Council Committee of the Whole Agenda

July 14, 2020 - 6:00 p.m.

This meeting will be held electronically. Public participation information is as follows:

Dial: 1-408-418-9388
Link:
https://cityofdoverde.webex.com/cityofdoverde/onstage/g.php?MTID=ec71e5490c32a72bd26c90ec774518db1
Event number: 129 745 3956
Event password: DOVER (if needed)

Public comments are welcomed on any item and will be permitted at appropriate times. When possible, please notify the City Clerk (736-7008 or e-mail at CityClerk@dover.de.us) should you wish to be recognized.

Legislative, Finance, and Administration Committee

Agenda Additions/Deletions

1. **Proposed Ordinance - Staff Substitute #2 (SS#2) for Ordinance #2020-05 - Amending Chapter 22 - Buildings and Building Regulations, Art IX - Lodginghouses and Art X - Rental Dwellings, Appendix F - Fees and Fines, and Article 12 - Definitions**
   (During the Committee of the Whole meeting of February 25, 2020 this item was referred to staff)
   (Staff recommendation: Adoption of Staff Substitute #2 (SS#2) for Ordinance #2020-05)

2. **Adjournment of Legislative, Finance, and Administration Committee meeting**

Utility Committee

Agenda Additions/Deletions

1. **Water Production Division Proposed Operational Changes**
   (Staff recommendation: Begin this operational plan to assist with the ground water resource for all stakeholders. This would be put into action after the completion of the Water Treatment Plant Process Improvement Project.)

2. **Update on Development of Provisions and Ordinance for Wireless Communication Facilities**
   (Staff recommendation: Discussion only at this time of preliminary documents, unless the Committee develops specific recommendations during discussion)

3. **Adjournment of Utility Committee meeting**

Parks, Recreation, and Community Enhancement Committee

Agenda Additions/Deletions

1. **Review of Active Recreation Area Plans (Request for Cash-in-Lieu) - Landing Square Apartments - 600 Bay Road (Planning Reference #C-20-02)**
   (Staff Recommendation: Approval of the active recreation area plan with the comments and conditions provided)
   (Staff Recommendation: Acceptance of the $98,387.52 cash-in-lieu of recreation area construction donation, as the amount complies with the requirements of the Zoning Ordinance)

2. **Consideration of Request to Delaware Congressional Delegation Regarding Disposition of Wetland Pond Adjacent to Pat Lynn Drive at the Site of the Proposed New Middle Schools**
   (This matter was presented during the Regular Council meeting of June 8, 2020)

3. **Renaming of New Street Park to Bishop L.T. Blackshear Park**

4. **Mr. Bobby Wilson and the Wilmington Hope Commission**

5. **Summer Park Activities Update**

6. **Library Reopening Plan**
   (Staff recommendation: A soft reopening on Monday, July 27 with a full Grand Reopening on August 10. If the Committee is in agreement the Committee should direct staff to proceed. Option B would be to push the dates back by a week or two.)

7. **Adjournment of Parks, Recreation, and Community Enhancement Committee meeting**

Adjournment of Council Committee of the Whole meeting

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THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING.

FOR CITY CLERK: July 1, 202

FINAL REVISED VERSION ORDINANCE 2020-05 – FOR CCOW AGENDA ON JULY 14

(Note: disregard any copies or versions prior to this date) BLUE IS NEW

AN ORDINANCE TO AMEND CHAPTER 22 OF THE CITY OF DOVER CODE OF ORDINANCES TO PREMIT AND REGULATE SHORT TERM RENTAL USE TO ENSURE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF; AND FURTHER TO AMMEND APPENDIX B, ZONING, ARTICLE 12, DEFINITIONS AND FURTHER TO AMEND ARTICLE IX, SECTION 22-281 LODGINGHOUSES.

Pert 1 - AMEND CHAPTER 22 BY ADDING DIVISION 3 SHORT TERM RENTAL USE (This entire part is new – might require a renumbering? Would be in blue)

DIVISION 3. SHORT TERM RENTAL USE

Section 22-353: Purpose; applicability; definitions; compliance

(a) Purpose: The City of Dover wishes to permit the limited and temporary rental use of single family residences in established areas of the City as an economic asset, allowing for increased travel, visitation and tourism and affording property owners of the opportunity to earn revenue from such occupancy, while ensuring that such uses do not become a nuisance, that neighborhood character is not compromised, and that such businesses are properly operated and maintained. The purpose of this Division shall be to minimize public safety risks and noise, trash and parking problems often associated with short-term rental uses; to ensure that traditional neighborhoods are not turned into tourist areas to the detriment of long-term residents; and to ensure that individual dwellings are not turned into pseudo hotels or party houses.

(b) Applicability: A Short Term Rental Use shall be allowed in any single-family zoning district in the City, but not allowed in any multi-family or apartment district. Such uses are allowed by right and do not require a variance or conditional use. Short Term Rental Uses are not allowed in commercial or any other non-residential zones.

(c) Definitions:

1) *Good Neighbor Brochure* means a document provided by the owner to the guest or guests and containing: the name and telephone number for the owner; notification on standards of behavior and occupancy relating to parking, noise, trash collection, waste disposal, street

maintenance, snow removal, and public safety services and including contact and web access information; and such other information as the City may for time to time prescribe.

2) *Guest* or quests means the individual or individuals securing the Short Term Rental Use for the purposes of staying overnight.

3) *Owner* means the person or persons holding legal or equitable title to the property being offered as a Short Term Rental Use.

4) *Short-term Rental Use (STRU)* means rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days.

(d) Compliance: no person shall operate, offer for occupancy or let to another for occupancy as a Short Term Rental Use any dwelling which is not in compliance with this Article or any other applicable codes

Section 22-354: Registration and Inspection Requirements; Inspection required for life safety and building purposes. Short-Term Rental Use License Required.

a) The Owner of any dwelling proposed for a Short Term Rental Use must obtain an annual Short Term Rental Use license and pay a license fee as established by the City of Dover.
b) An inspection by the City of Dover Code Inspection Department shall be required to determine compliance with City Property Maintenance, Life Safety and Building Codes. Any items in non-compliance shall be remedied before a license shall be granted.
c) The rental license must be kept current during anytime the dwelling is offered as a Short Term Rental Use.
d) The license shall be valid for up to one year and must be renewed no later than January 31 of each year of continued operation.
e) The Short Term Rental Use License must be clearly displayed inside the dwelling along with any state licenses or permits.
f) The Short Term Rental Use license may not be transferred to any party except heirs and assigns and shall be void upon transfer of ownership of the property where the Short Term Rental Use is located.
g) No uses otherwise not allowed in zone shall be permitted under the Short Term Rental Use license.

Section 22-355: Owner obligations: An Owner of a dwelling seeking to use a property as a Short Term Rental Use shall comply with the following obligations:

a) The Owner of the property being offered as a Short Term Rental Use must be a permanent legal resident of the City of Dover. Determination of residency shall be based on meeting City of Dover voting and/or school residency eligibility.

b) No more than one property in addition to the Owner's primary place of residence shall be offered for Short Term Rental Use.

c) A property not owned by a permanent legal resident of the City of Dover shall not be used as a Short Term Rental Use. Such property shall not be used for overnight accommodations

unless such property qualifies as a Bed and Breakfast Inn pursuant to Dover Code, Appendix B – Zoning, Article 3, District Regulations.

d) A "Good Neighbor" brochure must be provided in the dwelling listing City provisions as required.

e) The Owner has the responsibility to not knowingly allow any illegal or criminal activity on the property, and failure to do so may be grounds for revoking the rental license.

Section 22-356: Limitations on occupancy and use:

a) The number of guests permitted at any time shall not exceed twice the number of bedrooms (i.e. 3 bedrooms x 2 = 6 occupants), with a maximum of 8 occupants at any one time regardless of number of bedrooms available
b) No more than 1 extra vehicle per bedroom beyond the base number allowed in the zoning district, not to exceed 6 in total; all parking shall comply with all requirements relating to street maintenance, fire access, parking on paved surfaces, trash collection, obstacles to travel, etc. Violations shall be ticketed offenses.
c) Signage identifying the Short Term Rental Use shall be limited to one sign, mounted on the dwelling, not illuminated, and not to exceed one (1) square feet in size overall.
d) Quiet hours must be observed (10:00pm – 8:00am weeknights/12:00pm- 8:00am weekend nights).
e) No meals are to be provided or served but access to a kitchen is permitted as part of the rental.
f) Access to a full bath must be provided.
g) Guests shall be prohibited from further subletting the dwelling.
h) Weddings, graduation parties, corporate events, commercial functions, large gatherings, or other special events shall be prohibited unless a City of Dover Special Event Permit shall have been granted for a specific activity and date.
i) The guests shall not create a public nuisance to include but not limited to creating noise, causing odors, permitting an unsafe condition, disorderly conduct, generation of trash, or other behavior which unreasonably disturbs the peace, safety and general welfare of the neighborhood.

Section 22-357. Enforcement, Fees and Penalties, Reporting

a) Payment of a Short Term Rental Use license fee is required annually beginning January 1 of each year; the fee will be prorated for a partial year (the fee shall be set forth in Appendix F*)
b) Penalties and fines for poor management or failure to register and obtain a license shall be as set forth in Appendix F.
c) A property cited three times as a nuisance or the location of illegal or criminal activity by any City department within any consecutive 12-month period shall have its Short Term Rental Use license suspended for not less than the rest of year or a longer period up to permanently.

d) The Owner shall be required to report to City as required annually documenting the occupancy and frequency of rentals obtained, such report to be due not later than January 31 of the following year.

