for clarity.
- 3) On the Site Plan sheet:
 - a. Revise the listing of proposed use to be: Annual Membership Club
 - b. Revise the setback requirements to be 50 feet from street and property lines. Also note the status as existing legal non-conforming as to these setbacks.
 - c. Add size of building as building footprint and total building floor area.
- 4) The Final Plan documents must include notes indicating the action taken by the Planning Commission and list any conditions of approval. The plan documents must be revised to reflect all changes required by the Planning Commission.
- 5) Add information on existing trees on the property. If fewer than three (3) trees are currently planted on the site, additional trees must be planted so the site meets this minimum. A Landscape Plan must be prepared for the Planning Office and certified by an architect, landscape architect, or Delaware certified nursery professional if additional trees are required.
- 6) If the City's Public Works Department will not continue to collect trash from this site, a dumpster must be provided for private collection. Construction of screening for the dumpster

in accordance with zoning requirements will require a Building Permit.

- 7) All requirements by the City Building Inspector and City Fire Marshal related to the occupancy of the building as an annual membership club must be complied with.

IX. RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

In accordance with the *Zoning Ordinance*, Article 10 §1, the Planning Commission in considering and acting upon Conditional Use Plans may prescribe appropriate conditions and safeguards so that the public health, safety, and welfare, the comfort and convenience of the public in general, and the residents of the immediate neighborhood in particular shall be taken into consideration. These safeguards may to the maximum extent possible further the expressed intent of the *Zoning Ordinance* and the accomplishment of several objectives in particular listed in subsections 1.1 to 1.3. To meet these code objectives, Planning Staff recommends the Planning Commission prescribe the following conditions and safeguards:

- 1) With the submission of the detailed description of the use, the Planning Office suggests following conditions regarding the Conditional Use Permit for use of the existing building as “an annual membership club serving members and their guests”:
 - a. That the reopening of the annual membership club NOT include the service of alcohol at this time. From the comments received from the Office of the Fire Marshal, the service of alcohol would require a number of improvements to the fire protection systems (i.e. additions of a fire alarm, sprinkler system, upgraded water service, etc.) at the building. In addition, the service of alcohol requires a separate compliance with State regulations and licensing procedures with Alcohol Beverage Control (ABC) Commission.
 - b. Staff recommends that the property when seeking to include the service of alcohol at the facility be required to re-apply to expand the Conditional Use Permit to include the service of alcohol. This would be subject to a new application filing for review and public hearing with the Planning Commission in accordance with the *Zoning Ordinance*. By separating this function as a future activity, it will allow the appropriate planning by the organization for the required building improvements, management, and preparation for acquisition of alcohol license.
- 2) To further subsection 1.1 related to accessibility for emergency response and subsection 1.31 related to size and intensity of operations in residential zones, Staff requires adherence to the occupant loads for the use as established by the City’s Office of the Fire Marshal and that the fire protection measures in the existing building be fully operational (i.e. fire extinguishers, smoke detectors, emergency lighting and signage, etc.).
- 3) To further subsection 1.31 related to size and intensity of operations in residential zones, Staff recommends that at least one (1) bicycle parking space be required to be installed so that a bicycle may be appropriately parked at the site.
- 4) To further subsection 1.2 related to harmony of location, size, and character, Staff recommends that any Conditional Use Permit granted for the use be periodically renewed in accordance with *Zoning Ordinance*, Article 10 §1.42. This renewal should be

scheduled for one year from Planning Commission action.

X. ADVISORY COMMENTS TO THE APPLICANT

- 1) In the event that major changes and revisions to the plan occur in its finalization, contact the Planning Office. Examples include relocation of site components and increases in floor area. 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) In the event, that there are changes to the architecture, building footprints, layout or square footage of the building contact the Planning Office. These changes may require review by the Planning Commission.
- 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) Following Planning Commission approval of the Conditional Use Plan, the Plan must be revised to meet all conditions of approval from the Development Advisory Committee or as otherwise noted.
- 5) For the use in an existing building, the requirements of the building code and the fire code must be complied with. Consult with the Chief Building Inspector and City of Dover Fire Marshal for these requirements.
- 6) The applicant shall be aware that Conditional Use 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 may require a Sign Permit from the City of Dover prior to placement of any such sign in accordance with *Zoning Ordinance*, Article 5 §4.
- 7) The applicant shall be aware that Conditional Use 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. An Administrative Building Permit may be required in order to establish this use in the building along with other permits such as a Public Occupancy Permit.

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: MAY 30, 2018

CITY OF DOVER
**Electric &
Public Works
Departments**

APPLICATION: Pride of Dover Elks Lodge at 217 North Kirkwood Street

FILE #: C-17-06

REVIEWING AGENCY: City of Dover Electric and Public Works Departments

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

CONTACT PHONE #: ELECTRIC - 302-736-7072 PUBLIC WORKS – 302-736-7025

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

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

CITY AND STATE CODE REQUIREMENTS

ELECTRIC

1. Owner is responsible for locating all water, sewer, and storm sewer lines.
2. Owner is responsible for site and/or street lighting.
3. Any relocation of existing electrical equipment will be engineered by the City of Dover Electric Department. Developer may be required to perform a quantity of the relocation. Any work performed by the City of Dover will be at the owner's expense.
4. Must maintain 10' clearance around all electrical equipment, unless pre-approved by the City of Dover Electric Engineering Department.
5. Prior to the completion of any/all designs and estimates, the owner is responsible for providing the Electric Engineering Department with a physical address of the property.
6. All Engineering and design for Dover Electric will be engineered upon receipt of final approved plans. All Engineering work will be furnished by the City's Electric Engineering Department.

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 meter / service / main 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. (Please note that each water meter registered with the City of Dover must have a separate service line.) Should the existing water and sanitary sewer 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 Department of Public Works standards and specifications.
2. Any redevelopment shall adhere to the City of Dover Water/Wastewater Handbook, the Specifications, Standards & Procedures for City of Dover Public Works requirements, and the City of Dover's Electric Service Handbook.
3. Please note that renovations and or change of use projects must ensure that the water and wastewater service is brought up to current requirements. This may include relocating the water meter outside or changing service line sizes. The developer is responsible for all costs associated with required upgrades. Please ensure you schedule a meeting with the Department of Public Works during the planning phase for this site. Additional impact fees may apply for future development.

STORMWATER/SANITATION/GROUNDS/STREETS

1. None

GENERAL

1. The final site plan must be submitted in a digital format compatible with AutoCAD 2010 (.dwg format) and Adobe Reader (.pdf format).

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC

1. Owner must give the City of Dover Electric Department three (3) months notice prior to construction. Owner is responsible for following the requirements outlined in the City of Dover's Electric Service Handbook. The handbook is now available on the website at the following link: <http://www.cityofdover.com/departments/electric/documents/>.

STREETS / WATER / WASTEWATER / STORMWATER / GROUNDS / GENERAL

1. None

SANITATION

1. This site is currently being serviced by the City of Dover. If a change to the service is required, please contact our office to discuss options.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC

1. None

WATER

1. Water impact fees may be associated with this project.
2. This lot shall be served by a single water service line, which shall be furnished and installed by the property owner. In the event a property contains multiple principal structures, the property shall be served by a single water main where a water service line may be provided to each principle structure. Each structure, which is capable of being offered for sale, shall have its own separate water facilities.

WASTEWATER

1. Wastewater impact fees may be associated with this project.
2. This lot shall be served by a single sanitary sewer lateral, which shall be furnished and installed by the property owner. In the event a property contains multiple principal structures, the property shall be served by a single sanitary sewer main where a sanitary sewer lateral may be provided to each principle structure. Each structure, which is capable of being offered for sale, shall have its own separate wastewater facilities.

STORMWATER/SANITATION/STREETS/GROUNDS/GENERAL

1. None

GENERAL

1. Construction plans will not be reviewed by our office unless all previous comments have been clearly addressed within the plan set and accordingly identified within an itemized response letter and with the Water/Wastewater Initial Plan Submission Checklist, which can be obtained from the following website: https://imageserv9.team-logic.com/mediaLibrary/198/WaterWastewaterHandbookFinal_1.pdf, page 88.

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: 06/06/18

APPLICATION: Pride of Dover Elks Lodge at 217 North Kirkwood St

FILE #: C-17-06 **REVIEWING AGENCY:** City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Fire Marshal

PHONE #: (302) 736-4457

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

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

CITY AND STATE CODE REQUIREMENTS:

1. Proposed building is "existing" assembly. Conditional use is for the land use (zoning).
2. The installation of natural gas and LP gas meters, regulators, valves, and LP gas bottles shall be protected from impact damage by impact protection. Natural gas and LP gas meters, regulators, and valves located inside structures shall have impact protection, except when located in separate protected utility rooms.

Dimensions of bollards. Bollards shall be a minimum of six-inch diameter filled with concrete. The bollard shall be set into the ground at a depth of at least 36 inches (three ft.) embedded in concrete at a minimum of 18 inches surrounding the bollard. The bollards must be a least 48 inches (four ft.) in height above the finish grade elevation. Any deviation of the stated requirements must be approved by the fire marshal and/or chief building inspector. The above dimensions shall serve as the requirement for installation; however, the fire marshal and/or chief building inspector shall have the authority to require more stringent dimensions to fit the needs of devices warranting impact protection.

Color of bollards. Bollards should be of the following colors; yellow, amber or orange. All colors shall be of fluorescent or have a reflective coating. Any deviation of the stated requirements must be approved by the fire marshal and/chief building inspector.
(City of Dover Code of Ordinances, 46-4)

3. Every house, building or structure used or intended for use as living quarters or as a place for conducting business, and having any wall facing or abutting any public or private street or alley, shall have displayed on that wall, in legible, easily read characters which are of contrasting color

to the background, the proper street number for such house, building, or structure in accordance with the following:

One-family and two-family residential structures, height, the number shall measure a minimum of four inches in height, *location*, the number shall be placed on the house above or to the left or right of the front entrance, *color*, the number shall be contrasting to the background color, *Arabic numerals*, all numbers shall be Arabic numerals.

Multiple-family dwellings, measurements, the number shall measure a minimum of six inches when identifying individual apartments with exterior doors, and 12 inches when identifying buildings with apartment complexes where there are two or more buildings not assigned street addresses. Individual buildings with street addresses shall have numbers measuring six inches, *location*, numbers shall be placed either in the center of the building or on the street end of the building so as to be visible from either the public or private street or from the parking lot, *color*, numbers shall be contrasting to the background color, *Arabic numerals*, all numbers used shall be Arabic numerals.

Commercial, industrial and office buildings, height, the numbers shall measure a minimum of 12 inches in height, *location generally*, numbers shall be placed either in the center of the building or on the street end of the building so as to be visible from either the public or private street or from the parking lot,

property line or driveway, should the building be located far enough from a public or private road so that the numbers are not clearly visible from the street, then the street address shall also be posted on the property at or near the property line or driveway to said building,

color; each building, numbers shall be contrasting to the background color and shall be placed on each building in the complex,

Arabic numerals, all numbers used shall be Arabic numerals,

Shopping centers. Shopping centers consisting of two or more stores shall have a tenant or suite number affixed to the front of the tenant space and on the outside of the rear door which corresponds with that tenant space. Numbers shall measure six inches in height.
(City of Dover Code of Ordinances, 98-344)

4. Project to be completed per approved Site Plan.
5. Full building and fire plan review is required.
6. Construction or renovations cannot be started until building plans are submitted and approved.
7. Fire alarm systems, fire suppression systems, hoods, and hood suppression systems require a fire permit from the Fire marshal's Office. This work cannot be started until the permit is approved.
8. Building cannot be occupied by the public until a Certificate of Occupancy is obtained.

ADDITIONAL / SPECIFIC REQUIREMENTS TO OBTAIN APPROVAL:

1. During the last inspection, the building had the following:
 - Commercial cooking appliances with hood and hood suppression system (need to ensure that this has had an annual inspection and cleaning)
 - Fire Extinguishers (need to ensure that they have had an annual inspection)
 - Smoke Detectors (need to ensure that all are operable)
 - Emergency Lights (need to ensure that all are operable)
 - Emergency Exit Signs (need to ensure that all are operable)
 - The occupant load on file is the following: downstairs 118, upstairs 101
 - Building is not currently sprinklered
 - Building does not have a fire alarm
2. An annual fire and life safety inspection would be required. Any deficiencies would need to be corrected prior to a license being issued.
3. A letter stating what the downstairs and upstairs are being utilized for is required
4. A letter has been provided in reference to security. Any door holders and door locks must be code compliant.
5. A letter has been provided which proposes the sale of alcohol to be implemented in the future. Due to the ABC license being revoked, if a new ABC license is applied for and approved, the following shall apply:
 - Fire Alarm System required per occupancy code requirements.

Fire alarm in place of assembly. *Fire alarm required.* Any new occupancy or new portion of an occupancy determined to be a place of assembly by the fire marshal, and is capable of receiving an occupant load of 75 persons or greater, shall be required to install a fire alarm in accordance with NFPA codes governing the installation of fire alarms and the National Electrical Code.

Fire alarm system required. Any existing occupancy or portion of an existing occupancy determined to be a place of assembly by the fire marshal, and is undergoing renovations in excess of 50 percent of the assessed value of the building and is capable of receiving an occupant load 75 persons or greater or is being enlarged to receive an occupant load of 75 persons or greater, shall be required to install a complete fire alarm system in accordance with NFPA codes governing the installation of fire alarms and the National Electrical Code.

Public mode audible requirements. To ensure that audible public mode signals are clearly heard by occupants of a structure, they shall have a sound level at least 15 decibels (dB) above the average ambient sound level or five decibels (dB) above the maximum sound level having a duration of at least 60 seconds, whichever is greater, measured five feet (1.5m) above the floor in the area required to be served by the system using the A-weighted scale dBA. In the event the stated requirement cannot be met a shunt trip relay/switches shall be the approved method of meeting the intent of this section of the Code.

(City Code of Ordinances 46-171)

- Sprinkler system required. System is to be monitored by an approved Fire Alarm System.

This chapter shall apply to all buildings, structures, marine vessels, premises, and conditions which are modified by more than 50% after the effective date of these Regulations. The 50% figure shall be calculated utilizing the gross square footage of the building, structure, marine vessel, premises and conditions as to arrive at the correct application.

Any proposal that is presented to the Office of the State Fire Marshal for review and approval for a building rehabilitation as defined in the 101 Life Safety Code, for less than 50% of the gross square footage of a non-sprinklered building, may not have another such project for the same building submitted for review and approval any sooner than three (3) years after the date of the final inspection unless sprinkler projection is provided throughout the entire building.

In all buildings exceeding 10,000 square feet of aggregate, gross floor area.

In all buildings in excess of 40 feet in height or more than four (4) stories in height.

In all buildings or areas thereof used for the storage, fabricating, assembling, manufacturing, processing, display or sale of combustible goods, wares, merchandise, products, or materials when more than two (2) stories or 25 feet in height.

In all basement areas exceeding 2,500 square feet floor area.

In residential occupancies when of: Type V (0,0,0) or Type III (2,0,0) construction and exceeding two (2) stories or 25 feet in height. Type V (1,1,1) and Type III (2,1,1) or

Type IV (2,H,H) construction exceeding three (3) stories or 3 In all residential apartment buildings storage areas except individual unit closets that are located within individual residential living units.

In all buildings used as health care occupancies as defined in the Life Safety Code, NFPA 101, as adopted and/or modified by these Regulations. In all buildings or areas classified as "high hazard" under the Life Safety Code, NFPA 101, or "extra hazard" under the Standard for the Installation of Sprinkler Systems, NFPA 13, as adopted and/or modified by these Regulations.

All buildings used as dormitories, in whole or in part, to house students at a public or private school or public or private institution of higher education. (16 Del. C. Ch. 88) This applies to all such dormitories regardless if new or existing.

(2015 State of Delaware fire Prevention Regulations, 702, Chapter 4)

Places of assembly shall be sprinklered throughout in accordance with the most recently adopted edition of NFPA 13 when the following apply:

All new indoor places of assembly with an occupant load of 150 persons or greater.

Any interior renovations of 50 percent or more to an existing place of assembly with an occupant load greater than 150 persons.