*(suggesting - Annual License Fee of $50. Penalties for violation of $100 for first offense; $300 for second offence and $500 for any subsequent office or suspension of the license for 24 months or permanently).

Section 22-359 Enforcement, Notice and Appeals

Violations of this Division shall be as set forth in Section 22-XXX (whatever is already in Chapter 22 should be referenced here by section number)

Section 22-360 Severability (repeat wording or reference what is already in Chapter 22)

EFFECTIVE DATE: This Ordinance shall be effective upon adoption by the Dover City Council.

Part 2 - FURTHER AMEND APPENDIX B, ZONING, Article 12, DEFINITIONS: (Deletes in red, adds in blue)

Amend definition of family-

Family: One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, or more than one boarder or roomer, not related by blood, marriage or adoption, shall not constitute one family.

Part 3 – FURHER AMEND Article IX, Section 22-281, definition of lodginghouse –

Lodginghouse means a building operated principally for the temporary residence of the transient public, including but not limited to hotels, motels, inns, boardinghouses, rooming houses, tourist homes and dormitories.

SYNOPSIS

This Ordinance recognizes that Short Term Rental Uses are an economic asset, allowing for increased travel, visitation and tourism and affording property owners of the opportunity to earn revenue from such occupancy, while setting forth the purposes and establishing regulations to ensure that such uses do not create public safety risks or become nuisances. It restricts operation of Short Term Rental Uses to properties owned by a permanent resident of the City of Dover as defined by City of Dover voting and/or school residency eligibility. The Ordinance establishes an annual licensing process and sets forth owner's rules, responsibilities and obligations with limits on frequency of rental and occupancy. It provides safeguards to protect established neighborhoods, address nuisances, provide notice, and address complaints. It also includes provisions for reporting, enforcement and penalties for violations. Finally, it makes corrective amendments in the Code to ensure consistency.

Sponsors: Hare

ACTION FORM

PROCEEDING: Council Committee of the Whole (Utility)
DEPARTMENT OF ORIGIN: Water & Wastewater **DATE SUBMITTED**: 06/29/2020
PREPARED BY: Jason A. Lyon, P.E., Director of Water & Wastewater
SUBJECT: Water Production Division Proposed Operational Changes
REFERENCE: N/A
RELATED PROJECT: N/A
APPROVALS: City Manager
EXHIBITS: Presentation
EXPENDITURE REQUIRED: N/A **BUDGET**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIME TABLE: Schedule change will be implemented after the completion of the Water Treatment Plant Process Improvement Project.
STAFF RECOMMENDATION: Begin this operational plan to assist with the ground water resource for all stakeholders. This would be put into action after the completion of the Water Treatment Plant Process Improvement Project.

BACKGROUND AND ANALYSIS

The Department of Natural Resources and Environmental Control (DNREC) and the Delaware Geological Survey (DGS) have provided the City of Dover with information on the current and future state of the Piney Point, Cheswold and Columbia aquifers. These are the aquifers that the City utilizes to obtain potable water for our customers. The Piney Point and Cheswold aquifers are at risk for depletion, and the Columbia aquifer is experiencing saltwater intrusion due to the level of pumping by the agricultural community in the area.

As good stewards of the resource, the City will implement an operational change to our Water Production Division. Typically, this Division utilizes the Columbia aquifer during the summer months to provide potable water to our customers. This is also the time that the agricultural community uses the same aquifer to irrigate their crops. This new plan will propose that the City utilizes the Columbia Aquifer during the winter season of our operations. The Piney Point and Cheswold aquifer will be utilized more during the summer operation to supplement the water demand. This proposed operation will allow the Piney Point and Cheswold aquifer to recharge during the winter season. This plan will also reduce the strain on the Columbia aquifer during the summer, thus decreasing the potential of salt water intrusion.

The proposed plan will not impact our allocation permit and the City will continue to meet all the regulatory requirements of DNREC.

City of Dover
Water Production Division

The Department of Natural Resources and Environmental Control (DNREC) and the Delaware Geological Survey (DGS) have provided the City of Dover with their concerns about the future of our water sources:

- Depletion of Aquifers
- Saltwater Intrusion

We will do our part to minimize our impact on these sources.

Water Sources

The City of Dover utilizes three (3) main groundwater aquifers for our water distribution system:

1. Columbia - source for the Long Point treatment plant
2. Cheswold - source for deep wells
3. Piney Point - source for deep wells

Other users of these three (3) aquifers include private wells, farmers, and water providers spanning New York to North Carolina.

Columbia

The Columbia aquifer is shared by multiple users including private wells and farmers. DGS has discovered saltwater intrusion occurring at non-City wells in this aquifer. If this continues, it could damage the aquifer and render our wells useless or require expensive treatment to desalinate.

To help minimize our impact even more than we currently are doing, the Water Production Division is altering our operations of the Long Point treatment plant so that we pump less from this aquifer while the farmers are pumping during the growing season (May to September).

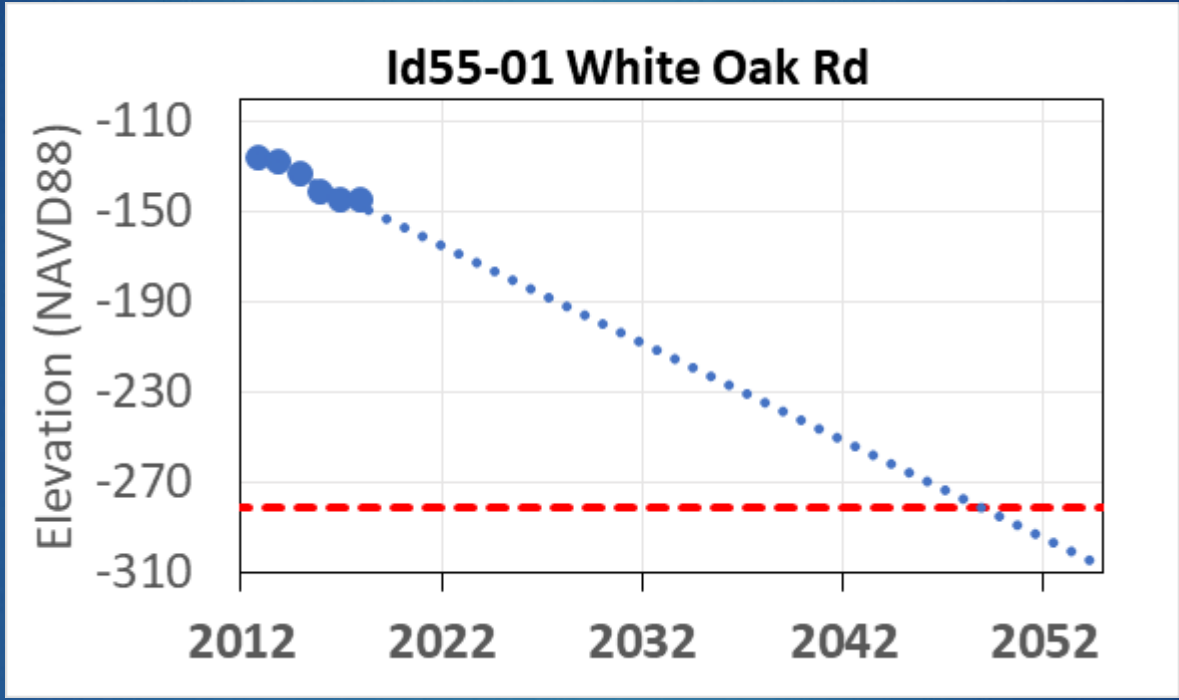
Cheswold and Piney Point

The primary concern is the Piney Point aquifer. DGS states that we could be seeing effects of the Piney Point decline in as early as 3 to 5 years, with Piney Point depletion by 2040. We have already had to reduce our usage at 2 of our wells due to this decline.

Although the condition of the Cheswold does not match the concern with the Piney Point at this time, the Cheswold aquifer is under close observation by DGS and the water supply community.

To help minimize our impact even more on both aquifers, the Water Production Division is altering our operations of the deep wells by allowing these wells to recover during the winter months and pumping water more equitably, when possible, from both the Cheswold and Piney Point.

Piney Point


Id55-01 White Oak Rd
Elevation (NAVD88)
-110
-150
-190
-230
-270
-310
2012
2022
2032
2042
2052
Top of aquifer at well location
Static (non-pumping) levels

Future

This is a new operating procedure for the Water Production Division. We will be requesting feedback from DGS, as they continuously monitor all 3 aquifers, to determine if our mitigation efforts have had a positive impact on these aquifers.

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole – Utility Committee
DEPARTMENT OF ORIGIN: City Manager's Office **DATE SUBMITTED**: July 8, 2020
PREPARED BY: Matt Harline, Assistant City Manager & Dave Hugg, Director of Planning & Inspections and Dawn Melson-Williams, Principal Planner
SUBJECT: Update on Development of Provisions and Ordinances for Wireless Communications Facilities.
REFERENCE: Previous Wireless Communications Facilities presentation and discussion at Council Committee of the Whole – Utility Committee Meeting of February 11, 2020. Potential amendments to the *Dover Code of Ordinances* including Appendix B: Zoning (*Zoning Ordinance).*
RELATED PROJECT: N/A
REVIEWED BY: Donna Mitchell, City Manager
EXHIBITS: A – Preliminary Draft of Wireless Communications Facilities Ordinance (WCF Ordinance 1A – Planning 7-8-2020) B – Preliminary Draft of "City of Dover Small Wireless Communications Facility (SWCF) Location, Design, and Permit Application Manual"
EXPENDITURE REQUIRED: None **AMOUNT BUDGETED**: None **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIME TIMETABLE: Adoption of the Ordinance and Design Manual Fall of 2020
RECOMMENDED ACTION: Discussion only at this time of preliminary documents, unless the Committee develops specific recommendations during discussion.