Any additions or increase in interior size to an existing place of assembly that would create an occupant load of 150 persons or greater.

Places of assembly where alcohol is served for consumption on the premises shall be sprinklered throughout in accordance with the most recently adopted edition of NFPA 13 when the following apply:

All new indoor places of assembly with an occupant load of 100 persons or greater and where alcohol will be served for consumption on the premises.

Any interior renovation of 50 percent or more to an existing place of assembly with an occupant load greater than 100 persons and where alcohol will be served for consumption on the premises.

Any additions or increase in interior size to an existing place of assembly which would create an occupant load of 100 persons or greater and where alcohol will be served for consumption on the premises.

New educational occupancies of 5,000 square feet or greater shall be sprinklered throughout in accordance with the most recently adopted edition of NFPA 13.
(City of Dover Code of Ordinances 46-162)

- Fire Department Connection is to be a 5-inch storz connection on a 30 degree elbow located within 50 feet of main entrance. Access to the Fire Department Connection must be clear unobstructed access as defined by the AHJ.
- Parking and/or obstructions shall be prohibited in front of fire department connections for a distance measuring from the center line and extending four feet on both sides.
(2015 Delaware State Fire Prevention Regulations, 705, Chapter 5, 6.3.4)
- Fire Department Connection to be located within 300 feet of fire hydrant, measured as hose would come off the fire equipment.
- A lock box (Knox) containing any and all means necessary for fire department access shall be provided at the following occupancies: any occupancy that contains a fire alarm signaling system that is monitored off-site, or any occupancy that contains an automatic sprinkler system.

(2015 Delaware State Fire Prevention Regulations 705, Chapter 5, 2.4)

Secured key systems. When required; exemption. A secured key system shall be required for any new or existing building where a fire alarm or sprinkler system is being installed. It shall be the responsibility of the owner or occupant to keep a set of keys in the secured key box that are current to the locks of the protected occupancy.

Buildings with 24-hour staffing or guard service shall be exempt from this subsection.

Location. The secured key system shall be located as close to the main entrance as possible. Should the building design not allow the secured key system to be located by the main entrance, the fire marshal and fire chief shall come to an agreement as to an alternate location for the key box. A secured key system, once installed, shall not be obstructed from view or obstructed by any means that would delay the fire department access to the box.

Required keys. Keys to be secured in the key box shall include keys to all points of ingress or egress, whether on the interior or exterior of the building, and keys to locked mechanical rooms, electrical rooms, elevator rooms, fire alarm and sprinkler controls and any area protected by automatic fire detection. Keys to individual residential apartment units are not required.

Ordering responsibility. It shall be the responsibility of the general contractor to order the key box for new buildings. It shall be the responsibility of the owner or tenant to order the key box for existing buildings.

Installation before testing. No acceptance test for sprinklers or fire alarms shall be conducted before the installation of a key box.
(City Code of Ordinances 46-127)

Knox Box to be mounted 6 feet above ground level

APPLICABLE CODES LISTED BELOW (NOT LIMITED TO):

2015 NFPA 1 Fire Code (NFPA; National Fire Protection Association)

2015 NFPA 101 Life Safety Code (NFPA; National Fire Protection Association)

2013 NFPA 72 National Fire Alarm and Signaling Code (NFPA; National Fire Protection Association)

2013 NFPA 13 Installation of Sprinkler Systems (NFPA; National Fire Protection Association)

2009 IBC (International Building Code)

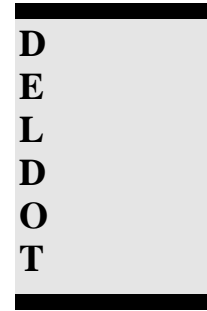
Latest editions of all other NFPA Codes as defined by the Delaware State Fire Prevention Regulations

2015 Delaware State Fire Prevention Regulations

City of Dover Code of Ordinances

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

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
D.A.C. MEETING DATE: May 30, 2018



=====

APPLICATION: Pride of Dover Elks Lodge (217 North Kirkwood Street)

FILE#: C-17-06

REVIEWING AGENCY: DelDOT

CONTACT PERSON: Joshua Schwartz

PHONE#: (302) 760-2768

=====

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:

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

No Comments.



KENT CONSERVATION DISTRICT

800 BAY ROAD SUITE 2 • DOVER, DELAWARE • 19901 (302) 741-2600 EXT. 3 • FAX (302) 741-0347

DEVELOPMENT ADVISORY COMMITTEE APPLICATION REVIEW COMMENTARY June 2018

APPLICATION: Pride of Dover Elks Lodge at 217 North Kirkwood Street

FILE #: C-17-06

REVIEWING AGENCY: *Kent Conservation District*

CONTACT PERSON: *Jessica L. Verchick, EIT*

PHONE #: 741-2600 ext.3

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:

Source: 2014 Delaware Sediment and Stormwater Regulations

CITY AND STATE CODE REQUIREMENTS:

1. The Kent Conservation District has no objection to the conditional use approval of the above referenced site.

ADVISORY COMMENTS TO THE APPLICANT:

1. If at any time expansion or earth disturbing activity (clearing, grubbing tree clearing etc.) takes place and exceeds 5000 square feet; a detailed Sediment and Stormwater Management Plan must be submitted to, reviewed by and approved by The Kent Conversation District.



SITE DATA	
1. OWNER OF RECORD:	PRIDE OF DOVER BLDG LODGE 1128 217 NORTH HARRISWOOD STREET DOVER, DELAWARE 19803 (302) 734-4001
2. ENGINEER / SURVEYOR:	BECKER MORGAN GROUP, INC. 308 SOUTH GOVERNORS AVENUE DOVER, DELAWARE 19804 (302) 734-7700
3. PROPERTY MAP NUMBER:	2-05-078-08-02-00-00-0001
4. ZONING CLASSIFICATION:	EXISTING: RD-1 / CITY OF DOVER PROPOSED: RD-1 / CITY OF DOVER
7. PRESENT USE:	VACANT
8. PROPOSED USE:	ANNUAL MEMBERS CLUB
9. TOTAL SITE AREA:	0.10 ACRES
10. SUPERVISOR COVERAGE:	EXISTING: 4,122 S.F. (0.09 ACRES) PROPOSED: 4,122 S.F. (0.09 ACRES)
12. SETBACKS:	FRONT: 15 FT. SIDE: 10 FT. REAR: 30 FT.

CONDITIONAL USE SITE PLAN
PRIDE OF DOVER LODGE
I.B.P.O.E. OF W. 1128
CITY OF DOVER
KENT COUNTY / DE



ARCHITECTURE
ENGINEERING
DOVER, INC.
308 S. GOVERNORS AVE.
DOVER, DE 19804
Ph: 302.734.7700
Fax: 302.734.7705

ISS: 2/17/2020
SCALE: 1" = 40'
DATE: 1/28/21
DRAWN BY: J.M.K.

1



ARCHITECTURE
ENGINEERING

PLANNING OUR
CLIENTS' SUCCESS

BECKER MORGAN GROUP, INC.
ARCHITECTURE & ENGINEERING

309 SOUTH GOVERNORS
AVENUE
DOVER, DE 19904
302.734.7950
FAX 302.734.7965

PORT EXCHANGE
SUITE 300
312 WEST MAIN STREET
SALISBURY, MD 21801
410.546.9100
FAX 410.546.5824

ARCHITECTURE & PLANNING

SUITE 211
3805 RANDALL PARKWAY
WILMINGTON, NC 28403
910.341.7600
FAX 910.342.7606

www.beckermorgan.com

November 3, 2017

Mrs. Dawn Melan-Williams, AICP
City of Dover
Department of Planning and Inspections
P.O. Box 475
Dover, DE 19903-0475

RE: **Conditional Use Permit Application**
PRIDE OF DOVER ELKS LODGE 1125
Dover, Delaware
2017212.00

RECEIVED

NOV 3 - 2017

CITY OF DOVER
PLANNING & INSPECTIONS

Dear Dawn:

On behalf of our client, The PRIDE of Dover Elks Lodge 1125, we are hereby submitting an application for a Conditional Use Permit for the Lodge located on North Kirkwood Street in the City of Dover. The lodge members wish to reopen their doors and commence operations of the club. To do so, a conditional use permit is required by the City of Dover for an Annual Membership Club serving its members and their guests in an RG-2 Zone. We are submitting this application and plan for consideration at the December 18, 2017 Planning Commission meeting. We are providing the following:

1. Conditional Use Permit Application.
2. Application for Mailing List.
3. Project Contact List form.
4. Twenty (20) copies of the site plans.
5. A check in the amount of \$450.50 for the application fee.
6. A narrative in support of our application.

We request this project be included on the agenda for the December Planning Commission meeting.

Please contact me with any questions you may have.

Sincerely,

BECKER MORGAN GROUP, INC.


Jonathan N. H. Street
Civil Designer

JNS/rjh

Enclosures

cc: Jane Downes - Dover Elks Lodge
Aaron Baker - Bayard Mandalas Brockstedt LLC

201721200ad-COD-ltr.docx

The members and the board of the Pride of Dover Elks Lodge No. 1125 located on 217 North Kirkwood Street, seek a conditional use permit to reopen the doors to their lodge. The subject property, located on the North end of Kirkwood Street between Mary and Cecil streets was built back in the 1950's for the sole purpose of housing this Elks Club in Central Dover, Delaware. As the subject property is zoned RG-2, in accordance with the city's zoning code, a private membership club serving members and their guests is allowable by conditional use, approved by the Dover Planning Commission in this zone.

Building was constructed for the sole purpose of the lodge. This is not a home that has been renovated into a makeshift lodge. It contains offices, a commercial kitchen, meeting space and a basement lounge area with a bar.

The city's code stipulates that the conditional use permits meet or demonstrate certain criteria which include; access for emergency response, harmony of location size, and character of the use that will not impede pedestrian and vehicular traffic in the neighborhood surrounding area during the practice of the intended use and lastly, that the use will not hinder or discourage appropriate development of the neighboring structures or homes in the area. This narrative and associated site plan are intended to aid in the demonstration of how the Elks Lodge can meet these criteria. For the conditional use.

The existing structure, is located approximately 25 feet from the edge of the street, well within the allowable distance from the fire and lane specified by the current fire code for any new structure. The curbs are painted yellow to prohibit parking in front of the structure and there is a concrete apron and paved area adjacent to the structure to allow for direct access. The rear of the site is accessible from the grass alley off of Cecil Street. A fire hydrant is also located within the block on the corner of Cecil and Kirkwood for added fire protection.

The building was constructed to be a lodge since its inception, it has been a part of the community. The size and character of the structure is in keeping with the neighboring structures. It is one-story, ranch style structure no larger or more imposing than any other structure in the area. There are sidewalks in front and across the property as to not impede pedestrian traffic at the times of their meetings or gatherings. Additionally, as the subject parcel is located on the north end of the block, parking for their meetings should not disrupt the surrounding neighbors, as this end of Kirkwood and Mary Streets has plenty of on street parking.

Pride of Dover Reopening

First, before implementing plans to reopen the Lodge, it is in our best interest to discuss our plans with the Police Chief. We will need a police presence at our establishment to prevent loitering of any kind. This initial discussion with the Police Chief will help us to establish a good rapport with the police.

PRIDE OF DOVER ELKS LODGE

No. 1125 I.B.P.O.E. of W.

ASSOCIATE MEMBER

Name _____

is entitled to the benefits of the Pride of Dover Elks Lodge as an Associate Member. All must abide by the rules and regulations as set down by said lodge. Membership is subject to rejection upon any unruly conduct or causing disturbances by member holding this card.

Secretary

President

CONDITIONAL USE

Pride of Dover Lodge #1125 – All men.

Pride of Dover Temple #784 – All women.

Lodge Meeting – First and Third Monday each month.

Temple Meeting – Second and Fourth Tuesday.

We are part of the Grand Lodge and Temple located in Winton, North Carolina.

We are broken down into associations by States.

Dover Lodge and Temple and Temple are part of the Tri-State Association because Washington, D.C. and Delaware are smaller. We were joined with Maryland, and became Tri-State.

Pride of Dover Lodge and Temple owns the property at 217 N. Kirkwood Street, Dover, Delaware.

It consists of one large meeting room – a kitchen and an office with one men's and one ladies' room and an anti-room.

Lower Level Bar – 2 ladies room and 2 men's rooms, liquor storage, etc.

We have rented space for birthday parties, wedding parties, etc.

After funeral gathering, etc., V.F.W. meeting also.

An exercise group has used our facilities at times.

Local Events by our Lodge Members and some for the community.

Education Meeting	Easter Egg Hunt
Christmas Party	Back-to-School Supplies
Thanksgiving Dinners for seniors	Raffles - Dinners
School of Instruction	Initiations

Events with Other Lodges

Past State Presidents' Meetings

Oratorical Contest

Athletic Meetings

Deputy Meetings

Cotillion Meetings

Convention Meetings

Beauty and Talent

Proposal

Plan for Financial Relief

The heart of what we are interested in implementing is the ability to hold our meeting at the Lodge. However, we must also focus on relieving our establishment's debts.

We can organize the facility in a way to allow us to open our kitchen to our members and their guests. Opening the kitchen will let us to be able to sell food at the Lodge. The earnings from food sales will go directly towards paying off our debts.

Another proposed idea for financial aid is to plan a raffle that will be beneficial for both our economic relief and entertaining to our members.

In addition to opening the kitchen, we will open a bar -- with permission to sell alcohol at the establishment. We must focus on the marginal cost of the bar's operating hours. To do so, we will observe peak times that the bar makes a profit and set its operating hours accordingly.

Plan to Sell Alcohol

The selling alcohol at the Pride of Dover Lodge 1125 is attractive to current Lodge members and prospective members. This plan of action will not be implemented immediately and is proposed as an idea for the future success of the Lodge, as we must follow proper Alcohol Beverage Control (ABC) regulations and licensing procedures.

Plan for Security

We need to install doorbells and appoint a doorman to volunteer to moderate the flow of traffic entering our establishment. There will be no more walking in off the streets. Additional material is attached that shows how we will monitor visiting guests that come to the Lodge with members.

Plan to Identify Members

As a means for identifying members, we need to print cards for our members. The appointed doormen will check membership cards before permitting them to enter the establishment.

Plan to Establish Committees

Committee and volunteer roles will aid in the reopening of the establishment. The positions detailed below are **strictly volunteer-based** positions. Until the Lodge is deemed to be in good financial standing, we will not be able to provide compensation. We anticipate that these roles will need to be strictly volunteer-based for a while.

The following is a list of committees we will form to oversee all phases of our proposed operation:

1. *Officers* - run the Lodge and Temple.
2. *Board of Directors* - act as treasurers to handle cash transactions, pay bills, and similar duties.
3. *House Committee* - buyers for the Lodge, responsible for making purchases and similar duties.

Those filling committee positions must focus on:

- *Communal Focus* - philanthropic efforts to support the surrounding community by showing how we can contribute to bettering our community.
- *Outreach to Children of the Community* - providing after-school care/activities to local children, providing an after-school snack, and provide tutoring/help with homework.

Additional roles needed:

- *Experienced Bartender* - when alcohol sales are permitted in the establishment, we will need a highly experienced bartender.

**Welcome to
Dover Lodge 1125**

VISITING ELKS

**Must sign our
Visitor/Guest Book
upon entering lounge**

All Guests

**Must be signed in by
an Elk member
upon entering lounge**

Enjoy your visit!

Visitors' Register

Pride of Dover Lodge

Lodge No. 1125

I.B.P.O.E of W.

[illegible]

C-17-06 Pride of Dover Elks Lodge at 217 North
Kirkwood Street

- Copies of Correspondence Received
regarding Application

Melson-Williams, Dawn

From: Hugg, Dave
Sent: Sunday, December 03, 2017 5:56 PM
To: Sudler, Roy
Cc: Melson-Williams, Dawn
Subject: Re: CD-17-06

Will do.

Sent from my iPhone

On Dec 3, 2017, at 4:39 PM, Roy Sudler Jr <Roysudlerjr@comcast.net> wrote:

Please forward this correspondence to the Planning Committee for their review and Committee Packet for the 18th of December

Sent from my iPhone

Begin forwarded message:

From: Benjamin Black <@gmail.com>
Date: December 2, 2017 at 7:30:29 PM EST
To: "roysudlerjr@comcast.net" <roysudlerjr@comcast.net>
Subject: CD-17-06

Councilman Sudler:

I have been made aware of a Planning Commission meeting regarding the Pride of Dover Elks Lodge at 217 North Kirkwood Street on December 18 for a Conditional Use permit for the property. My fiancée and I plan on attending this meeting for public comment, as we are concerned about the potential re-opening of this facility. In the past roughly ten months the number of incidents of fighting, drunkenness, littering, shootings, and other unsavory activities have drastically been reduced, and I am sure that the number of police calls have diminished significantly (I myself have not needed to call the police since the Lodge was closed). I am not able to find information as to why the Lodge is now eligible to re-open in its current location in a General Residence Zone, but I ask that you and the other members of Council consider rejecting the application.

Respectfully,

Benjamin Black
213 N. Kirkwood St.

Sent from [Mail](#) for Windows 10

Melson-Williams, Dawn

From: Hugg, Dave
Sent: Sunday, December 03, 2017 10:44 AM
To: Melson-Williams, Dawn
Subject: Fwd: C-17-06

Sent from my iPhone

Begin forwarded message:

From: "Christiansen, Robin" <rchristiansen@dover.de.us>
Date: December 3, 2017 at 8:51:09 AM EST
To: "Hugg, Dave" <dhugg@dover.de.us>, "Mitchell, Donna" <DMitchell@dover.de.us>, "timsлавin1@gmail.com" <timsлавin1@gmail.com>, City Clerks Office <CityClerk@dover.de.us>
Subject: Fwd: C-17-06

Robin R. Christiansen
Mayor City of Dover

Begin forwarded message:

From: Benjamin Black <benblack123@gmail.com>
Date: December 2, 2017 at 7:05:21 PM EST
To: "rchristiansen@dover.de.us" <rchristiansen@dover.de.us>
Subject: C-17-06

Mayor Christiansen:

I have been made aware of a Planning Commission meeting regarding the Pride of Dover Elks Lodge at 217 North Kirkwood Street on December 18 for a Conditional Use permit for the property. My fiancée and I plan on attending this meeting for public comment, as we are concerned about the potential re-opening of this facility. In the past roughly ten months the number of incidents of fighting, drunkenness, littering, shootings, and other unsavory activities have drastically been reduced, and I am sure that the number of police calls have diminished significantly (I myself have not needed to call the police since the Lodge was closed). I am not able to find information as to why the Lodge is now eligible to re-open in its current location in a General Residence Zone, but I ask that you and the other members of Council consider rejecting the application.

Respectfully,

Benjamin Black
213 N. Kirkwood St.
Sent from Mail for Windows
10

Melson-Williams, Dawn

From: Kenton, Courtney M.
Sent: Thursday, December 07, 2017 11:45 AM
To: Melson-Williams, Dawn; Hugg, Dave
Subject: FW: Elks Lodge No. 1125

From: Travis Thompson [mailto:travisthompson08@gmail.com]
Sent: Wednesday, December 06, 2017 9:05 PM
To: Permits & Licenses <permitsandlicenses@dover.de.us>
Subject: Elks Lodge No. 1125

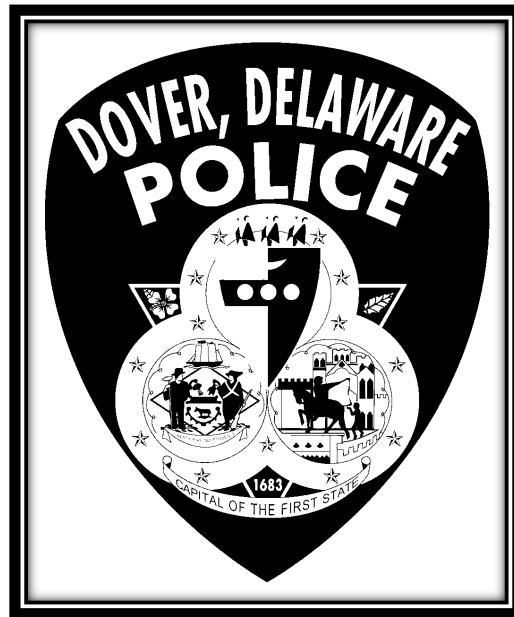
Greetings,

As I understand, the Planning Committee will be voting on the 18th of December on the decision of re-opening the Elks Lodge No. 1125. This email is to express, not only concern, but fear for our downtown community if the Lodge was to re-open. I live on N. Queen St., directly behind this property. When this property was open for business, our lives were hell. The noise became overwhelming on Thursday and Sunday nights, the crowds outside the club yelling and the constant bass from the music did not allow anyone to sleep. Squealing tires and droves of people walking through our yards meant the "club" had closed and we would soon be allowed to sleep. Since the "nightclub" has been closed, referencing a State of Dover article, crime in our area has dropped 81 percent since the closing of the club. I do not fear for my wife and child on Thursdays and Sundays. I do not have to call the DPD and complain of the noise. I ask that the Planning Committee deny the application for a conditional use permit on December 18th. This establishment operating under the guise of a "membership club" was a public nightclub and bar and will be so again if it is approved.

Thank you,

Travis A. Thompson
226 N Queen
(240) 416-3828

Information document (4 pages) forwarded to Planning Director by Roy Sudler Jr. via email of 12/7/2017 with request that it be provided to the Planning Commission in regards to Application C-17-06 Elks Lodge at 217 North Kirkwood Street.



North Kirkwood Street
(200 Block)

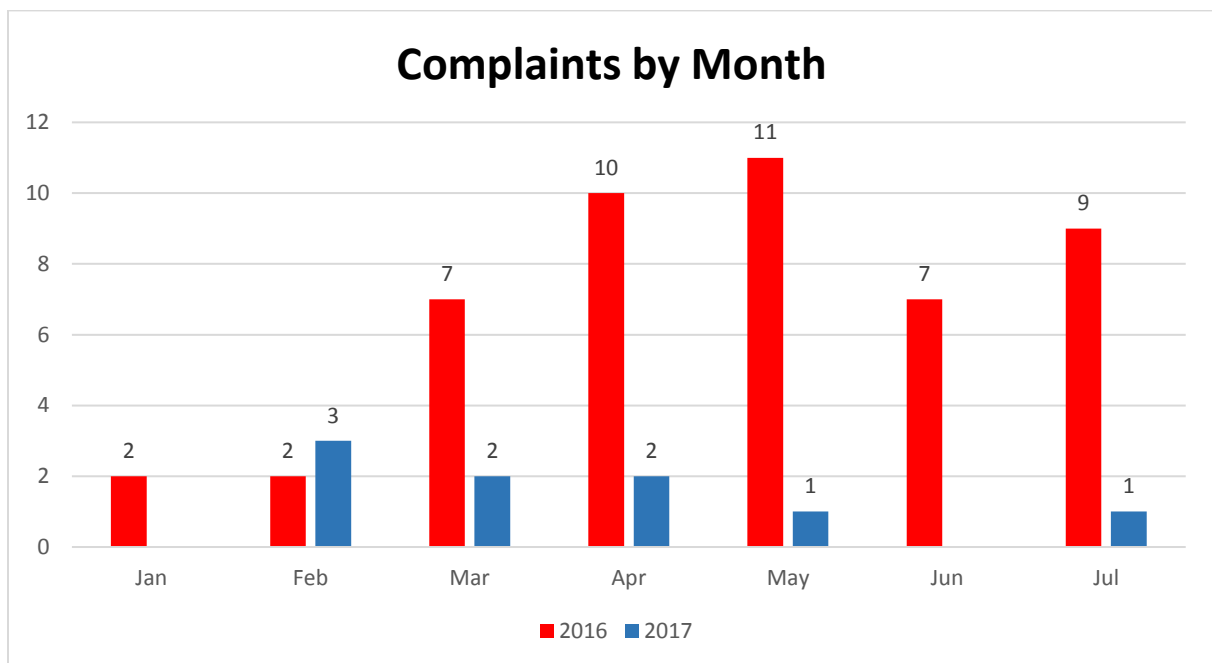
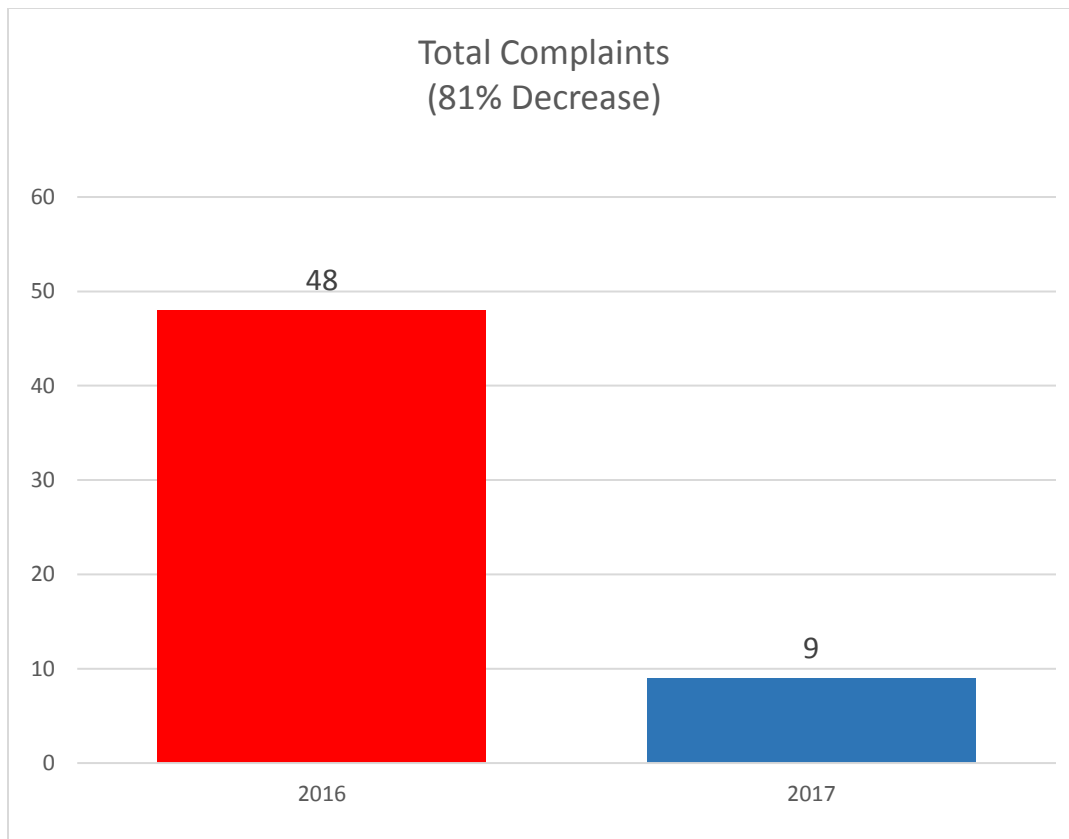
2016 to 2017 (January-July)

Total by Type of Complaint

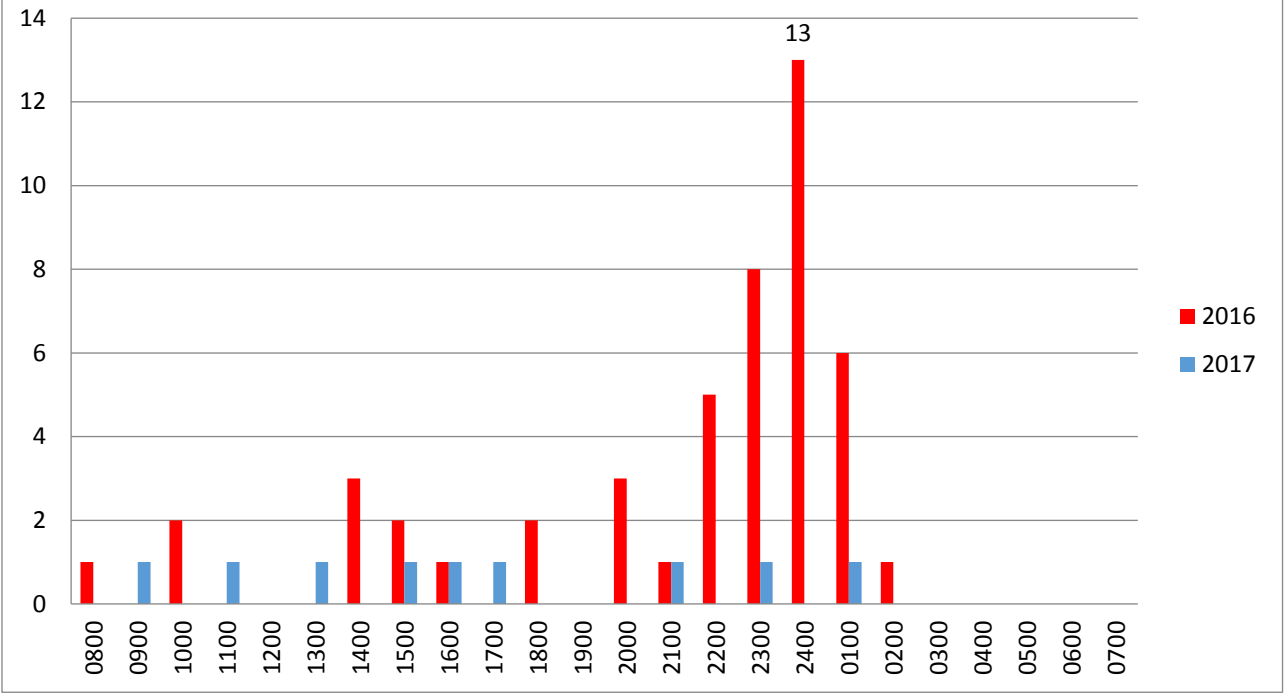
January-July

	2016	2017
Accid PD		1
Alarm Burglary		1
Animal Complaint	8	2
Criminal Mischief	2	
Disorderly Conduct	2	1
Domestic		2
Fight	3	
Fireworks	2	
Fraud	1	
Loitering	12	
Loud Noise/Party	5	
Open Door/Window	1	
Ordinance Violation	1	
Parking Violation	1	1
Property Check	2	1
Shooting	1	
Shots Fired	1	
Stop	1	
Theft	1	
Trespass	2	
Warrant Service	1	
Welfare Check	1	
	48	9

- 25 out of 48 of the complaints from the period in 2016 were from 217 N Kirkwood Street. This address accounts for 52% of the total complaints for that period.
- There was only one complaint from that address in the same period for 2017. It was an alarm and it accounts for 11% of the total complaints for that period.



Complaints by Time of Day





PETITION TO AMEND TEXT of
Dover Zoning Ordinance
Report to the
Dover Planning Commission
July 16, 2018

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 3 – District Regulations, Section 20 – Industrial Park Manufacturing Zone
 - Article 4 – Zoning Bulk and Parking Regulations, Section 4.16 – M, IPM Zones
 - Article 5 – Supplementary Regulations, Section 8 – Performance Standards

Summary of Amendments:

The proposed Text Amendments add a new zoning classification, IPM3 (Industrial Park Manufacturing Zone- Industrial Aviation and Aeronautics Center), which is intended primarily to permit businesses in aviation and aeronautics-related industries. The Amendments also create bulk standards for the new zone and makes minor changes to the performance standards to ensure uses in the IPM3 Zone are covered under them.

Ordinance Number:

Proposed Ordinance #2018-06

File Number:

MI-18-05

Development of the Text Amendments

The Civil Air Terminal (CAT) is located within the city limits of Dover at the end of Horsepond Road (K348), east of Starlifter Avenue and adjacent to the Dover Air Force Base (DAFB). The site has a physical connection to the DAFB runways and taxiways and operates under a joint use agreement with DAFB, which permits private air traffic to use these facilities to access the CAT site. The CAT site is also adjacent to several undeveloped parcels owned by the Kent County Levy Court within the Kent County Aeropark (KCA), an industrial park on Horsepond Road.