BACKGROUND AND ANALYSIS

INTRODUCTION: Staff is presenting an update on the development of provisions related to Wireless Communications Facilities (WCF) in the City of Dover. The Utility Committee is provided the Preliminary Draft of an Ordinance to regulate all Wireless Communications Facilities and an accompanying Small WCF Design Manual that is specifically targeted to Small Wireless Communications Facilities (SWCF). This discussion is an update on project progress and a chance for City Council and Utility Committee members to provide comment and direction.

BACKGROUND: The City is working on setting the regulatory framework for Wireless Communications Facilities (WCF). The Ordinance and associated documents will establish regulations, application & review processes, and fees. Wireless Communications Facility include Small Wireless Communications Facilities (SWCF) such as those attached to utility poles; Non-Tower Based Wireless Communications Facilities like those antennae attached to buildings or water towers; and Tower Based Wireless Communications Facilities such as monopoles and lattice or guyed towers. Locations of the facilities include those within public rights-of-way and on properties.

The so-called fourth and fifth generation technologies (4G and 5G) require more numerous transmitters and antennae to transmit the volume or calls and text, but especially data. The preferred option for the City and the private sector companies is to attach these SWCF, which are small relatively inconspicuous

devices, to existing streetlights and other infrastructure in the street right-of-way. Most of that infrastructure belongs to the City of Dover. Attachment to City of Dover equipment will require us to enter into agreements (Master License Agreements) with various companies to spell out the terms and conditions prior to having any equipment attached to a City pole. Currently, the City is in negotiation with AT&T (New Cingular Wireless, PCS LLC) and Verizon for Master License Agreements (MLAs).

Discussions have occurred with industry representatives and City Staff in the Planning Department, Electric Department, Department of Public Works, and the City Manager's Office on the topic of WCFs. Initially, the City Manager's Office retained the services of the Cohen Law Group and Mike Roberts, an attorney with the firm drafted a model documents including an initial draft WCF ordinance, a draft Design Manual and a draft Master License Agreement. Since then Principal Planner Dawn Melson-Williams and City Planner Mr. Hugg have worked to modify the Proposed Ordinance and Design Manual documents in cooperation with the Electric Department over the last four months to shape it to the City needs and processes. Except for final editing/formatting, ordinance cross-checking, legal review, and setting the fees, the Proposed WCF Ordinance is essentially ready for introduction.

- Exhibit A – Preliminary Draft of Wireless Communications Facilities Ordinance (WCF Ordinance 1A – Planning 7-8-2020)

As we try to complete an ordinance for review and eventual adoption, no issue is stickier than the placement of **new poles** for Small Wireless Communication Facilities (SWCF). Federal Law prohibits "effective prohibition" of deploying the necessary SWCF. Effective prohibition can be described as: A regulation that materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. Effective prohibition occurs when a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of service. It means that they can assert the right to some facility somewhere nearby, not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities. This does NOT prohibit us from making reasonable requirements to locate across a street, cover all the make-ready costs, or meet higher aesthetic standards in historic and other pre-designated sensitive areas.

The approach taken related with Small WCFs in some jurisdictions also involves a Design Manual; the City of Dover is also working to develop such a manual. We have been contacted by future applicants with some concepts for potential location requests for Wireless Communications Facilities with attachments to existing infrastructure and/or the placement of new poles. This is helping us to understand and formulate the considerations for review and the needed application and interdepartmental coordination of procedures.

- Exhibit B – Preliminary Draft of "City of Dover Small Wireless Communications Facility (SWCF) Location, Design, and Permit Application Manual"

It is important that the Committee understands as we move forward that the technology provides the ability to improve wireless data transmission which can be advantageous to the City, residents and local businesses. It also requires SWCF every 400 to 700 feet for complete network availability. The City needs to move forward with regulations that meet Federal guidelines but incorporate community standards to the extent possible.

POSSIBLE TIMELINE:

Introduce the Proposed Ordinance to the CCOW–Utility Committee	August 11
First Reading by City Council of the Proposed Ordinance with the Draft Design Manual	August 24
Planning Commission Meeting (Public Hearing and Recommendation)	September 21
Public Hearing/Final Reading and Adoption of Ordinance by City Council	September 28
Proposed Master License Agreements with Verizon and AT&T	TBD

CITY OF DOVER, DELAWARE
PRELIMINARY DRAFT OF WIRELESS COMMUNICATIONS FACILITIES ORDINANCE (WCF Ordinance 1A – Planning 7-8-2020)

That Appendix B – Zoning, Article 5 – Supplementary Regulations of the Dover Code, be amended by inserting a new Section 23 – Wireless Communications Facilities, as follows:

Section 23. Wireless Communications Facilities

23.1 *Purpose and intent*. The purpose of this section is to establish uniform standards for the siting, design, permitting, construction, maintenance, and use of wireless communications facilities (WCF) in the City of Dover (referred to herein as the "City"). While the City recognizes the importance of wireless communications facilities in providing high quality communications service to its residents, the City also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such facilities through the standards set forth in the following provisions and as referenced.

23.11 By enacting these provisions, the City intends to:

(a) Promote the deployment of wireless communications facilities in the City while regulating their location and number to ensure the provision of necessary services;

(b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both City residents and wireless carriers in accordance with federal and state laws and regulations;

(c) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small cells, cable Wi-Fi and other wireless communications facilities;

(d) Establish procedures for the design, siting, construction, installation, maintenance and removal of small wireless communications facilities, non-tower based wireless communications facilities, and tower-based wireless communications facilities, in the City, including facilities both inside and outside the public rights-of-way;

(e) Preserve the character of the City's neighborhoods and corridors;

(f) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services collocate their commercial communications antennas and related facilities on existing wireless support structures;

(g) Promote the health, safety and welfare of the City's residents.

23.2 *Definitions.*

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Accessory Equipment. Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna. An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

Changes in height. Changes in height is measured from the original wireless support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 CFR §1.4001(b)(7)(i)(A)).

Collocation. The mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

Eligible Facilities Request. Any request for modification of an existing WCF that does not constitute a substantial change. Such request may involve: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Emergency. A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.

Equipment Compound. An area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or accessory equipment are located.

FCC. Federal Communications Commission.

Height of a Tower-Based WCF. The vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennae mounted on the tower and any other appurtenances.

Modification or *Modify.* The improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.

Non-Tower Wireless Communications Facility (Non-Tower WCF). A wireless communications facility located or collocated on existing structures, such as, but not limited

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to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF. This definition excludes any installation constituting a Small Wireless Communications Facility.

Person. Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the State of Delaware, provided that "Person" does not include or apply to the City, or to any department or agency of the City.

Replacement. The replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment that does not result in increased wind or structural loading, is substantially similar in size and weight as the wireless communications facilities initially installed, and that does not substantially change the physical dimensions of the existing wireless support structure.

Small Wireless Communications Facility. A wireless communications facility that meets the following criteria:

(1) The structure on which antenna facilities are mounted
   a) is 50 feet or less in height, or
   b) is no more than 10 percent taller than other adjacent structures, or
   c) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
(2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and
(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and
(4) The facilities do not require antenna structure registration under 47 CFR Part 17; and
(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

Stealth Technology. Camouflaging or screening methods applied to wireless communications facilities and accessory equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in a manner appropriate to the site's context and surrounding environment. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Substantially Change or Substantial Change. A modification to an existing WCF substantially changes the physical dimensions of a wireless support structure if it meets any of the following criteria:

1) For Tower-Based WCFs outside the public rights-of-way, it increases the height of the wireless support structure by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater;

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2) For other wireless support structures, it increases the height of the wireless support structure by more than 10% or more than ten feet, whichever is greater;

3) For Tower-Based WCFs outside the public rights-of-way, it involves adding an appurtenance to the body of the wireless support structure that would protrude from the edge of the wireless support structure more than twenty feet, or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater;

4) For other wireless support structures, it involves adding an appurtenance to the body of the wireless support structure that would protrude from the edge of the wireless support structure by more than six feet;

5) For any wireless support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or,

6) For wireless support structures in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the wireless support structure;

7) It entails any excavation or deployment outside the current site;

8) It would defeat the concealment elements of the wireless support structure; or

9) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 CFR §1.6100(b)(7)(i) through (iv).

Tower-Based Wireless Communications Facility (Tower-Based WCF). Any structure that is used for the primary purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. This definition excludes any installation meeting the definition of a Small Wireless Communications Facility.

Wireless. Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

Wireless Communications Facility (WCF). An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

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Wireless Communications Facility Applicant (WCF Applicant). Any person that applies for a wireless communications facility building permit, zoning/conditional use approval, and/or permission to use the public right-of-way or other City owned land or property.

Wireless Support Structure. A freestanding structure, pole, tower, or other building, whether or not it has an existing antenna facility, that is used or to be used to support the placement or installation of a wireless communication facility for the provision of wireless service (whether on its own or comingled with other types of services).

23.3 *Applicability.* The terms and provisions of this section shall apply to wireless communication facilities in the City. As defined, each type of WCF has specific allowable locations, development regulations, and design standards as follows:

(a) Small WCF described in Article 5, Section 23.6.
(b) Non-Tower WCF described in Article 5, Section 23.7.
(c) Tower WCF described in Article 5, Section 23.8.