A group of stakeholders invested in the CAT and the KCA have been working to identify challenges to development of the industrial park. These stakeholders include the Kent County Economic Partnership, DelDOT, the Delaware River and Bay Authority, and Kent County. The stakeholders have long recognized that the industrial park's proximity to the CAT provides a unique opportunity for businesses that may benefit from a direct connection to the terminal. However, the stakeholders have also identified several key restraints on development, including uncertainty about what kind of development would be allowed on the site by zoning. It is anticipated that the site use will be dependent on the aircraft industry or will utilize aircraft as a

major component of the business model. However, most of the potential aviation and aeronautics uses are not explicitly allowed under current City of Dover *Zoning Ordinance*, and/or conflict with other development standards contained within the Code.

The site stakeholders worked with the Planning Office to determine the most effective means of addressing the Code conflicts, and the result is this proposal for a new Industrial Park Manufacturing Zone, the IPM3 (Industrial Park Manufacturing Zone- Industrial Aviation and Aeronautics Center). Like the existing IPM2 Zone, this is a specialized zoning classification that is intended to apply to a limited part of the City, in this case only near the CAT and the KCA. The IPM3 is proposed to permit a wide range of uses directly related to aviation, defined as the flying and operating of aircraft, and aeronautics, defined as the science and engineering of aircraft. The IPM3 is also proposed to relax some standards that if enforced could impede aircraft operation and testing, such as tree planting standards. The Planning Office and the stakeholder group believe adopting these changes will spur economic development of the KCA and ultimately related industry in the wider Dover area.

Should adoption of these Text Amendments be successful, no parcels will immediately be zoned IPM3. Planning Staff will bring a Comprehensive Rezoning Project before the Planning Commission and City Council to establish the zoning district's boundaries. This process for comprehensive zoning map amendments is outlined in the *Zoning Ordinance*, Article 10 Section 5 – Amendments. It will take the form of an ordinance that rezones multiple properties to the IPM3 Zone at once. A Comprehensive Rezoning will save property owners the trouble of having to apply to the City themselves to get their properties under the new zoning classification. At present there is not yet a list of specific properties under consideration for Comprehensive Rezoning to IPM3; Planning Staff expects to continue working with stakeholders to identify appropriate properties near the Civil Air Terminal.

Current Proposed Text Amendments

Key components of the proposed Text Amendments to the *Zoning Ordinance* include the following:

- **Article 3 Section 20B** - This is a new section, containing the permitted, conditional, and prohibited uses in the IPM3, as well as exemptions from provisions elsewhere in the *Zoning Ordinance* related to trees, storage trailers, and fences. The section establishes that there are no exemptions from the City's Performance Standards, nor any from the AEOZ (Airport Environs Overlay Zone), which governs permitted uses near the Dover Air Force Base based on noise generated by the Base and aircraft accident risk.
- **Article 3 Section 24** - Changes to this section establish that the new IPM3 Zone (as well as the IPM and IPM2 Zones) are not an appropriate place to locate a Planned Neighborhood Development- Senior Citizen Housing Option.
- **Article 4 Section 4.16** - Changes to this section establish bulk standards for the IPM3 Zone, including minimum lot size, setbacks, and parking, and maximum building height, floor area ratio, and lot coverage.
- **Article 5 Section 8** - Changes to the City's performance standards establish that uses in the IPM3 Zone are subject to performance standards, as well as in some cases to the City's performance standards review procedure. In addition, changes establish that only

transportation facilities open to the public are exempt from the City's noise standards. Fully private transportation facilities developed in the IPM3 Zone will be subject to the City's noise standards.

City Council Committee of the Whole/Legislative, Finance, and Administration Committee was presented with the proposed Text Amendments at their June 12, 2018 Meeting. The Committee recommended approval of the proposed Text Amendments. Because several sets of Amendments to the *Zoning Ordinance* are proposed for adoption at the same time, these Text Amendments share an Ordinance number, #2018-06, with two other sets of Amendments. See the DAC Reports for MI-18-06 and MI-18-07 for details on these other proposed amendments. The Committee recommended approval of the whole proposed Ordinance. The Ordinance received a First Reading at the June 25, 2018 City Council meeting.

Because text amendments are proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission are required. City Council will conduct a Public Hearing and take Final Action on proposed Ordinance #2018-06 at their meeting of August 27, 2018. At that meeting City Council may act to adopt the whole Ordinance, to adopt part of the Ordinance, and/or to make other amendments to the proposed text.

Planning Review and Recommendations:

Planning Staff developed the proposed Text Amendments for the IPM3 Zone and therefore, recommend their adoption. The Planning Office gave opportunity to Development Advisory Committee (DAC) members to comment on the proposed Text Amendments. However, none of the reviewing agencies gave substantive comments.

CITY OF DOVER
APPLICATION REVIEW COMMENTARY
JUNE 29, 2018

CITY OF DOVER
Public Works
Departments

APPLICATION: Text Amendments: Addition of IPM3 Zone
FILE #: MI-18-05
REVIEWING AGENCY: City of Dover Electric and Public Works Departments
CONTACT PERSON: Jason A. Lyon, P.E. – Public Works
CONTACT PHONE #: Public Works – 302-736-7025

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

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

CITY AND STATE CODE REQUIREMENTS

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

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

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

WATER / WASTEWATER / STORMWATER / STREETS / SANITATION / GROUNDS / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None

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

From: [Purnell, Maretta](#)
To: [Melson-Williams, Dawn](#)
Subject: FW: City of Dover Ordinance Changes
Date: Wednesday, June 27, 2018 10:03:06 AM

From: Hayes, John G. (DNREC) <John.Hayes@state.de.us>
Sent: Wednesday, June 27, 2018 9:21 AM
To: Purnell, Maretta <MPurnell@dover.de.us>
Cc: Tholstrup, Michael S. (DNREC) <Michael.Tholstrup@state.de.us>
Subject: City of Dover Ordinance Changes

Maretta,

Good morning, I have reviewed the ordinance changes for the City of Dover and the Groundwater Discharges Section has no comments. Thank you.

Jack

John G. "Jack" Hayes, Jr.
Environmental Program Manager
Delaware Department of Natural Resources and Environmental Control
Groundwater Discharges Section
89 Kings Highway
Dover, DE 19901
John.hayes@state.de.us
(302) 739-9327
(302) 739-7764 Fax

MI-18-05: Text Amendment: Creation of IPM3 Zone (Industrial Park Manufacturing- Industrial Aviation and Aeronautics Center)

7/6/18

Proposed additions are in **blue text**. Proposed deletions are in ~~red strikethrough~~.

Article 3 Section 20B. - Industrial park manufacturing zone— Industrial Aviation and Aeronautics Center (IPM3).

20B.1 *Uses permitted.* In an IPM3 zone, no building or premises shall be used and no building or part of a building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following, and in accordance with performance standards review procedure as set forth in article 5 sections 8.2 and 8.6, and subject to site development plan approval as set forth in article 10, section 2:

20B.11 Airports, spaceports, and related facilities, including passenger terminals, cargo facilities, hangars, refueling operations, parking facilities and other uses integral to airport or spaceport operations.

20B.12 Commercial or industrial uses that are related to aviation or aeronautics and/or require direct access to an airport, spaceport, or aviation/aeronautics services, including assembly or sale of aircraft or spacecraft, air frames, aircraft or spacecraft engines, associated parts and components, radios or navigational equipment, and similar products or services.

20B.13 Public and institutional uses that support the aviation or aeronautics industries such as aviation or aeronautics technical schools, security services, and inspection facilities.

20B.14 Bulk storage of fuel, lubricants, fire suppression and other materials integral to design, construction, testing, maintenance, or operation of aircraft or spacecraft.

20B.15 Printing, publishing, binding, packaging, storage, warehousing, and transshipment and distribution.

20B.16 Business, professional, or administrative offices.

20B.17 Radio or television broadcasting towers, telecommunications towers, antenna arrays, and receiving satellite dishes that support aviation, aeronautics, or related operations.

20B.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1: Service establishments such as auto rental and travel agencies, commercial parking lots and garages, automobile service stations, car washes, banks, gift shops, newsstands, bookstores, restaurants, bars, medical offices, postal facilities, laundry services, and similar facilities available to airport or spaceport users and employees. The application for conditional use shall clearly demonstrate the relationship of the proposed use to an existing or proposed airport or spaceport.

20B.3 *Uses prohibited.* The following uses are specifically prohibited:

20B.31 Residences.

20B.32 Manufacturing uses involving primary production of the following products from raw materials: Asphalt, cement, charcoal, and fuel briquettes; chemicals: aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, and carbon black and bone black, creosote, hydrogen and oxygen, industrial alcohol, nitrates (manufactured and natural) of an explosive nature, potash, and synthetic resins, pyroxylin, rayon yarn, and hydrochloric, nitric, phosphoric, picric, and sulphuric acids; coal, coke, and tar products, including gas manufacturing; explosives, fertilizers, glue, and size (animal); linoleum and oil cloth; matches; paint, varnishes, and turpentine; rubber (natural or synthetic); [and] soaps, including fat rendering.

20B.33 The following processes: nitrating of cotton or other materials; magnesium foundry; reduction, refining, smelting, and alloying of metal or metal ores; refining secondary aluminum; refining petroleum products, such as gasoline, kerosene, naphtha, [and] lubricating oil; distillation of wood or bones; [and] reduction and processing of wood pulp and fiber, including papermill operations.

20B.34 Operations involving stock yards, slaughter houses, and slag piles.

20B.35 Storage of explosives.

20B.36 Landfills.

20B.37 Quarries, stone crushers, screening plants, and storage of quarry screenings accessory to such uses, except for temporary construction activities supporting a specific construction project in the IPM-3 zone or the adjoining air facility, and lasting only the duration of that construction project.

20B.38 Junkyards, automobile dismantling plants or storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles.

20B.39 Public assembly facilities, including, but not limited to, churches, libraries, sports fields, theaters, and amphitheatres.

20B.4 *Tree planting requirements in the IPM3 zone.*

20.B41 No new trees shall be planted within 120 feet of any pavement area taxed by operational aircraft or spacecraft. For the purpose of fulfilling the tree density requirements of Article 5, Section 16- Tree planting and preservation, the area of this pavement plus the area of the 120-foot wide buffer around it shall be excluded from the required development area for the property as defined in that section.

20.B42 All new trees shall be of a species that does not typically exceed 50 feet in height at maturity.

20B.5 *Site development plan approval.* Site development plan approval, in accordance with article 10, section 2 hereof, shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

20B.6 *Performance standards.* All uses in the IPM3 zone are subject to performance standards as set forth in article 5, section 8, including any uses not subject to the performance standards review procedure.

20B.7 *Exemptions.* Uses in the IPM3 zone are exempt from the following provisions of the City of Dover Code of Ordinances:

20B.71 Outdoor storage trailers. Appendix B, Article 5, Section 7.4, where the use of outdoor trailers for storage or distribution is a primary use of the site.

20B.72 Fences. Appendix B, Article 5, Section 7.5, where

- a. Dover Air Force Base requires a more robust fence, in which case the fence shall be constructed per Dover Air Force Base Standards; or
- b. it can be demonstrated to the satisfaction of the Planning Commission that a more robust fence is required for site safety and security reasons. In approving a waiver for such a fence, the Commission shall consider the following factors:
 - i. The design of the proposed fence, including material and opacity.
 - ii. Whether there are residential land uses adjacent to or across the street from the proposed fence.
 - iii. The proposed setback of the fence from the property line.
 - iv. Whether a berm or vegetated screen could feasibly be included in the setback to screen the fence from view, without compromising the security function of the fence or introducing vegetation hazardous to aircraft or spacecraft operations.

20.B8 Compliance with AEOZ. Properties in the IPM3 zone shall not be exempt from the requirements of Appendix B, Article 3 Section 22- Airport environs overlay zone (AEOZ). If the proposed use of a property is permitted in the IPM3 zone but prohibited based on the property's location within an accident potential zone (APZ I and II), clear zone (CZ) or noise zone, the use shall be prohibited on that property.

Article 3, Section 24. - Planned neighborhood design option [(PND)].

24.1 General~~ly~~.

(a) *Planned neighborhoods.* In order to encourage superior residential environments through a unified planning process, the planned neighborhood design option shall be permitted in R-20, R-15, R-10, R-8, RM-1 and RM-2 zones as a conditional use subject to the provisions of article 10 of this ordinance and after a determination by the planning commission that the proposed planned neighborhood design presents a superior community design than would be possible under the conventional zone and is in accordance with the goals and policies of the comprehensive plan. The minimum size required for a planned residential development shall be 20 acres.

(b) *Senior citizen housing option.* In order to encourage the development of high quality housing opportunities designed to accommodate the particular needs of senior citizens, the senior citizen housing option shall be permitted in all zones as a conditional use, except in the M, ~~IMP~~ IPM, IPM2, IPM3, and C-4 zones within which this option shall not be applicable. Preference shall be given to those projects which are within close proximity to public transit services and which are situated within one-quarter mile of a grocery store, pharmacy, restaurant, physician office, senior center or similar convenience service establishment.

[Rest of section omitted]

Article 4, Section 4.16. - M, IPM zones.

Bulk and parking regulations for industrial zones in M and IPM districts are as follows:

For All Permitted Uses	M	IPM (Conventional Planned)	IPM (Planned Industrial Park)	IPM2 (Technology Center)	IPM3
Lot area	½ acre	2½ acres	2½ acres average; 60,000 sq. ft. minimum	10 acres	1 acre
Lot width (ft.)	100	200	150	100	100
Lot depth (ft.)	150	300	250	100	100
Front yard (ft.)	40	60	60	60	40
Side yard (ft.)	20	40	40	40	20
Rear yard (ft.)	20	40	40	40	20
Side or rear yard which adjoins a residential zone (ft.)	50	100	100	100	50
Off-street parking space:					
Per 800 sq. ft. of floor area	1	1	1	1	1
Per employee, per largest working shift (if greater than the requirement under the floor area calculation)	1	1	1½	1	1
Maximum permitted:					
Building height					
Stories	2	Not limit	2	Not limit	Not limit

	Feet	35	Equal to distance to nearest lot line	35	Equal to distance to nearest lot line	75*
	Floor area ratio	0.5	0.5	0.5	0.5	0.5
	Lot coverage					85%

***Building height shall comply with all applicable Federal Aviation Administration, Department of Defense, and Unified Facilities Criteria height restrictions and obstruction marking and lighting standards.**

Section 8. - Performance standards.

- 8.1 *Dangerous and objectionable elements.* No land or building in any zone shall be used or occupied in any manner so as to cause any one or more of the following conditions to exist and to be dangerous, injurious, noxious or offensive beyond the boundaries of such premises in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining premises: Fire, explosive or other hazard; noise, or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness or electromagnetic disturbance; glare, liquid or solid refuse or waste; traffic congestion causing roadways or intersections in the surrounding highway network to fall below acceptable levels of comfort and convenience; or other substance, condition or element (referred to hereinafter as "dangerous or objectionable elements"), provided that any use permitted or not expressly prohibited by this ordinance may be undertaken and maintained if it conforms to the regulations of this section limiting dangerous and objectionable elements at the point of the determination of their existence.
- 8.2 *Uses requiring performance standards review procedure.* Those uses in the C-3, IPM, **IPM2, IPM3** and M zones and uses accessory thereto, which are specified as being subject to performance standards **review** procedure, are subject to the procedure specified in article 5, section 8.6 in obtaining a site plan approval. The city planner may require other uses, whether existing or proposed and regardless of the particular zoning district, to submit to the performance standards review procedure when there exists reasonable grounds to believe that a proposed use is in violation, or is likely to violate, the performance standards, in which event, the property owner shall comply with [the] performance standards review procedure.
- 8.3 *Enforcement provisions applicable to other uses.* Even though compliance with the performance standards procedure in obtaining a site plan approval is not required for some proposed uses, initial and continuing compliance with the performance standards themselves is required of every use, and provisions for enforcement to ensure continued compliance with the performance standards shall be invoked by the city planner against the property owner, tenant, or other responsible party if there are reasonable grounds to believe that performance standards are being violated by a particular activity or use.
- 8.4 *Nonconforming uses.* Certain uses established before the effective date of this ordinance and nonconforming as to performance standards shall be given a reasonable time in which to conform therewith, as provided in article 7, section 1.53.

8.5 *Performance standards regulations.* Where the following regulations overlap regulations of the Delaware Department of Natural Resources and Environmental Control or other state or local agencies, the more restrictive regulations shall apply in case of a conflict:

8.51 *Fire and explosion hazards.* All activities involving, and all storage of, inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of the state and local laws and regulations shall also apply.

8.52 *Radioactivity or electromagnetic disturbance.* No activities shall be permitted which emit dangerous radioactivity at any point, or electromagnetic disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

8.53 *Noise.* The maximum sound pressure level radiated by any use or facility (other than transportation facilities [open to the public](#)) at the property line shall not exceed the values in the designated octave bands given in [the following] table I, after applying the corrections shown in [the following] table II. The sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z243-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, N.Y., shall be used).

Table I

Octave Band Range In Cycles per Second	Sound Pressure Level in Decibels re 0.0002 dyne/cm ²
30— 300	60
301—2,400	40
Above 2,400	30

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in table II shall be applied to the decibel levels given in table I.

Table II

	Type of Location of Operation or Character of Noise	Correction in Decibels
1.	Daytime operation only	

2.	Noise source operates less than*		
	a.	20 percent of any one-hour period	5
	b.	05 percent [sic] of any one-hour period	10
3.	Noise of impulsive character (hammering, etc.)		-5
4.	Noise of periodic character (hum, screech, etc.)		-5
5.	Property is located in one of the following zones and is not within 500 feet of any residential district*:		
	a.	Central commercial C-2 zone	5
	b.	Service commercial C-3 zone Manufacturing M zone	10
6.	Property is located in industrial park manufacturing zone IPM, IPM2, or IPM3		10

*Apply one of these corrections only.

8.54 ~~+~~ *Vibration.* ~~-~~ No vibration shall be permitted which is discernible without instruments at the property line.

8.55 *Smoke.* No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyrighted 1954 (being a direct facsimile reduction of the standard Ringlemann chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 2 on said chart may be emitted for four minutes in any 30 minutes. These provisions applicable to visible grey smoke shall also apply to visible smoke of a different color, but with an apparently equivalent opacity. Any emission shall be in conformance with air pollution regulations of the Delaware Department of Natural Resources and Environmental Control.

8.56 *Odors.* No emission shall be permitted of odorous gases or other offensive odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any offensive odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, Odor Thresholds, in chapter 5, "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Association, Inc., Washington D.C., and said manual and/or table as subsequently amended.

8.57 *Fly ash, dust, fumes, vapors, gases, and other forms of air pollution.* No emission shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling, at any point, and/or which does not conform to air pollution regulations of the Delaware Department of Natural Resources and Environmental Control, and, in no event, any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grain per cu. ft. of the conveying gas resulting from combustion. Standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

8.58—~~[Glare.]~~ No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this ordinance.

8.59 *Liquid or solid wastes.* No discharge shall be permitted at any point into any public sewer, private sewage disposal system or stream, or into the ground, except in accord with standards approved by the Delaware Department of Natural Resources and Environmental Control, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.

8.60 *Traffic congestion.* When, in the surrounding highway network, operating conditions are at or near the design capacity level beyond which would result in functional failure of the surrounding highway network. All speeds are reduced to a low, but relatively uniform value. Freedom to maneuver within the traffic stream is extremely difficult, and it is generally accomplished by forcing a vehicle or pedestrian to "give way" to accommodate such maneuvers. Comfort and convenience levels are extremely poor, and driver or pedestrian frustration is generally high. Operations at this level are usually unstable, because small increases in flow or minor perturbations within the traffic stream will cause functional failures beyond acceptable levels. (The conditions described in this [sub]section are also used to describe "level of service E" as defined by the highway capacity manual developed by the transportation research board, dated 1985.)

8.6 *Performance standard procedure.*

8.61 *Application.* An application for a site plan approval shall be accompanied with a performance standard review application when a use or occupancy is required, and shall be referred by the ~~building inspector~~ city planner to the planning commission. The applicant shall also submit, in an amount equal to the required number of site plan submissions, a plan of the proposed construction or development, including a description of the proposed machinery, operations, and products, and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectional elements referred to in article 5, section 8.1, in accordance with rules prescribed by the planning commission specifying the type of information required in such plans and specifications, and an affidavit by the applicant acknowledging his understanding of the applicable performance standards and agreement to conform with same at all times. No applicant will be required to reveal any secret processes, and any information submitted will be treated as confidential if requested. The fee for such application shall include the cost of the special reports required to process it, described below.

8.62 *Report by expert consultants.* The planning commission, if there is any reasonable doubt as to the likelihood of conformance, shall refer the application for investigation and report to one or more expert consultants qualified to advise as to whether a proposed use will conform to the applicable performance standards specified herein. Such consultant or consultants shall make such report within 30 days after his or their receipt of such application. A copy of such report shall be promptly furnished to the applicant.

8.63 *Decision of the planning commission.* At the next regular meeting of the planning commission, but in no event more than 30 days after the board has received the aforesaid report, or within such further period as agreed to by the applicant, the board shall decide whether the proposed use will conform to the applicable performance standards and, on such basis, shall authorize or refuse to

authorize the issuance of a building permit or certificate of occupancy, or require a modification of the proposed plan of construction. Such decision of the commission shall be in the form of a written report. Any building permit or certificate of occupancy so authorized and issued shall be conditioned on, among other things:

- (i) The applicant's completed buildings and installations in operation conforming to the applicable performance standards, and
- (ii) The applicant's paying the fees for services of the expert consultant or consultants deemed reasonable and necessary by the planning commission for advice as to whether or not the applicant's completed buildings and installations will, in operation, conform to the applicable performance standards.

(Ord. of 4-25-1994; Ord. of 4-28-2008(2))

REVISE THE FOLLOWING DEFINITION IN ARTICLE 12- DEFINITIONS:

Nonresidential zones: C-1, C-1A, C-2, C-2A, C-3, C-4, C-PO, RC, IO, M, IPM, **IPM2, IPM3**, SC-2, ~~or~~ SC-3 ~~[zone]~~.



PETITION TO AMEND TEXT of
Dover Zoning Ordinance
Report to the
Dover Planning Commission
July 16, 2018

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 6 – Off-Street Parking, Driveways, and Loading Facilities, Section 3 – Required Off-Street Parking Spaces
 - Article 4 – Zoning Bulk and Parking Regulations, Section 4.15 – C-3, C-4, RC, IO Zones
 - Article 4 – Zoning Bulk and Parking Regulations, Section 4.16 – M, IPM Zones

Summary of Amendments:

The proposed Text Amendments remove the maximum parking space limitation given in Article 6 of the *Zoning Ordinance* and replace it with new maximum lot coverage limitations for several zones where excessive parking lot size is of concern. The affected zones include the C-3, C-4, RC, IPM, IPM2, and M Zones. The Amendments will limit the amount of impervious surface allowed on properties in these zones.

Ordinance Number:

Proposed Ordinance #2018-06

File Number:

MI-18-06

Development of the Text Amendments

In 2009, the City adopted a Text Amendment to the parking regulations of the *Zoning Ordinance* establishing a maximum parking requirement (Ordinance #2009-12). Under this Amendment, the maximum number of parking spaces allowable for any use is set at 25% over the minimum parking spaces required. For instance, if by Code a new use is required to have at least 100 parking spaces, then they are also not permitted to have any more than 125 parking spaces. The intent of the amendment was to protect the City from projects proposing to build excessive amounts of parking. Businesses with much more parking than they need pose potential environmental risks (due to flooding from large amounts of stormwater runoff from impervious surfaces), potential safety risks (due to difficulty of monitoring large lots) and otherwise take up large amounts of space they rarely use.

Though the 2009 Amendment was well intended, implementation has proved problematic. The percentage-based maximum severely limits small projects' flexibility in terms of how much parking they can build. For instance, if by Code a new use is required to have at least 10 parking

spaces, it can only build an additional 2 parking spaces before hitting the maximum. The maximum parking requirement is also problematic for specific kinds of uses with small buildings but large customer turnover, such as doctors' offices and restaurants. Because the Amendment did not include any provisions for a waiver, relief from the maximum parking requirement has been a recurring variance request at the Board of Adjustment.

The present proposed Text Amendments aim to preserve the intent of the 2009 Amendment while addressing its shortcomings. Rather than enacting an explicit maximum parking requirement, the new amendment limits parking by proxy, by establishing maximum impervious surface requirements for several zoning classifications that did not previously have any. These zones are the ones most prone to development of businesses with large parking lots. Limiting impervious surface coverage means that parking lot sizes are kept in check, because they must start sharing limited space with buildings and other impervious surfaces such as sidewalks. Developers are free to decide on an appropriate balance between the space given to parking, buildings, and other areas based on the needs of future businesses.

The zones affected are the C-3 (Service Commercial Zone), C-4 (Highway Commercial Zone), RC (Recreational and Commercial Zone), M (Manufacturing Zone), IPM (Industrial Park Manufacturing Zone), and IPM2 (Industrial Park Manufacturing- Technology Center Zone). It is noted that the IPM3 (Industrial Park Manufacturing - Industrial Aviation and Aeronautics Center) Zone proposed in a separate set of Text Amendments (MI-18-05) also would have a maximum impervious surface coverage established as part of its consideration.

Current Proposed Text Amendments

Key components of the proposed Text Amendments to the *Zoning Ordinance* include the following:

- **Article 4 Section 4.15** - Changes to this section set maximum impervious surface coverages for the C-3, C-4, and RC Zones at 80%, 75%, and 85% respectively.
- **Article 4 Section 4.16** - Changes to this section set maximum impervious surface coverages for the M, IPM (conventionally planned), IPM (planned industrial park) and IPM2 Zones at 85%, 75%, 65%, and 65% respectively.
- **Article 6 Section 3.11** - The text of the 2009 amendment is proposed to be removed entirely.

City Council Committee of the Whole/Legislative, Finance, and Administration Committee was presented with the proposed Text Amendments at their June 12, 2018 Meeting. The Committee recommended approval of the proposed Text Amendments. Because several sets of Amendments to the *Zoning Ordinance* are proposed for adoption at the same time, these Text Amendments share an Ordinance number, #2018-06, with two other sets of Amendments. See the DAC Reports for MI-18-05 and MI-18-07 for details on these other proposed amendments. The Committee recommended approval of the whole proposed Ordinance. The Ordinance received a First Reading at the June 25, 2018 City Council Meeting.

Because text amendments are proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission are required. City Council will conduct a Public Hearing and take Final Action on proposed Ordinance #2018-06 at their meeting of August 27,

2018. At that meeting City Council may act to adopt the whole Ordinance, to adopt part of the Ordinance, and/or to make other amendments to the proposed text.

Planning Review and Recommendations:

Planning Staff developed the proposed Text Amendments for replacement of the Maximum Parking Standard, and therefore, recommend their adoption. The Planning Office gave opportunity to Development Advisory Committee (DAC) members to comment on the proposed Text Amendments. However, none of the reviewing agencies gave substantive comments.

CITY OF DOVER
APPLICATION REVIEW COMMENTARY
JUNE 29, 2018

CITY OF DOVER
Public Works
Departments

APPLICATION: **Text Amendments: Replacement of Maximum Parking Requirement**

FILE #: **MI-18-06**

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

CONTACT PERSON: **Jason A. Lyon, P.E. – Public Works**

CONTACT PHONE #: **Public Works – 302-736-7025**

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

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

CITY AND STATE CODE REQUIREMENTS

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

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

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

WATER / WASTEWATER / STORMWATER / STREETS / SANITATION / GROUNDS / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None

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

**MI-18-06: Text Amendment: Replacement of Maximum Parking Requirement
7/6/18**

Proposed additions are in **blue text**. Proposed deletions are in ~~red strikethrough~~.

Article 4, Section 4.15. - ~~C-3, C-4, R-C, IO, and CPO zones.~~

Bulk and parking regulations for service commercial (C-3), highway commercial (C-4), recreation and commercial (R-C), institutional and office (IO), and commercial and professional office (C-PO) zones are as follows:

	C-3	C-4	RC	IO	C-PO
Minimum required:					
Lot area			5 acres	10,000 sq. ft.	5,000 sq. ft.
Lot width (ft.)	100	150	250	100	50
Lot depth (ft.)	100	150	400	100	100
Front yard (ft.)	20	20	30	10	10
Side yard (ft.)	15	15	50	10	5
Rear yard (ft.)	10	10 or equal to bldg. height	50	15	15
Side or rear yards which adjoin a residence zone (ft.)	30	30	100	30	25
Off-street parking					
Per 300 sq. ft. floor area or	1	1	1	1	1
Per employee (whichever is greater)	1	1			
Maximum permitted:					
Building height					

Stories	6	6	10	10	3
Feet	75	75	130	150	45
Floor area ratio	4.0	4.0	4.0	6.0	2.0
Lot coverage	80%	75%	85%	85%	75%

(Ord. of 4-25-1994; Ord. No. 2008-33, 8-25-2008; [Ord. No. 2014-08, 7-14-2014](#))

Article 4, Section 4.16. - M, IPM zones.

Bulk and parking regulations for industrial zones in M and IPM ~~districts~~ zones are as follows]:

For All Permitted Uses	M	IPM (Conventional Planned)	IPM (Planned Industrial Park)	IPM2 (Technology Center)
Lot area	½ acre	2½ acres	2½ acres average; 60,000 sq. ft. minimum	10 acres
Lot width (ft.)	100	200	150	100
Lot depth (ft.)	150	300	250	100
Front yard (ft.)	40	60	60	60
Side yard (ft.)	20	40	40	40
Rear yard (ft.)	20	40	40	40
Side or rear yard which adjoins a residential zone (ft.)	50	100	100	100
Off-street parking space:				
Per 800 sq. ft. of floor area	1	1	1	1

	Per employee, per largest working shift (if greater than the requirement under the floor area calculation)	1	1	1½	1
	Maximum permitted:				
	Building height				
	Stories	2	Not limit	2	Not limit
	Feet	35	Equal to distance to nearest lot line	35	Equal to distance to nearest lot line
	Floor area ratio	0.5	0.5	0.5	0.5
	Lot Coverage	85%	75%	65%	65%

(Ord. of 3-24-1986; Ord. of 7-12-1993, § 1; Ord. of 8-23-1999; Ord. No. 2009-18, 10-12-2009)

Article 6, Section 3. - Required off-street parking spaces.

[Beginning of section omitted]

~~**3.11 — Maximum number of parking spaces. The maximum number of parking spaces shall not exceed 25 percent over the number of parking spaces required by the code.**~~

(Ord. of 12-14-1992(2); Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 4-23-2007(4) ; Ord. No. 2009-12, 9-14-2009; Ord. No. 2009-30, 3-8-2010; Ord. No. 2011-29, 1-9-2012; Ord. No. 2011-29, 1-9-2012; Ord. No. [2017-12](#), 10-9-2017)



PETITION TO AMEND TEXT of
Dover Zoning Ordinance
Report to the
Dover Planning Commission
July 16, 2018

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 5 – Supplementary Regulations, Section 4 – Supplementary Sign Regulations

Summary of Amendments:

The proposed Text Amendments would give the City Planner guidance on whether or not a vehicle sign is permitted. Under current code, vehicle signs are always permitted except where the vehicle is inoperable or being used for the sole purpose of signage. The ordinance provides a list of criteria which the City Planner may use to determine if a vehicle is being used for the sole purpose of signage.

Ordinance Number:

Proposed Ordinance #2018-06

File Number:

MI-18-07

Development of the Text Amendments

The City's Sign Code was last updated to address vehicle signs in 2012. At that time the current wording of *Zoning Ordinance*, Article 5, Section 4.6(E) was put in place, prohibiting vehicle signs attached to vehicles that are inoperable or have the "sole purpose of being used as signage." The current Code does not include any details on how the City should determine whether a vehicle is being used solely as signage. Because of this City Code Enforcement has had difficulty enforcing this rule, and several vehicles potentially in violation may be found with only a cursory drive around the City.

The present amendments propose to establish a list of criteria with which the City can more effectively enforce its rule against vehicles being used solely as signage. Among the criteria are whether the sign is temporarily or permanently attached, whether the vehicle ever moves during normal business hours, whether the vehicle could be parked in a different location on the site, and others. A full list is available in the proposed Text Amendments (Article 5, Section 4.9(H)).