23.31 *Exceptions.* The activities by City residents to utilize satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences for non-commercial activity shall be exempt from the regulations enumerated in this Section 23.

23.32 *Nonconforming Uses.* The following provisions shall apply to all buildings, support structures, and uses as related to wireless communication facilities:

(a) All types of WCFs shall be permitted to collocate upon existing non-conforming WCFs, wireless support structures, and other non-conforming structures subject to the provisions of this Section 23.
(b) Collocation of Antennae is permitted on non-conforming structures.
(c) Collocation of Non-Tower WCFs upon existing Tower-Based WCFs is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
(d) WCF which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this Section 23.

23.4 *Type of Activity Determination.* The following provisions outline the types of wireless communication facility applications.

23.41 *Eligible Facilities Request.* The WCF Application Type is classified as an Eligible Facilities Request if the request for modification of an existing WCF that does not constitute a substantial change. The request may involve: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

23.42 *Substantial Change Activity.* The WCF Application Type is classified as a Substantial Change Activity if the modification substantially changes the physical dimensions of a wireless support structure by meeting any of the following criteria:

(a) Height:

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(i) For Tower-Based WCFs outside the public rights-of-way, it increases the height of the wireless support structure by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater.
(ii) For other wireless support structures, it increases the height of the wireless support structure by more than 10% or more than ten feet, whichever is greater.

(b) Appurtenances:
(i) For Tower-Based WCFs outside the public rights-of-way, it involves adding an appurtenance to the body of the wireless support structure that would protrude from the edge of the wireless support structure more than twenty feet, or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater.
(ii) For other wireless support structures, it involves adding an appurtenance to the body of the wireless support structure that would protrude from the edge of the wireless support structure by more than six feet.

(c) Equipment Cabinets:
(i) For any wireless support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
(ii) For wireless support structures in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the wireless support structure.

(d) Excavation. Activity entails any excavation or deployment outside the current site.

(e) Concealment. It would defeat the concealment elements of the wireless support structure.

(f) Conditional of Siting. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in 47 CFR §1.6100(b)(7)(i) through (iv).

23.43 *New Facility*. The WCF Application Type is classified as a New Facility if it involves the construction and placement of a new wireless support structure.

23.5 *Application Procedures*. The following provisions outline the procedures for wireless communication facility applications. Policies and procedures for the administration of the WCF permitting and review process shall be developed by the City Manager and City Planner.

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23.51 *Location with Public Right-of-way.* WCF Applicants proposing a WCF to be located within the public right-of-way, shall be required to obtain application approvals as follows:

(a) *Pole Attachment Process*. Compliance with the procedures found in Dover Code Ordinances, Chapter 110 – Utilities, Section 110-32 Pole Attachment.
(b) *Master license agreement required.* Any WCF Applicant for a WCF proposed for attachment to a utility pole owned or controlled by the City of Dover Electric Department shall first enter into a valid Master License Agreement with the City authorizing such attachment. No WCF shall be permitted to be attached to such utility poles without proof a valid Master License Agreement being provided as part of the permit application.
(c) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(d) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 for the type of WCF.
(e) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.52 *Compliance with Zoning Ordinance.* The following section of the zoning ordinance shall be adhered to in the approval of a WCF Application:

(a) *Architectural Review Certificate.* WCF located within the Historic District (H) shall be required to obtain an Architectural Review Certificate pursuant to Article 3, Section 21 and Article 10, Section 3 of this ordinance.
(b) *Airport environs.* Locations within the Airport Environs Overlay Zone (AEOZ) shall document compliance pursuant to Article 3, Section 22 of this ordinance.
(c) *Environmentally sensitive areas.* Location shall document compliance with the environmental protection measures for flood hazard areas and waterbodies and wetlands pursuant to Article 5, Section 11.

23.53 *Eligible Facilities Request.* WCF Applicants proposing an Eligible Facilities Request shall be required to obtain application approvals as follows:

(a) *Type.* WCF Applicant shall designate in writing that the application constitutes an Eligible Facilities Request pursuant to 47 CFR §1.6100 and as defined by this Section 23.
(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 for the type of WCF.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

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23.54 *Substantial Change Activity.* WCF Applicants proposing a Substantial Change Activity shall be required to obtain application approvals as follows:

(a) *Type.* WCF Applicant shall designate in writing that the application constitutes a Substantial Change Activity as defined by this Section 23.
(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation. WCF* application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 based on the type of facility.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.55 *New Facilities.* WCF Applicants proposing a New Facility located in a public right-of-way shall be subject to the provisions of Section 23.51. WCF Applicants proposing a New Facility meeting the definition of Tower-Based WCF outside of a public right-of-way of shall be required to obtain application approvals as follows:

(a) *Conditional use authorization required*. Any WCF Applicant proposing the construction of a new facility shall first obtain conditional use authorization pursuant to Appendix B, Article 10 Section 1 of the Dover Code.
(b) *Documentation*. The conditional use application shall demonstrate that the proposed WCF complies with all applicable provisions of Section 23 based on the type of facility.
(c) *Conditional use application requirements.* The additional requirements for conditional use applications shall include the following:
    i. A description of the type and manufacturer of the proposed transmission/radio equipment, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.
    ii. Documentation demonstrating that the proposed Tower-Based WCF complies with all applicable state and federal laws and regulations concerning aviation safety.
    iii. Evidence that the owner of the property on which the Tower-Based WCF is proposed has granted authorization to construct and operate the Tower-Based WCF.
    iv. Written certification from a structural engineer licensed in the State of Delaware that the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.
    v. An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. The Planning Commission may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure. The WCF Applicant shall address the viability of any existing

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Wireless Support Structures within a one quarter (1/4) mile radius of the site proposed and demonstrate that such alternative candidates are inferior with respect to technical feasibility, cost, or terms of use.

(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.

(c) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 based on the type of WCF.

(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.56 *Timing of Approvals.* Each specific type of WCF is subject to specific approval timeframes. Such timeframes shall be subject to the tolling procedures established by the FCC.

(a) *Small WCF:* Timing of Approval for all Small WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:

i. *Notification of Incomplete Applications for Small WCF*. Within ten (10) days of receipt of an application for a Small WCF, the City shall notify the WCF Applicant in writing of any additional information required to complete application.

ii. *Approval Timeframe – Collocation.* Within sixty (60) days of receipt of an application for a collocation of a Small WCF on a preexisting Wireless Support Structure, the City shall make a final decision on whether to approve the application and the City shall notify the WCF Applicant in writing of such decision.

iii. *Approval Timeframe – New Facility*. Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, the City Planning Department shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(b) *Non-Tower WCF:* Timing of Approval for all Non-Tower WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:

i. *Notification of Incomplete Applications for Non-Tower WCF*. Within thirty (30) days of receipt of an application for a WCF on a preexisting wireless support structure, the City shall notify the WCF Applicant in writing of any additional information required to complete application.

ii. *Approval Timeframe – Substantial Change.* Within ninety (90) days of receipt of an application for a Non-Tower WCF on a preexisting Wireless Support Structure that Substantially Changes the Wireless Support Structure to which it is attached, the City shall make a final decision on whether to approve the application and the City shall notify the WCF Applicant in writing of such decision.

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iii. *Approval Timeframe – Not Substantial Change.* Within sixty (60) days of receipt of an application for a Non-Tower WCF on a preexisting Wireless Support Structure that does not Substantially Change the Wireless Support Structure to which it is attached, the City Planning Department shall issue the required building permit authorizing construction of WCF.

(c) *Tower-Based WCF:* Timing of Approval for all Tower-Based WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:

i. *Notification of Incomplete Applications for Tower-Based WCF*. Within thirty (30) days of receipt of an application for a Tower-Based WCF, the City shall notify the WCF Applicant in writing of any additional information required to complete application.

ii. *Approval Timeframe* - All applications for Tower-Based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the City shall advise the WCF Applicant in writing of its decision. If additional information was requested by the City Planning Department to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period

23.57 Fees. Each application for permit or plan approval shall be accompanied by a fee as provided for in Appendix F – Fees and Fines.

(a) Permit fees. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring and related costs. Such permit fees shall be established by Appendix F – Fees and Fines and shall comply with the applicable requirements of the FCC.

(b) Reimbursement for WCF in Right-of-way. In addition to permit fees as described in this section, every Small WCF in the right-of-way is subject to the City's right to recover its actual costs incurred as a result of the Small WCF's presence in the right-of-way, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other right-of-way management activities by the City. The owner of each Small WCF shall reimburse the City for the City's costs reasonably incurred in connection with the activities described above. All fees shall comply with applicable state and federal law and not exceed amounts presumed reasonable by the FCC.

23.6 *Small Wireless Communication Facilities (Small WCF)*. The following regulations shall apply to all Small WCF as defined by this Section 23.

(a) *Location.*

i. Small WCF are permitted to located in all City zoning districts subject to the application requirements of this Section 23.

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ii. Small WCF are subject to compliance with zoning ordinance provisions outlined in Section 23.52.
iii. Small WCF are permitted to be located within the public right-of-way subject to application requirements of this Section 23.

(b) *Development Regulations.*
i. *Sizing*. To be considered as Small WCF, the WCF must comply with the criteria established in the definition of Small Wireless Communications Facility in Section 23.2.
ii. *Height*. The total height of a Small WCF shall not exceed the maximum height permitted in the zoning district.
iii. *Placement.* All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all applicable requirements pertaining to streets and sidewalks, as codified in Chapter 98 of the Dover Code.
iv. *Placement*. Small WCF in the public right-of-way requiring the installation of a new Wireless Support Structure shall not be located directly in front of any building entrance or exit such that it would interfere with ingress or egress.
v. *Accessory equipment*. Small WCF and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the City.

(c) *Design standards.* All Small WCF shall be designed to meet the requirements of the City "Small Wireless Communications Facility Design Manual," a copy of which is kept on file at the City Planning Department.

23.7 *Non-Tower Wireless Communication Facilities (Non-Tower WCF).* The following regulations shall apply to all Non-Tower WCFs as defined by this Section 23 and that do not meet the definition of a Small WCF.

(a) *Location.*
i. Non-Tower WCF are permitted to locate in all City zoning districts subject to the application requirements of this Section 23.
ii. Non-Tower WCF are subject to compliance with zoning ordinance provisions outlined in Section 23.52.
iii. Non-Tower WCF are permitted to be located within the public right-of-way subject to application requirements of this Section 23.
iv. Non-Tower WCF shall be collocated on existing wireless support structures, such as poles, certain existing buildings or Tower-Based WCF.
v. *Historic buildings*. Non-Tower WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on the National Register of Historic Places if an approved Architectural Review Certification is obtained pursuant to Article 10, Section 3 of this ordinance.

(b) *Prohibitions on certain structures.* Non-Tower WCF shall not be located on one-family detached dwellings, one-family attached dwellings, semi-detached dwellings, duplexes, townhouses, manufactured homes, mobile homes, modular homes, or any residential accessory structure.

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(c) *Development Regulations.*

i. *Sizing*. To be considered as Non-Tower WCF, the WCF must comply with the criteria established in the definition of Non-Tower Wireless Communications Facility in Section 23.2.

ii. *Height*. The total height of a Non-Tower WCF shall not exceed the maximum height permitted in the zoning district. In accordance with industry standards, all Non-Tower WCF Applicants must submit documentation to the City justifying the total height of the WCF.

iii. *Replacement of Existing Support Structure.* The replacement of an existing support structure with a similar structure that is required to support the weight of the proposed WCF is allowed.

iv. *Accessory Equipment Buildings.* If Accessory Equipment is to be located in a separate building, the building shall comply with the minimum requirements for accessory structure in the applicable zoning district.

v. *Fences.* A security fence with a minimum height of six (6) feet and a maximum height of eight (8) feet shall surround any separate equipment compound located outside the right-of-way.

vi. *Access.* Vehicular access to the accessory equipment building or equipment compound shall not interfere with the parking or vehicular circulations on the site for the principal use.

(d) *Design Standards*. Where appropriate, Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The Stealth Technology utilized by the WCF Applicant shall be subject to the application approval process.

23.8 *Tower-Based Wireless Communication Facilities (Tower-Based WCF).* The following regulations shall apply to all Tower-Based WCFs as defined by this Section 23 and that do not meet the definition of a Small WCF.

(a) *Conditional uses*. Tower-Based WCF are permitted outside the public Rights-of-Way in certain zoning districts upon conditional use approval of the Planning Commission in accordance with the procedures and subject to the general conditions set forth in Article 10 Section 1 of this ordinance.

i. In approving the conditional use, the Planning Commission may take into consideration the following:

a. the aesthetic impact of the proposed facility, including but not limited to whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved;

b. encourage compatibility with the character and type of development existing in the area;

c. prevent a negative impact on the aesthetic character of the community;

d. preserve woodlands and trees existing at the site to the greatest possible extent; and

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e. encourage sound engineering and land development design and construction principles, practices and techniques.

ii. *Additional antennae*. As a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide with a written commitment that it will allow a minimum of two (2) other service providers the opportunity to Collocate Antennae on Tower-Based WCF where technically feasible.

(b) *Location.*

i. Tower-Based WCF are conditionally permitted to locate in the nonresidential zones except for the IPM3 (Industrial Park Manufacturing Zone – Industrial Aviation and Aeronautics Center) zoning district where Tower-Based WCF are prohibited. Nonresidential zones are defined in Article 12 – Definitions of this ordinance. *(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.)*

ii. Tower-Based WCF are subject to the application requirements of this Section 23.

iii. Tower-Based WCF are subject to compliance with zoning ordinance provisions outlined in Section 23.52.

iv. *Historic places*. Tower-Based WCF may be located within one hundred (100) feet of any building or structure that is listed on the National Register of Historic Places if an approved Architectural Review Certification is obtained pursuant to Article 10, Section 3 of this ordinance.

(c) *Uses on Property*.

i. *Principal use.* A Tower-Based WCF shall be permitted as a sole principal use on a lot.

ii. *Combined with another use*. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another permitted use.

iii. *Existing uses*. The existing use on the property may be any permitted use in the applicable zoning district and need not be affiliated with the WCF.

iv. *Ability to use.* Where applicable, the WCF owner shall present documentation that the property owner has granted an easement or other property right for the proposed facility.

(d) *Development Regulations*.

i. *Minimum lot area*. The minimum lot area shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.

ii. *Height.* Tower-Based WCFs shall be designed and kept at the minimum functional height. The maximum total height of a Tower-Based WCF shall not exceed the one hundred fifty (150) feet. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height.

iii. *Minimum setbacks*. The minimum distance between the base of a Tower-Based WCF and any property line or street Right-of-Way line shall equal 110% of the proposed height of the Tower-Based WCF, unless the WCF Applicant shows

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to the satisfaction of the Planning Commission that the proposed Tower-Based WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(e) *Design Standards.*

i. *Multiple Antennae.* Any proposed Tower-Based WCF shall be designed structurally to accommodate both the WCF Applicant's Antennae and at least two (2) comparable Antennae for future users.

ii. *Security.* Any Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.

iii. *Lighting.* No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

iv. *Surrounding environs.* Existing vegetation, trees and shrubs located within proximity to the Tower-Based WCF structure shall be preserved to the maximum extent possible.

v. *Fences.* A security fence having a minimum height of six (6) feet and a maximum height of eight (8) feet shall completely surround any Tower-Based WCF, as well as guy wires, equipment compound or housing WCF equipment.

vi. *Screening.* A screen of evergreen trees planted eight (8) feet on center, each at least four (4) feet in height, shall surround the Tower-Based WCF and security fence. Existing vegetation shall be preserved to the maximum extent possible and landscaping is not required where landscaping already exists

vii. *Accessory equipment.* Accessory Equipment associated, or connected, with a Tower-Based WCF shall be placed underground or screened from public view using Stealth Technology. All ground-mounted Accessory Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated.

viii. *Accessory equipment buildings.* If Accessory Equipment is to be located in a separate building, the building shall comply with the minimum requirements for accessory structures in the applicable zoning district.

ix. *Accessory equipment.* Accessory Equipment not exceeding five hundred (500) square feet in area shall be permitted for each unrelated company sharing space on the Tower-Based WCF.

x. *Access road.* An access road, turnaround space and parking shall be provided to ensure adequate Emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.

xi. *Visual Appearance.* Tower-Based WCF shall employ Stealth Technology which may include painting or finish of the tower portion. All Tower-Based WCF and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.

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23.9 *General Requirements for Wireless Communication Facilities.* The following shall apply to all types of wireless communication facilities. Each application for a WCF shall require proof of compliance with the following.

23.91 *Standards for Wireless Communication Facilities.*

i. *Wind and ice*. Each WCF shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

ii. *Aviation safety*. WCF shall comply with all federal and state laws and regulations concerning aviation safety.

iii. *Interference.* WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services by occupants of nearby properties.

iv. *Radio frequency emissions.* WCF shall not, by itself or in conjunction with other WCFs existing on the same structure at the time of installation, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

v. *Signage.* WCF owners shall post a sign in a readily visible location identifying the name, phone number of a party to contact in the event of an Emergency, and permit number. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.

vi. *Noise.* WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the City Code, except in Emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

vii. *Geotechnical Reports.* The WCF Applicant shall submit a soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/TIA-222, as amended, to document and verify the design specifications of the foundation of the Tower-Based WCF, and anchors for guy wires, if used.

viii. *Engineer seal and signature*. All plans and drawings for a WCF shall contain a seal and signature of a professional structural engineer, licensed in the State of Delaware.

ix. *FCC license*. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.

23.92 *Maintenance and Care of Wireless Communications Facilities.*

i. *Standard of care*. Any WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, National Association of Tower Erectors, or to the industry standard applicable to the structure.

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ii. *Maintenance*. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any Person or damage any property in the City. Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the City's residents and utilize industry standard technology for preventing failures and accidents. The following maintenance requirements shall apply:
    a. The WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or Emergency repair.
    b. Such maintenance shall be performed to ensure compliance with applicable structural safety standards and radio frequency emissions regulations.
    c. All maintenance activities shall conform to industry maintenance standards.

iii. *Lighting*. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the City.

iv. *Graffiti*. Any graffiti on the Small WCF or on any Accessory Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the City.

23.92 *Inspection of Wireless Communication Facilities.* The City reserves the right to inspect any WCF to ensure compliance with the provisions of the Appendix B: Zoning and any other provisions found within the City Code or state or federal law. The City and/or its agents shall have the authority to enter the lease area of any property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

23.93 *Construction and Repairs in the Right-of-way*.

ii. *Work in Right-of-Way.* The City of Dover Electric Department and the City of Dover Public Works Department, in consultation with the City Planning Department, shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. All construction, maintenance, repair and/or removal of Small WCF shall comply with the applicable requirements of the City code.

iii. *Pole Repairs.* In the event of damage to a Small WCF attached to a utility pole owned or controlled by the City of Dover Electric Department, the owner of the Small WCF shall be solely responsible for all costs associated with the repair of the Small WCF.

iv. *Repairs of City property*. In the event of damage to City property during installation of any WCF, including utility poles, streets, sidewalks, streetlights, signs, or other infrastructure, the company responsible for the damage shall make repairs accepted by the City or shall reimburse the City for the cost of such repairs.

v. *Change or Alteration Required.* An owner of a Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the City, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such

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removal, relocation, change or alteration is reasonably necessary under the following circumstances:

a. The construction, repair, maintenance or installation of any City or other public improvement in the right-of-way;
b. The operations of the City or other governmental entity in the Right-of-Way;
c. Vacation of a street or road or the release of a utility easement; or
d. An Emergency as determined by the City.