According to the proposed Amendments, the City Planner would be the one to make a final determination on whether a sign is in violation.

Current Proposed Text Amendments

Key components of the proposed Text Amendments to the *Zoning Ordinance* include the following:

- **Article 5 Section 4.3** - The definition of “vehicle sign” has been modified slightly to include signs attached to utility trailers as well as motor vehicles.
- **Article 5 Section 4.5(Q)** - With this change, vehicle signs are framed as a permitted use subject to conditions rather than a prohibited use.
- **Article 5 Section 4.6(E)** - Vehicle signs are removed from the list of prohibited types of signs in favor of making them a permitted sign type subject to conditions (see above).
- **Article 5 Section 4.9(H)** - This is a new subsection greatly expanding on considerations for vehicle signs. It establishes that vehicle signs in most cases do not need permits, but also prohibits vehicles from being used for the sole purpose of signage, and lists criteria by which the City Planner may determine that this is the case. It also maintains the prohibition against inoperable vehicles being used as signage.

City Council Committee of the Whole/Legislative, Finance, and Administration Committee was presented with the proposed Text Amendments at their June 12, 2018 Meeting. The Committee recommended approval of the proposed Text Amendments after some discussion. Because several sets of Amendments to the *Zoning Ordinance* are proposed for adoption at the same time, these Text Amendments share an Ordinance number, #2018-06, with two other sets of Amendments. See the DAC Reports for MI-18-05 and MI-18-06 for details on these other proposed amendments. The Committee recommended approval of the whole proposed Ordinance. The Ordinance received a First Reading at the June 25, 2018 City Council meeting.

Because text amendments are proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission are required. City Council will conduct a Public Hearing and take Final Action on proposed Ordinance #2018-06 at their meeting of August 27, 2018. At that meeting City Council may act to adopt the whole Ordinance, to adopt part of the Ordinance, and/or to make other amendments to the proposed text.

Planning Review and Recommendations:

Planning Staff developed the proposed Text Amendments for Vehicle Signs, and therefore, recommend their adoption. The Planning Office gave opportunity to Development Advisory Committee (DAC) members to comment on the proposed Text Amendments. However, none of the reviewing agencies gave substantive comments.

Staff Amendment #1

Planning Staff heard concerns from Committee members at the June 12, 2018 meeting that the proposed Text Amendments still do not clearly indicate when a vehicle sign is in violation. Members were concerned that the Amendments may instead result in overreaching or arbitrary enforcement of the vehicle sign regulations. In response, the Planning Office developed Staff Amendment #1, which makes substantial changes to the proposal for the new Article 5, Section 4.9(H) subsection. The intentions of Staff Amendment #1 are the following:

- Clarify that the City Planner must use the given criteria, rather than simply is able to use

them.

- Clearly indicate which condition in each criterion is the undesirable one indicating a vehicle is likely solely being used as signage.
- Consolidate the list of criteria by joining together related ones and removing ones that are unlikely to have bearing on whether a vehicle is solely being used as signage.
- Establish that no one criterion is sufficient by itself to say a vehicle is solely being used as signage. A vehicle being inoperable remains one of the criteria, so in such case only one other criterion would be needed.

Article 5, Section 4.9(H) would read as follows under Staff Amendment #1:

Vehicle and utility trailer signs. Vehicles or utility trailers shall be permitted to have vehicle signs attached to or painted on them, with no sign permit required. However, the city planner may require any vehicle or utility trailer with a vehicle sign to be moved if he/she determines that the vehicle is inoperable and/or being used for the sole purpose of displaying signage. Vehicles shall be moved to a location not visible from the public right-of-way, or, if no such location is available at the business, as far away from the public right-of-way as possible. In making the determination, the city planner shall use the following criteria; at least two criteria shall be met before this section requires moving a vehicle:

1. The sign is temporarily attached to the vehicle or utility trailer, rather than painted on or applied in a permanent manner.
2. The sign includes directional copy or symbols that only function correctly when the vehicle or utility trailer is parked in one or more specific locations.
3. The vehicle or utility trailer does not move during the normal business hours of operation of the business.
4. The vehicle or utility trailer is regularly parked in a location or manner to be prominently displayed to the public, even though a more discrete parking area is available at the business location.
5. The vehicle or utility trailer is inoperable, meaning it is not properly and currently registered and tagged; is damaged or disabled as to not immediately be movable; is raised off the ground; is missing required equipment enabling it to travel on a public roadway; is parked in a location where it cannot access a public roadway; or cannot be started and moved off its location.

A direct comparison between the original version of Article 5, Section 4.9(H) and the version proposed by Staff Amendment #1 can be found in the attachments to this Report.

CITY OF DOVER
APPLICATION REVIEW COMMENTARY
JUNE 29, 2018

CITY OF DOVER
Public Works
Departments

APPLICATION: **Text Amendments: Vehicle Signs**

FILE #: **MI-18-07**

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

CONTACT PERSON: **Jason A. Lyon, P.E. – Public Works**

CONTACT PHONE #: **Public Works – 302-736-7025**

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

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

CITY AND STATE CODE REQUIREMENTS

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

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

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

WATER / WASTEWATER / STORMWATER / STREETS / SANITATION / GROUNDS / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None

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

Comparison of new subsection Article 5 Section 4.9(H), original proposal vs. Staff Amendment #1

Blue text is wording of the original proposed Text Amendment. ~~Blue Strikethrough~~ is wording of the original proposed Text Amendment proposed to be removed under Staff Amendment #1. **Green Text** is wording proposed to be added under Staff Amendment #1.

H. *Vehicle and utility trailer signs.* Vehicles or utility trailers ~~driving in the public right-of-way, or temporarily parked in an approved parking area,~~ shall be permitted to have vehicle signs attached to or painted on them, with no sign permit required. However, the city planner may require any vehicle or utility trailer with a vehicle sign to be moved if he/she determines that the vehicle is inoperable and/or being used for the sole purpose of displaying signage. Vehicles shall be moved to a location not visible from the public right-of-way, or, if no such location is available at the business, as far away from the public right-of-way as possible. In making the determination, the city planner may shall use the following criteria; ~~it is not necessary that any specific combination, or all of, the listed criteria be present to determine that the vehicle is inoperable or being used for the sole purpose of displaying signage.~~ **at least two criteria shall be met before this section requires moving a vehicle:**

- ~~Whether the sign is painted upon or applied in a permanent manner directly to an integral part of the vehicle or utility trailer or merely temporarily attached to the vehicle or utility trailer. The sign is temporarily attached to the vehicle or utility trailer, rather than painted on or applied in a permanent manner.~~
- The sign includes directional copy or symbols that only function correctly when the vehicle or utility trailer is parked in one or more specific locations.**
- ~~Whether, during the normal business hours of operation of the business, the vehicle or utility trailer is moved or remains in a stationary location. The vehicle or utility trailer does not move during the normal business hours of operation of the business.~~
- ~~Whether the vehicle or utility trailer is regularly parked in a location or manner to be prominently displayed to the public. The vehicle or utility trailer is regularly parked in a location or manner to be prominently displayed to the public, even though a more discrete parking area is available at the business location.~~
- ~~Whether other nearby signage for the business is provided by a free-standing sign or wall sign.~~
- ~~Whether the vehicle or utility trailer is suitable for and actively used in the daily function of the business to which such signs relate.~~
- ~~Whether the sign includes directional copy or symbols that would only be applicable if parked near the use.~~
- ~~Whether there is available parking in another location on the site.~~
- ~~Whether the vehicle sign is being used to advertise the sale of the vehicle or utility trailer, or other nearby vehicles or utility trailers.~~
- Vehicles and utility trailers shall be deemed inoperable if they are not properly and currently registered and tagged; if they are damaged or disabled as to not immediately be movable; if they are raised off the ground in any way; if they cannot be started and moved off their location; or if they are missing required equipment enabling them to travel on a public roadway. The vehicle or utility trailer is inoperable, meaning it is not properly and currently registered and tagged; is damaged or disabled as to not immediately be movable; is raised off the ground; is missing required equipment enabling it to travel on a public roadway; is parked in a location where it cannot access a public roadway; or cannot be started and moved off its location.**

MI-18-07: Text Amendment: Vehicle Signs
7/6/18

Proposed additions are in **blue text**. Proposed deletions are in ~~red strikethrough~~.

Article 5, Section 4. - Supplementary sign regulations.

[Beginning of Section omitted]

4.3 *Sign definitions.*

[Unchanged definitions omitted]

Vehicle sign: A sign displaying a name or names, logo types, graphics, commercial messages or any combination thereof, which is attached to, painted on, or otherwise applied to a motor vehicle **or utility trailer**.

[Subsection 4.4 omitted]

4.5 *Signs permitted in all districts and not requiring permits.*

- A. Signs advertising the sale, lease, or rental of the premises upon which the sign is located, which sign shall not exceed six and one-fourth square feet in residential districts and 32 square feet in all other districts, and shall comply with setback regulations. One such sign shall be permitted for each 200 linear feet of street frontage for the parcel.
- B. Signs designating the name and address of the occupants, hours of operation, security notices, and business policy statements, and may not exceed four square feet.
- C. Signs denoting the architect, engineer, developer, or contractor placed on premises where construction, repair, or renovation is in progress, which signs shall not exceed 32 square feet in area. No more than two signs of any type are permitted for any one property or building project. Signs shall be 50 feet from other signs on the site, except where it is not physically possible, then the signs shall be as far away from the other sign as much as possible.
- D. Directional signs limited in area to no more than five square feet per sign, plus one square foot for each additional tenant. A permit is required for directional signs identifying the entrance or exit of a site if over five square feet in sign area. The sign area for these larger directional signs shall not exceed eight square feet and shall not be over four feet in height.
- E. Public signs.
- F. Historical and memorial signs.
- G. Any sign located in an internal location on a site, campus, or complex and that cannot be seen from any public right-of-way or adjacent property.
- H. People wearing costumes of the logo or character associated with the company as long as they are located on the business location.
- I. Political signs shall not be over six square feet in sign area in all Residential Zones and Districts and all other zoning districts shall comply with the size regulations in subsection 4.7 Permitted Signs, of this section. All election signs shall be removed no later than seven days after the election.
- J. Signs noting a tenant, store, building, etc. is "coming soon", which sign shall not exceed 32 square feet and only one sign is permitted on the site. The sign shall be 50 feet from other signs. The sign shall not be placed on the site for more than six months. After six months the sign shall be removed even if the tenant, store, building, etc. has not opened or been constructed.

- K. Portable signs designed to be transported, including, but not limited to, A-frames, sandwich boards, and umbrellas. These types of signs shall not obstruct pedestrian or vehicular access. No more than one sign is permitted per business, and shall not exceed four feet in height.]
- L. Signs required by federal or state law or by a municipal authority.
- M. Signs carved into a building or raised in integral relief on a building.
- N. Flags on flag poles.
- O. Public art.
- P. "Open" signs for business not to exceed two per business.
- Q. Vehicle signs subject to the provisions of subsection 4.9-supplementary sign regulations, H., of this section.**

4.6 *Sign prohibited in all districts.*

- A. Signs which emit audible sound, vapor, smoke, odor, particles or gaseous matter.
- B. Any sign which competes for attention with, or may be mistaken for, traffic signals. Also, any sign that is determined by the city planner to constitute a traffic hazard by reason of size, location, content, color, or type of illumination.
- C. Off-premises signs of any type (billboards, temporary signs, directional signs for developments, etc.), except for shared freestanding signs as provided in subsection 4.4—Design requirements, A.5., and subsection 4.9—Supplementary sign provisions, F., of this section.
- D. Inflatable signs, except as specifically permitted in subsection 4.9—Supplementary sign provisions, D.3., of this section.
- ~~E. Vehicle signs, including changeable signs, attached to or painted on vehicles for the sole purpose of being used as signage; or attached to or painted on inoperable vehicles.~~
- F. Signs painted on or attached to trees, fence posts, natural features, or telephone or utility poles.
- G. Signs that are flashing, rotating, or that give the appearance of movement, or are illuminated by flashing or intermittent lights, or lights of changing degrees or intensity, except as permitted under subsection 4.4—Design requirements, of this section.
- H. Temporary signs made of cardboard, paper, canvas or similar impermanent material, except those permitted in subsection 4.9—Supplementary sign provisions, of this section.
- I. Window signs covering more than 50 percent of a window or a door, or mounted above the first floor, except those permitted in subsection 4.9—Supplementary sign regulations, A.5., of this section.
- J. Pennants, balloons, streamers, flags, etc. except when permitted in subsection 4.5—Signs permitted in all districts and not requiring permits and in subsection 4.9—Supplementary sign regulations, D.1., of this section.

[Subsections 4.7 and 4.8 omitted]

4.9 *Supplementary sign provisions.*

- A. *Window signs.*
 - 1. Three window signs shall be permitted as additional signage on walls fronting on the public right-of-way.
 - 2. Window signs shall not cover more than 50 percent of any window exclusive of window and/or door frame.

3. Windows principally viewed from drive aisles and parking lots and not prominently visible from the public right-of-way shall be exempt from restrictions on the number of signs, and may be approved by the city planner for a window coverage area greater than 50 percent when the business elects to have less window signage than permitted on the windows fronting on, or prominently visible from, the public right-of-way.
 4. Window signs shall be permitted on windows on the first floor of a building only.
 5. The city planner may waive the provisions of this subsection when it has been demonstrated that the proposed window signs are of a unique or superior quality and style, and are intended to compliment the architectural design of the building, or when the business elects to use less wall signs than permitted for the purpose of complimenting the architectural design of the building. Signs granted this waiver are not exempt from the requirement to obtain a sign permit.
- B. *Historic district signs.*
1. All signs in the historic district must meet the standards laid out in the Design Standards and Guidelines for the City of Dover Historic District Zone. Any and all standards found elsewhere in this section may be waived as part of the architectural review approval when proposed signs are determined to contribute to or improve the historic context of the building.
- C. *Gas station signage.*
1. *Canopy signs.*
 - (a) Canopy sign height shall not exceed 30 feet.
 - (b) Canopy sign copy shall be directed toward a public street.
 - (c) Canopy sign area shall be limited to no greater than 20 percent of the area of the canopy face to which the sign is applied.
 2. *Exempt signs.*
 - (a) State or federal required price per gallon signage shall not count towards overall sign area for the site, unless they exceed 32 square feet in size.
 - (b) Price per gallon signs not exceeding two square feet, located on the pump itself.
- D. *Temporary signs.*
1. *Temporary signs.* Temporary signs for special events including inflatable signs with a surface area of less than 100 square feet and not more than 25 feet tall, may be erected on the premises of any establishment conducting a special event, provided that such signs do not exceed a total of two signs with a total of 100 square feet in sign area.. Temporary signage shall be displayed no longer than 90 days per calendar year. For grand openings, the maximum number, sign type, and allowable area may be waived by the city planner. Permits for such signs are required and shall be accompanied by a fee as provided for in Appendix F—Fees and Fines. The city planner may waive the time period, not to exceed an additional 30 days, if they determine that there are extenuating circumstances requiring further time for a temporary sign.
 2. *Race weekend signs.* During any seven-day period prior to the Saturday or Sunday that auto racing is occurring, temporary signs may be erected without a permit and with no restrictions on the number or size of the signs.
 3. *Inflatable signs.* Permits for such signs are required and shall be accompanied by a fee as provided for in Appendix F—Fees and Fines.
 - (a) Inflatable signs with a surface area equal to or less than 100 square feet and not more than 25 feet tall are permitted in subsection 4.9—Supplementary Sign provisions, D.1., of this section and shall meet the following requirements:

- i. The inflatable sign shall be setback from the edge of the right-of-way a minimum of 25 feet.
 - ii. The inflatable sign shall be securely anchored to the building or ground.
 - (b) Inflatable signs with a surface area over 100 square feet and not more than 25 feet tall are permitted only during grand opening events, community festivals, and during race weekends in accordance with subsection 4.9 Supplementary Sign provisions, D.1. and D.2., of this section and shall meet the following requirements:
 - i. The inflatable sign shall be setback from the edge of the right-of-way a minimum of 25 feet.
 - ii. A plot plan/survey is required showing the placement of the inflatable sign in respect to utility lines and traffic.
 - iii. The inflatable sign shall be securely anchored to the building or ground.
- E. *Motor vehicle sales lots.* This subsection allows motor vehicle sales lots to compensate for their likelihood to be mistaken for ordinary parking lots unless additional signs or other attention getting devices are placed in the sales area. It has also been demonstrated that these businesses tend to have smaller buildings relative to their land area diminishing their ability to effectively use wall signs.
 - 1. Banners are permitted on motor vehicle sales lots with a permit. Such banners may be permitted at a rate not to exceed one banner for each ten motor vehicle parking/storage spaces on the premises, and any such banner shall not be situated closer than 50 feet of any other banner on the premises. Parking spaces required for employees, customers, and service department uses shall not be counted to calculate the number of banners. The term "banner" does not include pennants, streamers, balloons, or other temporary or permanent signs.
 - 2. Banners shall not exceed a width of three feet.
 - 3. All banners must be securely attached to light standards, poles, or other substantial mounting hardware. Except for temporary signs permitted under the provisions of subsection 4.9—Supplementary sign provisions, D., of this section, all banners must be constructed of a permanent, weather resistant material.
- F. *Shared freestanding signs.*
 - 1. For adjoining nonresidential properties, a freestanding sign structure may be shared among adjoining property owners or businesses solely for the purpose of identification of the adjoining premises or businesses.
 - 2. Where multiple property owners have agreed to share a freestanding sign as referenced in subsection 4.4—Design requirements, of this section, the shared freestanding sign shall be entitled to a combined sign area bonus of not more than 50 percent over the freestanding sign area otherwise permitted for the property on which the shared freestanding sign would be placed.
 - 3. The permit application for a shared freestanding sign shall be accompanied by a binding legal agreement between the multiple adjoining property owners and/or businesses which describes the ownership and maintenance obligations for such shared sign.
- G. *Single buildings with multiple commercial tenant spaces or facades.*
 - 1. Structures, such as shopping centers, which contain multiple commercial tenant spaces, are permitted to have at least one wall sign on each unit. This provision shall only apply to units on the first floor of the structure.
 - 2. When a structure is designed so that there are distinctly different facades or sections of the building along a single frontage, at least one wall sign is permitted on each facade or section of the building.

3. Multi story office buildings with multiple tenants are permitted one wall sign per tenant. Signs shall not be located above the second story.

H. *Vehicle and utility trailer signs.* Vehicles or utility trailers driving in the public right-of-way, or temporarily parked in an approved parking area, shall be permitted to have vehicle signs attached to or painted on them, with no sign permit required. However, the city planner may require any vehicle or utility trailer with a vehicle sign to be moved if he/she determines that the vehicle is inoperable or being used for the sole purpose of displaying signage. Vehicles shall be moved to a location not visible from the public right-of-way, or, if no such location is available, as far away from the public right-of-way as possible. In making the determination, the city planner may use the following criteria; it is not necessary that any one of or all the listed criteria be present to determine that the vehicle is inoperable or being used for the sole purpose of displaying signage.

1. Whether the sign is painted upon or applied in a permanent manner directly to an integral part of the vehicle or utility trailer or merely temporarily attached to the vehicle or utility trailer.
2. Whether, during the normal business hours of operation of the business, the vehicle or utility trailer is moved or remains in a stationary location.
3. Whether the vehicle or utility trailer is regularly parked in a location or manner to be prominently displayed to the public.
4. Whether other nearby signage for the business is provided by a free-standing sign or wall sign.
5. Whether the vehicle or utility trailer is suitable for and actively used in the daily function of the business to which such signs relate.
6. Whether the sign includes directional copy or symbols that would only be applicable if parked near the use.
7. Whether there is available parking in another location on the site.
8. Whether the vehicle sign is being used to advertise the sale of the vehicle or utility trailer, or other nearby vehicles or utility trailers.
9. Vehicles and utility trailers shall be deemed inoperable if they are not properly and currently registered and tagged; if they are damaged or disabled as to not immediately be movable; if they are raised off the ground in any way; if they cannot be started and moved off their location; or if they are missing required equipment enabling them to travel on a public roadway.

[End of section omitted]

(Ord. of 2-12-2001; Ord. No. 2009-09, 6-22-2009; Ord. No. 2009-19, 10-12-2009; Ord. No. 2012-13, 8-13-2012)

CITY OF DOVER PROPOSED ORDINANCE #2018-06

Routine corrections are indicated in light grey highlight

Amendments Related to the Creation of the IPM3 Zone (other than the addition of Article 3, Section 20B) and routine corrections are indicated in yellow highlight

Amendments Related to the Replacement of Maximum Parking Requirement are indicated in green highlight

Amendments Related to Vehicle Signs are indicated in blue highlight

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

3 That Appendix B – Zoning, Article 3 – District Regulations, be amended by inserting a new Section
4 20B – Industrial Park Manufacturing Zone – Industrial Aviation and Aeronautics Center (IPM3), as
5 indicated in bold, blue font, as follows:

6 **Article 3 Section 20B. - Industrial park manufacturing zone- Industrial Aviation and Aeronautics**
7 **Center (IPM3).**

8 **20B.1 Uses permitted. In an IPM3 zone, no building or premises shall be used and no**
9 **building or part of a building shall be erected, which is arranged, intended or designed to be**
10 **used, in whole or in part, for any purpose, except the following, and in accordance with**
11 **performance standards review procedure as set forth in article 5 sections 8.2 and 8.6, and**
12 **subject to site development plan approval as set forth in article 10, section 2:**

13 **20B.11 Airports, spaceports, and related facilities, including passenger terminals, cargo**
14 **facilities, hangars, refueling operations, parking facilities and other uses integral to**
15 **airport or spaceport operations.**

16 **20B.12 Commercial or industrial uses that are related to aviation or aeronautics and/or**
17 **require direct access to an airport, spaceport, or aviation/aeronautics services, including**
18 **assembly or sale of aircraft or spacecraft, air frames, aircraft or spacecraft engines,**
19 **associated parts and components, radios or navigational equipment, and similar products**
20 **or services.**

21 **20B.13 Public and institutional uses that support the aviation or aeronautics industries**
22 **such as aviation or aeronautics technical schools, security services, and inspection**
23 **facilities.**

24 **20B.14 Bulk storage of fuel, lubricants, fire suppression and other materials integral to**
25 **design, construction, testing, maintenance, or operation of aircraft or spacecraft.**

26 **20B.15** Printing, publishing, binding, packaging, storage, warehousing, and
27 transshipment and distribution.

28 **20B.16** Business, professional, or administrative offices.

29 **20B.17** Radio or television broadcasting towers, telecommunications towers, antenna
30 arrays, and receiving satellite dishes that support aviation, aeronautics, or related
31 operations.

32 **20B.2** *Conditional uses.* The following uses are permitted, conditional upon the approval of the
33 planning commission in accordance with the procedures and subject to the general conditions set
34 forth in article 10, section 1: Service establishments such as auto rental and travel agencies,
35 commercial parking lots and garages, automobile service stations, car washes, banks, gift shops,
36 newsstands, bookstores, restaurants, bars, medical offices, postal facilities, laundry services, and
37 similar facilities available to airport or spaceport users and employees. The application for
38 conditional use shall clearly demonstrate the relationship of the proposed use to an existing or
39 proposed airport or spaceport.

40 **20B.3** *Uses prohibited.* The following uses are specifically prohibited:

41 **20B.31** Residences.

42 **20B.32** Manufacturing uses involving primary production of the following products from
43 raw materials: Asphalt, cement, charcoal, and fuel briquettes; chemicals: aniline dyes,
44 ammonia, carbide, caustic soda, cellulose, chlorine, and carbon black and bone black,
45 creosote, hydrogen and oxygen, industrial alcohol, nitrates (manufactured and natural)
46 of an explosive nature, potash, and synthetic resins, pyroxylin, rayon yarn, and
47 hydrochloric, nitric, phosphoric, picric, and sulphuric acids; coal, coke, and tar products,
48 including gas manufacturing; explosives, fertilizers, glue, and size (animal); linoleum and
49 oil cloth; matches; paint, varnishes, and turpentine; rubber (natural or synthetic); [and]
50 soaps, including fat rendering.

51 **20B.33** The following processes: nitrating of cotton or other materials; magnesium
52 foundry; reduction, refining, smelting, and alloying of metal or metal ores; refining
53 secondary aluminum; refining petroleum products, such as gasoline, kerosene, naphtha,
54 [and] lubricating oil; distillation of wood or bones; [and] reduction and processing of wood
55 pulp and fiber, including papermill operations.

56 **20B.34** Operations involving stock yards, slaughter houses, and slag piles.

57 **20B.35** Storage of explosives.

58 **20B.36** Landfills.

20B.37 Quarries, stone crushers, screening plants, and storage of quarry screenings accessory to such uses, except for temporary construction activities supporting a specific construction project in the IPM3 zone or the adjoining air facility, and lasting only the duration of that construction project.

20B.38 Junkyards, automobile dismantling plants or storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles.

20B.39 Public assembly facilities, including, but not limited to, churches, libraries, sports fields, theaters, and amphitheaters.

20B.4 *Tree planting requirements in the IPM3 zone.*

20.B41 No new trees shall be planted within 120 feet of any pavement area taxed by operational aircraft or spacecraft. For the purpose of fulfilling the tree density requirements of Article 5, Section 16- Tree planting and preservation, the area of this pavement plus the area of the 120-foot wide buffer around it shall be excluded from the required development area for the property as defined in that section.

20.B42 All new trees shall be of a species that does not typically exceed 50 feet in height at maturity.

20B.5 *Site development plan approval.* Site development plan approval, in accordance with article 10, section 2 hereof, shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

20B.6 *Performance standards.* All uses in the IPM3 zone are subject to performance standards as set forth in article 5, section 8, including any uses not subject to the performance standards review procedure.

20B.7 *Exemptions.* Uses in the IPM3 zone are exempt from the following provisions of the City of Dover Code of Ordinances:

20B.71 *Outdoor storage trailers.* Appendix B, Article 5, Section 7.4, where the use of outdoor trailers for storage or distribution is a primary use of the site.

20B.72 *Fences.* Appendix B, Article 5, Section 7.5, where

a. Dover Air Force Base requires a more robust fence, in which case the fence shall be constructed per Dover Air Force Base Standards; or

b. it can be demonstrated to the satisfaction of the Planning Commission that a more robust fence is required for site safety and security reasons. In

approving a waiver for such a fence, the Commission shall consider the following factors:

- i. The design of the proposed fence, including material and opacity.
- ii. Whether there are residential land uses adjacent to or across the street from the proposed fence.
- iii. The proposed setback of the fence from the property line.
- iv. Whether a berm or vegetated screen could feasibly be included in the setback to screen the fence from view, without compromising the security function of the fence or introducing vegetation hazardous to aircraft or spacecraft operations.

20.B.8 Compliance with AEOZ. Properties in the IPM3 zone shall not be exempt from the requirements of Appendix B, Article 3 Section 22- Airport environs overlay zone (AEOZ). If the proposed use of a property is permitted in the IPM3 zone but prohibited based on the property's location within an accident potential zone (APZ I and II), clear zone (CZ) or noise zone, the use shall be prohibited on that property.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 3 - District Regulations, Section 24 - Planned Neighborhood Design Option (PND), Subsection 24.1 - Generally, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikethrough as follows:

Section 24. - Planned neighborhood design option [(PND)].

24.1 **General**ly.

(a) *Planned neighborhoods.* In order to encourage superior residential environments through a unified planning process, the planned neighborhood design option shall be permitted in R-20, R-15, R-1O, R-8, RM-1 and RM-2 zones as a conditional use subject to the provisions of article 10 of this ordinance and after a determination by the planning commission that the proposed planned neighborhood design presents a superior community design than would be possible under the conventional zone and is in accordance with the goals and policies of the comprehensive plan. The minimum size required for a planned residential development shall be 20 acres.

(b) *Senior citizen housing option.* In order to encourage the development of high quality housing opportunities designed to accommodate the particular needs of senior citizens, the senior citizen housing option shall be permitted in all zones as a conditional use, except in the M, **IMP, IPM, IPM2, IPM3**, and C-4 zones within which this option shall not be applicable. Preference shall be given to those projects which are within close proximity to public transit services and which are situated within one-quarter

mile of a grocery store, pharmacy, restaurant, physician office, senior center or similar convenience service establishment.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 4 - Zoning Bulk and Parking Regulations, Section 4.15 - C-3, C-4, R-C, IO zones, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout as follows:

Section 4.15. - ~~C-3, C-4, R-C, IO, and CPO~~ zones.

Bulk and parking regulations for service commercial (C-3), highway commercial (C-4), recreation and commercial (R-C), institutional and office (IO), and commercial and professional office (C-PO) zones are as follows:

	C-3	C-4	RC	IO	C-PO
Minimum required:					
Lot area			5 acres	10,000 sq. ft.	5,000 sq. ft.
Lot width (ft.)	100	150	250	100	50
Lot depth (ft.)	100	150	400	100	100
Front yard (ft.)	20	20	30	10	10
Side yard (ft.)	15	15	50	10	5
Rear yard (ft.)	10	10 or equal to bldg. height	50	15	15
Side or rear yards which adjoin a residence zone (ft.)	30	30	100	30	25
Off-street parking					
Per 300 sq. ft. floor area or	1	1	1	1	1
Per employee (whichever is greater)	1	1			
Maximum permitted:					
Building height					
Stories	6	6	10	10	3
Feet	75	75	130	150	45
Floor area ratio	4.0	4.0	4.0	6.0	2.0
Lot coverage	80%	75%	85%	85%	75%

(Ord. of 9-13-1999; Ord. No. 2014-08, 7-14-2014)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 4 - Zoning Bulk and Parking Regulations, Section 4.16 - M, IPM Zones, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout as follows:

Section 4.16. - M, IPM zones.Bulk and parking regulations for industrial zones in M and IPM **districts zones** are as follows:

For All Permitted Uses	M	IPM (Conventional Planned)	IPM (Planned Industrial Park)	IPM2 (Technology Center)	IPM3 (Aviation and Aeronautics Center)
Lot area	½ acre	2½ acres	2½ acres average; 60,000 sq. ft. minimum	10 acres	1 acre
Lot width (ft.)	100	200	150	100	100
Lot depth (ft.)	150	300	250	100	100
Front yard (ft.)	40	60	60	60	40
Side yard (ft.)	20	40	40	40	20
Rear yard (ft.)	20	40	40	40	20
Side or rear yard which adjoins a residential zone (ft.)	50	100	100	100	50
Off-street parking space:					
Per 800 sq. ft. of floor area	1	1	1	1	1
Per employee, per largest working shift (if greater than the requirement under the floor area calculation)	1	1	1½	1	1
Maximum permitted:					
Building height					
Stories	2	Not limit	2	Not limit	Not limit
Feet	35	Equal to distance to nearest lot line	35	Equal to distance to nearest lot line	75*
Floor area ratio	0.5	0.5	0.5	0.5	0.5
Lot Coverage	85%	75%	65%	65%	85%

***Building height shall comply with all applicable Federal Aviation Administration, Department of Defense, and Unified Facilities Criteria height restrictions and obstruction marking and lighting standards.**

(Ord. of 3-24-1986; Ord. of 7-12-1993, § 1; Ord. of 8-23-1999; Ord. No. 2009-18, 10-12-2009)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign Regulations, Section 4.3 - Sign Definitions, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout for the definition of "Vehicle Sign", as follows:

Vehicle sign: A sign displaying a name or names, logo types, graphics, commercial messages or any combination thereof, which is attached to, painted on, or otherwise applied to a motor vehicle **or utility trailer.**

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign Regulations, Section 4.5 - Sign Permitted in All Districts and Not Requiring Permits, be amended by inserting the text indicated in bold, blue font, as follows:

Q. Vehicle signs subject to the provisions of subsection 4.9-supplementary sign regulations, H., of this section.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign Regulations, Section 4.6 - Sign prohibited in all districts, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout, as follows:

4.6 Sign prohibited in all districts.

- A. Signs which emit audible sound, vapor, smoke, odor, particles or gaseous matter.
- B. Any sign which competes for attention with, or may be mistaken for, traffic signals. Also, any sign that is determined by the city planner to constitute a traffic hazard by reason of size, location, content, color, or type of illumination.
- C. Off-premises signs of any type (billboards, temporary signs, directional signs for developments, etc.), except for shared freestanding signs as provided in subsection 4.4—Design requirements, A.5., and subsection 4.9—Supplementary sign provisions, F., of this section.
- D. Inflatable signs, except as specifically permitted in subsection 4.9—Supplementary sign provisions, D.3., of this section.
- E. **Vehicle signs, including changeable signs, attached to or painted on vehicles for the sole purpose of being used as signage; or attached to or painted on inoperable vehicles. Reserved.**
- F. Signs painted on or attached to trees, fence posts, natural features, or telephone or utility poles.