23.94 *Removal*. In the event that use of a WCF is to be discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued and removed. Unused or abandoned WCF, or portions of WCF, shall be removed as follows:

i. Complete removal of the structure of a Tower-Based WCF shall require a Demolition Permit in accordance with permit polices and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit.
ii. Any unused portions of Tower-Based WCF, including Antennae, shall be removed within ninety (90) days of the time of cessation of operations. All Replacements of portions of a Tower-Based WCF previously removed are subject to the provisions of this Section 23.
iii. All used or abandoned WCFs and Accessory Equipment shall be removed from the wireless support structure within ninety (90) days of the cessation of operations at the site unless a time extension is approved by the City.
iv. If the WCF or Accessory Equipment is not removed from the wireless support structure within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the City, the WCF and/or associated facilities and equipment may be removed by the City and the cost of removal assessed against the owner of the WCF.

23.95 *Relocation or removal of facilities on City Infrastructure*. WCF and Accessory Equipment shall be removed within ninety (90) days following written notice from the City, or such longer period as the City determines is reasonably necessary or such shorter period in the case of an Emergency. In such cases the City will make reasonable efforts to assist the WCF owner in identifying and permitting an alternate location for the WCF.

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That Appendix B – Zoning, Article 12 – Definitions of the Dover Code, be amended by inserting the following in correct alphabetical order:

*Antenna: A*n apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

CONTINUING WORK TO BE COMPLETED IN DRAFTING ORDINANCE:

- Coordination with Design Manual document

- Check *Zoning Ordinance* for needed amendments
  - Check for conflicts with the use of terms like antennas, communications facilities, etc.

- Check *Dover Code of Ordinances* for necessary amendments
  - Use of Right of Way (Do we need to add to Chapter 98 - Streets? Such as any person desiring to erect a WCF within the City shall obtain a Right-of-way Use Permit.)
  - Requirement for Master License Agreement (Check provisions of Chapter 110 – Utilities for any updates like annual fees)

- Amendments to Appendix F – Fees and Fines of the Dover Code
  - Fees for the following:
    - Eligible Facilities Request – WCF Permit
    - Substantial Change Activity – WCF Permit
    - New Facilities – WCF Permit
    - New Facility – Tower Based WCF Conditional Use Application Fee
      - Use Conditional Use Plan Fee of $425 plus $25 per acre

- Determination of Effective Date.
  - This Ordinance shall become effective x (Need to determine if immediately upon adoption or at a set date).

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SYNOPSIS

This proposed Ordinance adds provisions for Wireless Communications Facilities by adding a new Section 23 – Wireless Communication Facilities to the *Zoning Ordinance* and completing other amendments to the *Dover Code of Ordinances*. This proposed Ordinance provides definitions; establishes certain general and specific standards relating to the location, placement, construction and maintenance of Small WCF, Non-Tower Based WCF, and Tower-Based WCF; provides for the regulations of WCF within the public rights-of-ways and outside public rights-of-way on properties; provides for the enforcement of said regulations; and establishes an Effective Date.

PRELIMINARY DRAFT CITY OF DOVER

SMALL WIRELESS COMMUNICATIONS FACILITY (SWCF) LOCATION, DESIGN AND PERMIT APPLICATION MANUAL

This Manual is part of the City of Dover Wireless Communication Facilities Code (Appendix B – Zoning, Article 5 – Supplemental Regulations of the Dover Code, Section 23) and shall be applied as part thereof. It addresses the form of the required Small Wireless Communications Facility building permit application, the applicable design standards, and the process for application and review by the City of Dover for all Small Wireless Communications Facility applications.

SMALL WIRELESS COMMUNICATIONS FACILITY BUILDING PERMIT REQUIRED:

A Small Wireless Communications Facility building permit is required for all proposed Small Wireless Communication Facility activities whether involving an existing utility pole or similar facility or a new location for a Small Wireless Communications Facility as defined herein. An application for Small Wireless Communications Facility Building Permit shall be submitted on the proper form to the Department of Planning & Inspections prior to initiation of any construction or installation. The Department will conduct an administrative review for proposals located in all zoning districts.

SECTION I. DEFINITIONS

The following terms are defined as follows:

1. *Accessory Equipment* – any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

2. *Antenna* – An apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

3. *Collocation* – The mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

4. *Decorative Pole* – A City-owned pole that is specially designed and placed for aesthetic purpose and on which no appurtenances or attachments, other than a small wireless facility, lighting, or municipal attachments have been placed or are permitted to be placed.

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5. *Prior Approved Design* – A design for a small wireless communications facility that has been reviewed and deemed to be in accordance with this Design Manual and approved for construction by the City.

6. *Small Wireless Facility* -- A wireless communications facility that meets the following criteria:

    (1) The structure on which antenna facilities are mounted—

        (i) is 50 feet or less in height, or

        (ii) is no more than 10 percent taller than other adjacent structures, or

        (iii) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

    (2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three (3) cubic feet in volume; and

    (3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume.

    (4) The facilities do not require antenna structure registration under 47 CFR Part 17;

    (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

    (6) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

7. *Stealth Technology*—camouflaging or screening methods applied to wireless communications facilities and accessory equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it appropriate to the site's context and surrounding environment. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

8. *Underground Utility Area* – A portion of the City in which all utility installations are required to be installed underground on a non-discriminatory basis pursuant to Section 110-31 of the City Code.

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SECTION II. GENERAL STANDARDS FOR SMALL WIRELESS COMMUNICATIONS FACILITIES

1. Applicants for Small Wireless Communications Facility locations shall first consider collocation on an existing City-owned utility pole, or a replacement with a new pole in the same location and matching to the maximum extent possible the existing style, color, materials, and configuration of the pole being replaced.
    a. Replaced poles will be capable of supporting davit arms for lights and if the original arm cannot be installed on the new pole, a new arm will be provided by the applicant.

2. Small Wireless Communications Facilities shall only be located on distribution voltage electric utility poles meeting the approval of the City of Dover Electric Department. These installations will be a minimum of 6 feet above the primary conductors. Installation on transmission voltage poles is prohibited.

3. All Small Wireless Communications Facilities shall be installed and maintained in a workmanlike manner in compliance with the National Electric Safety Code and the National Electrical Code, as applicable.

4. All Small Wireless Communications Facilities shall comply with the Americans with Disabilities Act guidelines adopted by the City and all applicable requirements of the City Code relating to streets and sidewalks as established by Chapter 98 of the City Code.

5. Utility poles shall not obstruct vehicular, pedestrian, or cyclist traffic or sight lines in an unsafe manner.

6. All Small Wireless Communications Facilities shall comply with applicable federal and state standards regarding pedestrian access and movement.

7. All Small Wireless Communications Facilities shall be designed and constructed to minimize aesthetic impact on the surrounding neighborhood in accordance with this Small Wireless Cell Facility Design Manual to the extent technically feasible

8. No Small Wireless Communications Facility shall be permitted on an existing Decorative Pole unless the applicant provides documentation showing that such Decorative Pole is the only technically feasible location for placement and that no suitable alternative sites exist. A replacement decorative pole of similar style may be used if accepted by the City Manager or their designee.

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9. No Small Wireless Communications Facility shall extend beyond the boundaries of the rights-of-way unless approved on a case-by-case basis by the City Manager or designated official.

10. All Small Wireless Communications Facilities shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

11. All Small Wireless Communications Facility locations must comply with the provisions of the Zoning Ordinance as set forth in Section 23.52 of the Wireless Communications Facilities Code as related to Historic Districts, Air Environs Overlay Zones or Environmentally Sensitive Areas.

12. No Small Wireless Communications Facility shall exceed the maximum height permitted in the zoning district.

13. Any existing pole requiring replacement that is currently utilizing a concrete base will have the concrete base removed and replaced with a steel screw in foundation

SECTION II. ANTENNA AND ACCESSORY EQUIPMENT STANDARDS

1. **Antenna Standards**

    a. Any Antenna associated with a Small Wireless Communications Facility shall not exceed six (6) cubic feet in volume.
    b. All pole-top Antennas shall be flush-mounted as closely to the top of the utility pole as technically feasible.
    c. All Antennas shall be of a design, style, and color that reasonably matches the utility pole upon which they are attached.
    d. Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments; minimum clearance of 6 feet above primary distribution wires.
    e. Any Antenna mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances.
    f. If mounted on an existing structure, no Antenna shall impair the function of said structure.
    g. Antenna placement shall not impair light, air, or views from adjacent windows.
    h. No more than two (2) collocated Small Wireless Communications Facilities shall be permitted on a single utility pole.