- 201 G. Signs that are flashing, rotating, or that give the appearance of movement, or are
202 illuminated by flashing or intermittent lights, or lights of changing degrees or intensity,
203 except as permitted under subsection 4.4—Design requirements, of this section.
- 204 H. Temporary signs made of cardboard, paper, canvas or similar impermanent material,
205 except those permitted in subsection 4.9—Supplementary sign provisions, of this section.
- 206 I. Window signs covering more than 50 percent of a window or a door, or mounted above
207 the first floor, except those permitted in subsection 4.9—Supplementary sign regulations,
208 A.5., of this section.
- 209 J. Pennants, balloons, streamers, flags, etc. except when permitted in subsection 4.5—Signs
210 permitted in all districts and not requiring permits and in subsection 4.9—Supplementary
211 sign regulations, D.1., of this section.

212 **BE IT FURTHER ORDAINED:**

213 That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign
214 Regulations, Section 4.9 - Supplementary Sign Provisions, be amended by inserting a new Section H -
215 Vehicle and Utility Trailer Signs, as follows:

216 **H. *Vehicle and utility trailer signs.* Vehicles or utility trailers driving in the public**
217 **right-of-way, or temporarily parked in an approved parking area, shall be permitted to**
218 **have vehicle signs attached to or painted on them, with no sign permit required.**
219 **However, the city planner may require any vehicle or utility trailer with a vehicle sign**
220 **to be moved if he/she determines that the vehicle is inoperable or being used for the sole**
221 **purpose of displaying signage. Vehicles and utility trailers shall be moved to a location**
222 **not visible from the public right-of-way, or, if no such location is available, as far away**
223 **from the public right-of-way as possible. In making the determination, the city planner**
224 **may use the following criteria. It is not necessary that any specific combination, or all of,**
225 **the listed criteria be present to determine that the vehicle or utility trailer is inoperable**
226 **or is being used for the sole purpose of displaying signage.**

227 **1. Whether the sign is painted upon or applied in a permanent manner directly to an**
228 **integral part of the vehicle or utility trailer or merely temporarily attached to the**
229 **vehicle or utility trailer.**

230 **2. Whether, during the normal business hours of operation of the business, the vehicle**
231 **or utility trailer is moved or remains in a stationary location.**

232 **3. Whether the vehicle or utility trailer is regularly parked in a location or manner to**
233 **be prominently displayed to the public.**

234 **4. Whether other nearby signage for the business is provided by a free-standing sign or**
235 **wall sign.**

- 236 5. Whether the vehicle or utility trailer is suitable for and actively used in the daily
237 function of the business to which such signs relate.
- 238 6. Whether the sign includes directional copy or symbols that would only be applicable
239 if parked near the use.
- 240 7. Whether there is available parking in another location on the site.
- 241 8. Whether the vehicle sign is being used to advertise the sale of the vehicle or utility
242 trailer, or other nearby vehicles or utility trailers.
- 243 9. Vehicles and utility trailers shall be deemed inoperable if they are not properly and
244 currently registered and tagged; if they are damaged or disabled as to not
245 immediately be movable; if they are raised off the ground in any way; if they cannot
246 be started and moved off their location; or if they are missing required equipment
247 enabling them to travel on a public roadway.

248 **BE IT FURTHER ORDAINED:**

249 That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 8 - Performance Standards,
250 be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red
251 strikeout as follows:

252 **Section 8. - Performance standards.**

- 253 8.1 *Dangerous and objectionable elements.* No land or building in any zone shall be used or
254 occupied in any manner so as to cause any one or more of the following conditions to exist
255 and to be dangerous, injurious, noxious or offensive beyond the boundaries of such premises
256 in such a manner or in such amount as to adversely affect the reasonable use of the
257 surrounding area or adjoining premises: Fire, explosive or other hazard; noise, or vibration;
258 smoke, dust, odor or other form of air pollution; heat, cold, dampness or electromagnetic
259 disturbance; glare, liquid or solid refuse or waste; traffic congestion causing roadways or
260 intersections in the surrounding highway network to fall below acceptable levels of comfort
261 and convenience; or other substance, condition or element (referred to hereinafter as
262 "dangerous or objectionable elements"), provided that any use permitted or not expressly
263 prohibited by this ordinance may be undertaken and maintained if it conforms to the
264 regulations of this section limiting dangerous and objectionable elements at the point of the
265 determination of their existence.
- 266 8.2 *Uses requiring performance standards review procedure.* Those uses in the C-3, IPM,
267 IPM2, IPM3, and M zones and uses accessory thereto, which are specified as being subject
268 to performance standards review procedure, are subject to the procedure specified in article
269 5, section 8.6 in obtaining a site plan approval. The city planner may require other uses,
270 whether existing or proposed and regardless of the particular zoning district, to submit to the
271 performance standards review procedure when there exists reasonable grounds to believe
272 that a proposed use is in violation, or is likely to violate, the performance standards, in

which event, the property owner shall comply with [the] performance standards review procedure.

8.3 *Enforcement provisions applicable to other uses.* Even though compliance with the performance standards procedure in obtaining a site plan approval is not required for some proposed uses, initial and continuing compliance with the performance standards themselves is required of every use, and provisions for enforcement to ensure continued compliance with the performance standards shall be invoked by the city planner against the property owner, tenant, or other responsible party if there are reasonable grounds to believe that performance standards are being violated by a particular activity or use.

8.4 *Nonconforming uses.* Certain uses established before the effective date of this ordinance and nonconforming as to performance standards shall be given a reasonable time in which to conform therewith, as provided in article 7, section 1.53.

8.5 *Performance standards regulations.* Where the following regulations overlap regulations of the Delaware Department of Natural Resources and Environmental Control or other state or local agencies, the more restrictive regulations shall apply in case of a conflict:

8.51 *Fire and explosion hazards.* All activities involving, and all storage of, inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of the state and local laws and regulations shall also apply.

8.52 *Radioactivity or electromagnetic disturbance.* No activities shall be permitted which emit dangerous radioactivity at any point, or electromagnetic disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

8.53 *Noise.* The maximum sound pressure level radiated by any use or facility (other than transportation facilities **open to the public**) at the property line shall not exceed the values in the designated octave bands given in [the following] table I, after applying the corrections shown in [the following] table II. The sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z243-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, N.Y., shall be used).

Table I

Octave Band Range In Cycles per Second	Sound Pressure Level in Decibels re 0.0002 dyne/cm ²
30— 300	60
301—2,400	40
Above 2,400	30

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in table II shall be applied to the decibel levels given in table I.

Table II

	Type of Location of Operation or Character of Noise	Correction in Decibels
1.	Daytime operation only	
2.	Noise source operates less than*	
a.	20 percent of any one-hour period	5
b.	05 percent [sic] of any one-hour period	10
3.	Noise of impulsive character (hammering, etc.)	-5
4.	Noise of periodic character (hum, screech, etc.)	-5
5.	Property is located in one of the following zones and is not within 500 feet of any residential district*:	
a.	Central commercial C-2 zone	5
b.	Service commercial C-3 zone Manufacturing M zone	10
6.	Property is located in industrial park manufacturing zone IPM1, IPM2, or IPM3	10

*Apply one of these corrections only.

8.54 **[Vibration.]** No vibration shall be permitted which is discernible without instruments at the property line.

8.55 *Smoke.* No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyrighted 1954 (being a direct facsimile reduction of the standard Ringlemann chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 2 on said chart may be emitted for four minutes in any 30 minutes. These provisions applicable to visible grey smoke shall also apply to visible smoke of a different color, but with an apparently equivalent opacity. Any emission shall be in conformance with air pollution regulations of the Delaware Department of Natural Resources and Environmental Control.

8.56 *Odors.* No emission shall be permitted of odorous gases or other offensive odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous

air emitted to four volumes of clean air. Any process which may involve the creation or emission of any offensive odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. There is hereby established as a guide in determining such quantities of offensive odors Table III, Odor Thresholds, in chapter 5, "Air Pollution Abatement Manual," copyright 1951 by Manufacturing Chemists' Association, Inc., Washington D.C., and said manual and/or table as subsequently amended.

8.57 Fly ash, dust, fumes, vapors, gases, and other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling, at any point, and/or which does not conform to air pollution regulations of the Delaware Department of Natural Resources and Environmental Control, and, in no event, any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grain per cu. ft. of the conveying gas resulting from combustion. Standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

8.58 [Glare.] No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this ordinance.

8.59 Liquid or solid wastes. No discharge shall be permitted at any point into any public sewer, private sewage disposal system or stream, or into the ground, except in accord with standards approved by the Delaware Department of Natural Resources and Environmental Control, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.

8.60 Traffic congestion. When, in the surrounding highway network, operating conditions are at or near the design capacity level beyond which would result in functional failure of the surrounding highway network. All speeds are reduced to a low, but relatively uniform value. Freedom to maneuver within the traffic stream is extremely difficult, and it is generally accomplished by forcing a vehicle or pedestrian to "give way" to accommodate such maneuvers. Comfort and convenience levels are extremely poor, and driver or pedestrian frustration is generally high. Operations at this level are usually unstable, because small increases in flow or minor perturbations within the traffic stream will cause functional failures beyond acceptable levels. (The conditions described in this [sub]section are also used to describe "level of service E" as defined by the highway capacity manual developed by the transportation research board, dated 1985.)

8.6 Performance standard procedure.

8.61 Application. An application for a site plan approval shall be accompanied with a performance standard review application when a use or occupancy is required, and shall be referred by the **building inspector city planner** to the planning commission. The applicant shall also submit, in an amount equal to the required number of site plan submissions, a plan of the proposed construction or development, including a description of the proposed machinery, operations, and products, and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectional elements referred to in article

5, section 8.1, in accordance with rules prescribed by the planning commission specifying the type of information required in such plans and specifications, and an affidavit by the applicant acknowledging his understanding of the applicable performance standards and agreement to conform with same at all times.

No applicant will be required to reveal any secret processes, and any information submitted will be treated as confidential if requested. The fee for such application shall include the cost of the special reports required to process it, described below.

8.62 *Report by expert consultants.* The planning commission, if there is any reasonable doubt as to the likelihood of conformance, shall refer the application for investigation and report to one or more expert consultants qualified to advise as to whether a proposed use will conform to the applicable performance standards specified herein. Such consultant or consultants shall make such report within 30 days after his or their receipt of such application. A copy of such report shall be promptly furnished to the applicant.

8.63 *Decision of the planning commission.* At the next regular meeting of the planning commission, but in no event more than 30 days after the board has received the aforesaid report, or within such further period as agreed to by the applicant, the board shall decide whether the proposed use will conform to the applicable performance standards and, on such basis, shall authorize or refuse to authorize the issuance of a building permit or certificate of occupancy, or require a modification of the proposed plan of construction. Such decision of the commission shall be in the form of a written report. Any building permit or certificate of occupancy so authorized and issued shall be conditioned on, among other things:

- (i) The applicant's completed buildings and installations in operation conforming to the applicable performance standards, and
- (ii) The applicant's paying the fees for services of the expert consultant or consultants deemed reasonable and necessary by the planning commission for advice as to whether or not the applicant's completed buildings and installations will, in operation, conform to the applicable performance standards.

(Ord. of 4-25-1994; Ord. of 4-28-2008(2))

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 - Off-street Parking, Driveways and Loading Facilities, Section 3 - Required Off-street Parking Spaces, be amended by striking Section 3.11 - Maximum Number of Parking Spaces, as follows:

3.11 *Maximum number of parking spaces.* The maximum number of parking spaces shall not exceed 25 percent over the number of parking spaces required by the code.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 12 - Definitions, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout for the definition of “Nonresidential zones”, as follows:

Nonresidential zones: C-1, C-1A, C-2, C-2A, C-3, C-4, C-PO, RC, IO, M, IPM, **IPM2, IPM3**, SC-1, SC-2, ~~or~~ SC-3 ~~zone~~.

ADOPTED: *

SYNOPSIS

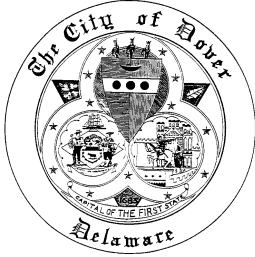
The proposed ordinance adds a new zoning classification, IPM3 (Industrial Park Manufacturing Zone-Industrial Aviation and Aeronautics Center), which is intended primarily to permit businesses in aviation and aeronautics-related industries. The ordinance also creates bulk standards for the new zone and makes minor changes to the performance standards to ensure uses in the IPM-3 zone are covered under them.

The proposed ordinance removes the maximum parking space limitation given in Article 6 of the Zoning Ordinance, and replaces it with new maximum lot coverage limitations for several zones where excessive parking lot size is of particular concern, including the C-3, C-4, RC, IPM, IPM-2, and M Zones. This will limit the amount of impervious surface on the property.

The proposed ordinance would give the city planner guidance on whether or not a vehicle sign is permitted. Under current code, vehicle signs are always permitted except where the vehicle is inoperable or being used for the sole purpose of signage. The ordinance provides a list of criteria which the city planner may use to determine if a vehicle is being used for the sole purpose of signage.

Actions History

06/25/2018 - Scheduled for First Reading - City Council



MEMORANDUM

Department of Planning & Inspections
P.O. Box 475
Dover, Delaware 19903
Phone: 302.736.7196 Fax: 302.736.4217

DATE: July 6, 2018
TO: Planning Commission
FROM: Planning Office
SUBJECT: Update on MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept

This Memorandum is provided in reference to the following agenda item:

MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept – Update on the Meeting Task assigned to Staff by Planning Commission at June 18, 2018 regarding the request for Consideration by Planning Commission of an Architecture Concept for townhouse units and an Architecture Concept for single family detached dwellings (in a 55+ community format) with a request for removal of alleys within the Eden Hill Farm TND: Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record Eden Hill Residential, LLC. Property Address: area southeast of intersection Wemyss Road and POW-MIA Parkway. Tax Parcels: areas on map ED-05-076.04. Council District 2.

At their June 18, 2018 Meeting, the Planning Commission discussed the Eden Hill Farm TND Residential District: Architecture Concept with representatives of a potential property owner and homebuilder. (See 6/18/2018 Meeting Minutes.) The Planning Commission by the following motion directed Planning Staff to meet with the project representatives prior to the July Meeting of the Planning Commission.

Dr. Jones moved that the Planning Staff meet with Ryan Homes prior to the next Planning Commission meeting with consideration on the matter of the alleys, seconded by Mr. Holt and the motion was carried 7-0 by roll call vote. Mr. Roach voting yes; with the comment that through the dialogue between Planning Staff and this project that we figure out the process to be able to move it forward. Whether that be an amendment to the TND, whether it be the applicant filing something with the Planning Staff to be able to rectify the issues in regards to the front-loading garages and alleys so that you can continue to move forward with the project. Mr. Holt voting yes; he thinks that it is long overdue and hopefully they can get things straightened out and get this project moving ahead again. Mr. Baldwin voting yes; for the aforementioned statements. Dr. Jones voting yes; she thinks this project is worthy of further discussion and resolution where ever possible. Mrs. Welsh voting yes; she concurs with Dr. Jones. Ms. Maucher voting yes; she thinks this project is important to the City and we need to work better to overcome these kinds of barriers between getting things done quickly. Mr. Tolbert voting yes; in considering the time that we have dealt with the Eden Hill project he would like to see the thing get through and finalized.

This Meeting with Staff has been scheduled for Monday, July 9, 2018. An update on the meeting will be provided to the Planning Commission on July 16th.