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2. **Accessory Equipment Standards**

   a. Accessory Equipment shall not exceed twenty-eight (28) cubic feet in volume. Equipment utilized solely for the minimization or mitigation of the aesthetic impact of the Small Wireless Communications Facility shall not be included in the Accessory Equipment volume calculation.
   b. Accessory Equipment shall be mounted flush to the side of a utility pole, or as near flush to the side of a utility pole as technically feasible.
   c. Accessory Equipment shall be mounted to provide a minimum of eight (8) feet vertical clearance from ground level.
   d. Meter socket installations shall be no lower than four (4) feet and no higher than six (6) feet above finished grade. If installed in a pole manufactured to house SWF equipment the pole will be positioned to allow a minimum of three (3) feet clearance to allow access to the meter.
   e. Accessory Equipment shall be of a color that reasonably matches the utility pole upon which such Accessory Equipment is mounted.
   f. All Accessory Equipment shall be contained within a single equipment shroud or cabinet. Such equipment shroud or cabinet shall be of the smallest dimensions technically feasible.
   g. All Small Wireless Communications Facilities shall post a sign in a readily visible location identifying the owner's permit number and the name and phone number of a party to contact in the event of an emergency. The only other signage permitted shall be that required by the FCC or any other federal or state agency. All signage associated with a Small Wireless Communications Facility shall be approved by the City Planning Department.
   h. Accessory Equipment placement shall not impair light, air or views from adjacent windows. To the extent technically feasible, all Accessory Equipment shall be placed away from adjacent windows and the primary pattern of pedestrian and vehicular traffic.
   i. No Accessory Equipment shall feature any lighting, including flashing indicator lights, unless required by state or federal law.

3. Wiring Standards
   a. Exposed wiring on decorative poles is prohibited on any Small Wireless Communications Facility, Accessory Equipment or Accessory Equipment enclosure.
   b. Transmission, fiber, power cables and any other wiring shall be contained within any utility pole for which such concealment is technically feasible. If wiring cannot be contained within the utility pole, all wiring shall be contained within conduit or U-guard that is flush-mounted to the utility pole.

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c. All wiring shall be installed without excessive slack or extra cable storage on the utility pole.
d. Any conduit or U-guard shall be of a color that reasonably matches the utility pole to which the Small Wireless Communications Facility is attached.
e. Loops of extra wiring shall not be attached to any utility pole.

SECTION III. UTILITY POLE STANDARDS

1. Replacement Utility Poles

a. The maximum height of any proposed replacement utility pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small Wireless Communications Facility; or 2) fifty (50) feet above ground level, whichever is greater; or 3) in compliance with the height restrictions of the district or zone.
b. Any replacement utility pole shall be of comparable materials and design to the existing utility pole. All attachment hardware will match, as much as possible, to the color of the pole being installed.
c. Any replacement utility pole shall be placed within five (5) feet of the existing utility pole being replaced.
d. Any replacement utility pole shall be designed to accommodate all uses that existed on the existing utility pole prior to replacement. As part of an application for a Small Wireless Communications Facility, the applicant shall provide documentation from a structural engineer licensed in the State of Delaware confirming that the replacement utility pole, Small Wireless Communications Facility, and prior existing uses shall be structurally sound.
e. Any replacement utility pole shall not deviate from the predominant pattern of existing adjacent structures.

2. New SCWF Poles

a. The maximum height of any new SCWF pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility or SCWF pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small Wireless Communications Facility; or 2) fifty (50) feet above ground level, whichever is greater; or 3) in compliance with the height restrictions of the district or zone.
b. Any new utility pole shall be installed in accordance with the predominant pattern of existing adjacent structures.
c. New utility poles shall be of the same or similar material and color of existing adjacent structures.

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d. To the extent technically feasible, no new SCWF pole shall be installed:
    i. Directly in front of any building entrance or exit so that it would interfere with ingress or egress;
    ii. Directly in front of a window of any residential structure;
    iii. Within ten (10) feet of the edge of any driveway;
    iv. In the public rights-of-way directly opposite any driveway;
    v. In a manner that unreasonably increases visual clutter or disorganization of utility infrastructure along the street; or
    vi. In violation of the design standards contained herein.

e. Decorative Poles:
    i. Decorative Poles shall be required for the replacement of any existing Decorative Pole;
    ii. Decorative poles shall be required in any portion of the City where all utility installations are required to be installed underground on a non-discriminatory basis pursuant to Section 110-31 of the City Code, unless not technically feasible.
    iii. For any replacement Decorative Pole, the new Decorative Pole shall match the existing Decorative Pole in shape, design, color, and material.
    iv. All replacement Decorative Poles shall comply with the requirements of Section III (1) of this Design Manual.

SECTION IV. REVIEW AND APPROVAL

Applicants shall be required to have a pre-application meeting with City Planner or designee in order to discuss any location, aesthetic or safety concerns of the City with respect to the proposed SWCF. The City Planner shall consult with the City Manager, the City Electric Department, the City Public Works Department and any other applicable City departments and shall advise the applicant of any findings or recommendations.

The City Planner shall create a checklist to be used to determine the requirements for submittal of a "Complete Application" the receipt of which shall determine the start of the approval process set forth in Section 23.56(a) of this Section.

The City Planner shall reasonably determine whether a proposed Small Wireless Communications Facility design complies with the requirements of this Design Manual.

The City Planner may impose such additional, reasonable conditions as determined by the City to minimize the impact of the Small Wireless Communications Facility on the neighborhood in which to be located.

Any requests for a variance from the requirements of this Design Manual shall be considered on a case-by-case basis by the City Planner and shall be approved upon a determination that such

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variance is in the best interests of the City or necessary to avoid the effective prohibition of wireless service pursuant to the Rules of the Federal Communications Commission.

Upon approval of a design for a Small Wireless Communications Facility requiring a variance from the requirements of this Design Manual, such design shall be incorporated by reference into this Design Manual as a Prior Approved Design.

A Small Wireless Communications Facility building permit will not be issued until a ROW Agreement and/or City of Dover Pole agreement are approved and in place.

A record of Approved Designs shall be kept on file at the City Planning and Inspections Office.

SECTION V. APPROVAL TIMING

Approval timing shall be as set forth in Section 23.56 (a) of the City of Dover Wireless Communications Facilities Code (Appendix B- Zoning, Article 5, Section 23).

___

Minimum Information Required for Permit:

i. Name and address of applicant, including contact person
ii. Address of the proposed SWCF which may be street address, parcel number, or other definitive location as may be relevant to the location.
iii. Physical geographic coordinates (GIS format)
iv. Design and construction details
v. Complete application including any ROW or Attachment permit documents

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Small Wireless Communications Facility Design Checklist

The information detailed in the following checklist shall be included with any application for a Small Wireless Communications Facility:

Item	Description	Included in Application?	
		Yes	No
Cover Letter	• The application shall include a cover letter detailing the location of the proposed site, all equipment being proposed, and a certification that the applicant has included all information required by the City Code.		
Site Plan	• Site plan shall show all proposed equipment associated with the Small Wireless Communications Facility. • The manufacturer and model, proposed location, and dimensions of each piece of equipment should be clearly shown. • Before and after diagrams of the proposed site showing the dimensional changes shall be included. • If the proposed utility pole supports existing attachments, the site plan shall show the location and dimensions of all such attachments. • If installation of a new utility pole is being proposed, the site plan shall include the color, dimensions, material and type of utility pole proposed. • The site plan shall show the location of any existing structures within one hundred (100) feet of the proposed location, including but not limited to residential structures, commercial structures, light poles, traffic signals, traffic signage, and existing utility poles.		
Photo Simulations	• Photo simulations shall depict the Small Wireless Communications Facility from at least two locations near the proposed site. • The photo simulations should reflect the proposed design and location of all Accessory Equipment associated with		

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	the Small Wireless Communications Facility.		
Paint	• Accessory Equipment shall be painted a color that reasonably matches the utility pole upon which such Accessory Equipment is mounted. • Application shall detail the proposed painting of any Accessory Equipment necessary to achieve aesthetic uniformity of the site.		
Wiring	• All proposed wires associated with the Small Wireless Communications Facility shall be clearly shown. • A depiction and description of the concealment methods to be utilized for the wiring shall be included. • No exposed wiring is permitted.		
Signage	• Signage shall be posted in a readily visible location and identify the owner's permit number and the name and phone number of a party to contact in the event of an emergency. • If required, FCC-mandated signage is permitted. Applicant shall identify such signage in its application.		
Right-of-way Placement	• Application for permit/permit # • Line of sight is not impaired		

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DATA SHEET FOR RECREATION PLAN REVIEW
Review of Active Recreation Area Plan and
Consideration of Cash-in-Lieu Donation

PARKS, RECREATION AND COMMUNITY ENHANCEMENT COMMITTEE
MEETING OF July 14, 2020
PLANNING COMMISSION MEETING of July 20, 2020

Plan Title:	Landing Square (Previously Bay Road Commercial)
Plan Type:	Active Recreation Area and Consideration of Cash-in-lieu Donation (Cash-in-lieu of Recreation Area Construction) Associated with Conditional Use Site Plan C-20-02
Location:	Southwest side of Bay Road
Address:	600 Bay Road
Tax Parcel:	ED-05-077.00-01-09.00-000
Owner/Applicant:	Bayroadcap, LLC
Site Area:	12.9366 acres
Zoning:	C-4 (Highway Commercial Zone)
Prior Use:	vacant, wooded areas
Proposed Use:	Phase 1: Office Building (Under Construction) Phase 2: Apartment Building of 80 Units, Office Building and 2 Restaurants
Dwelling Units:	80 units
Recreation Area:	Required – 22,000 SF Provided – 5,946 SF (Deficient 16,054 SF)

Proposed Cash-in-lieu Donation: $98,387.52

I. PROJECT SUMMARY:

The project proposes a revision of Site Plan S-19-20 (and S-17-20) to replace a 20,800 SF multi-tenant retail building with a 20,000 SF office building and 80-unit apartment building while retaining two restaurant sites, along with associated site improvements including parking and landscaping. A portion of this site is under construction under Site Plan S-19-20 Delaware State Police Administration Building. The project was also the subject of S-14-08 Woodland Tree

Clearing Plan of 560 Bay Road which included an off-site Tree Mitigation Plan that has been implemented.

II. ACTIVE RECREATION AREA PLAN SUMMARY:

As part of the Plan review process for this project, the applicant prepared a Conceptual Recreation Plan which illustrates how the Landing Square Apartments development will provide recreation amenities in accordance with the design specifications described in *Zoning Ordinance* Article 5, Section 10 Open space, recreation, and other public facilities. Due to the property size and unit density, this project does not qualify for any of the Active Recreation Area exemptions for small developments under *Zoning Ordinance*, Article 5 §10.5.

The Active Recreation Area is required at a rate of 275 SF per unit or a half acre (21,780 SF), whichever is greater. With this project of eighty (80) units, the Active Recreation Area requirement calculates to 22,000 SF which is greater than the half-acre (21,780 SF).

The Active Recreation Area proposal for the Landing Square Apartments project is depicted in the floor plan submission and in a Letter of Request. The proposal is to provide a "Club House / Community Space" area of 3,336 SF on the first floor and an Open Deck area of 2,610 SF on the fourth floor of the apartment building. The following table provides information from the submitted Plan for the Active Recreation Area as proposed:

	Required	***Provided on Plan***
Active Recreation Area (Article 5 §10.514)	275 S.F. per dwelling unit or ½ acre (21,780 SF) whichever is greater to be provided on site. 80 DU = 22,000 SF Required = 22,000 SF Provided: 5,946 SF ***Deficient: 16,054 SF (0.37 ac)***	Club House area and Open Deck = 5,946 SF • 3,336 SF Club House • 2,610 SF Open Deck
Active Recreation Amenities (Article 5 §10.15)	Accessible	Located inside the building. Club House area located on ground level (1st floor) and Open Deck accessible by stairs or elevator (4th floor).
Active Recreation Amenities (Article 5 §10.15)	Age Oriented to development	Open community area lends itself to multi-purpose activities and meeting space. Area is adaptable to what the tenants prefer the space to be.
	Parking	This type of recreation area does not have associated parking needs. There are on-site parking areas for the apartment complex.

	Setbacks: 30 feet from residential lots and 25 feet from right-of-way for street	There are no specific equipment amenities or designated game court surfaces that must meet this requirement.
	Landscaping	The recreation area is contained within the building and does not require additional landscaping.

III. CONSIDERATION OF CASH-IN-LIEU

The applicant has made a request for consideration of Cash-in-lieu of Recreation Area Construction. Their request seeks to pay cash-in-lieu of construction the remaining recreation area of 16,054 SF (22,000 SF – 5,946 SF). If the Planning Commission determines that the construction of some or all of the required active recreation area is not practical or desirable, then they shall require a full or partial cash in lieu donation for the portion of the active recreation area determined as not practical or desirable. The applicant would be required to make a cash donation to the City's Parkland Reserve Fund in lieu of the required recreation area.

Zoning Ordinance, Article 5 §10 addresses Open Space, Recreation and Other Public Facilities outlines the calculation of the amount for cash-in-lieu of recreation area construction.

For the calculation of the amount of the cash donation, the *Zoning Ordinance,* Article 5 §10.173 *Amount of cash donation* specifies that the "cash donation shall be equivalent to the appraised value of land area required…" and that land area value shall be "based on the appraisal prepared for the developer to secure construction financing."

An appraisal performed by Newmark Knight Frank, Report dated April 2, 2020, was submitted to the Planning Office. (The appraisal document is on file in the Planning Office.) This appraisal identifies a market value (land value) of the entirety of the property which was utilized to generate a land value per acre. Based on the value of the 16,054 SF of land required to satisfy the Active Recreation Area requirement, the cash-in-lieu amount was determined. See calculation below:

2020 Appraisal of Land Value: $3,440,000
Bay Road property consists of 12.9366 acres of land
Land Value per acre = $265,912.22 per acre

Active Recreation Area Deficiency =16,054 SF = 0.3685 ~ 0.37 acre
Cash-in-Lieu Amount = $265,912.22 per acre value x 0.37 acre = $98,387.52

IV. REVIEW PROCESS

The Planning Office has prepared this Active Recreation Area Report outlining the Recreation Area proposal and outlining the amount of the Cash-in-lieu donation. The Parks, Recreation and Community Enhancement Committee will need to consider the proposed Active Recreation Area and the proposed Cash-in-lieu of Recreation Area payment request and make a recommendation.

The Planning Commission must act to accept the Recreation Area Plan and the Cash-in-lieu donation as part its review of the Conditional Use Site Plan.

The Parks, Recreation and Community Enhancement Committee will review the Recreation Area Plan and the Consider the Cash-in-lieu Donation amount for Landing Square Apartments (previously Bay Road Commercial) at their meeting on July 14, 2020. The Planning Commission Public Hearing and Review of the Conditional Use Site Plan C-20-02 and the Recreation Area Plan/Consideration of Cash-in-lieu Donation is scheduled for July 20, 2020.

V. CODE CITATIONS:

Dover Code of Ordinances, Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 10 – Open Space, Recreation and Other Public Facilities (select excerpts).

Article 5 Section 10

Section 10. - Open space, recreation and other public facilities.

The City of Dover shall require the reservation of open space, recreation and other public facilities in accordance with the provisions of this section as a condition of approval for all one-family dwelling, two-family dwelling and multiple-family dwelling residential developments requiring conditional use approval, site development plan approval, or land subdivision approval by the City of Dover Planning Commission.

10.1 Recreation areas.

10.11 Purpose. The purpose of this section is to ensure that active recreation areas are provided as an integral design element within residential developments and that such facilities are of an adequate scale in relation to the size of the residential development and which provide residents with a variety of active recreational pursuits.

10.12 Dedication required. The commission shall require the dedication or reservation of recreation areas, and the subsequent construction of recreation facilities of a character, extent and location suitable to the needs created by a development for recreation facilities as defined and in accordance with the design guidelines set forth.

10.13 Definition. The following are illustrative of the types of recreation areas and subsequent facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the recreation area requirements of this section: tennis courts, handball courts, racquetball courts, swimming pools, saunas and exercise rooms, meeting or activity rooms within clubhouses, baseball and soccer fields, basketball courts, volleyball courts, swings, slides and play apparatus, and developed walking, jogging or biking trails.

10.14 *Recreation area review*….

10.15 *Design guidelines…*

10.16 Area required. All residential developments shall provide recreational areas in a size equal to 275 square feet per dwelling unit or one-half acre of land, whichever is greater. In no case shall the commission require that more than ten percent of the gross area of the development be so dedicated or reserved when the gross area is greater than five acres.

10.17 *Cash in lieu of recreation area construction.*

10.171 *Determination of suitability for cash donation.* If the commission determines that the construction of recreation is not practical due to close proximity to existing available recreation facilities or infeasible due to natural characteristics of the land or will not

benefit the residents of the development, the commission shall require a full or partial cash in lieu of areas of donation to be made by the developer in lieu of a full or partial dedication of land.

10.172 *Separate recreation account.* The cash donation shall be deposited in a separate account to be used for parks, playgrounds or recreational purposes.

10.173 *Amount of cash donation.* The cash donation shall be equivalent to the appraised value of land area required in section 10.16. The land area value shall be based on the appraisal prepared for the developer to secure construction financing. This submitted appraisal shall be a copy of the original supplied to the lending institution, with that institution identified, and shall conform in all ways to the Uniform Standards of Professional Appraisal practice and be performed by an appropriately qualified certified appraiser. If an appraisal prepared for construction financing is not available, then the developer shall have an appraisal done in accordance with the procedures set forth in [sub]section 10.174.

10.174 *Appeal of appraised value.* If the city does not accept the land value established by the appraisal detailed in [sub]section 10.173, the city may, at the developer's expense, require another appraisal be performed. This appraisal will be let on a bid basis between at least three appropriately qualified, certified appraisers selected by the city. The appraiser(s) who prepared the original appraisal in [sub]section 10.173 cannot be a party to this appeal appraisal.

10.175 *Payment of cash donation.* One hundred percent cash donation provided under this section shall be collected prior to issuing the first building permit for the development.

10.7 Council approval. Prior to acceptance by the planning commission, all areas planned for public dedication, or cash donations provided under this section must be submitted to, and approved by the parks, recreation, and community enhancement committee of the City of Dover, and shall be subject to final review and approval by [the] city council.

VI. STAFF RECOMMENDATIONS

The following are comments and recommendations from Staff of the Planning Office following review of the Active Recreation Area Plan and Request for Consideration of Cash-in-lieu.

1) Active Recreation Area: As a residential development there is a requirement for Active Recreation area. The project proposes a "Club House" and "Roof Top Deck" with no specific amenity improvements. The floor plan shows the community space proposed as the "Club House" would consist of two larger rooms, one with a door and one open to a hallway and a smaller room with a door as well as two public restrooms. All rooms are connected by a hallway with an entrance from the front corridor and one entry on the side of the building open directly to the exterior. The floorplans show no detail for the 4th Floor Deck other than two entrances to the deck off the main hallway on either end of the open space.

   Staff Recommends the following regarding this Recreation Area:
   a. Club House / Community Space: Further development of the Active Recreation areas are needed. If they are to be strictly meeting spaces, please provide furniture layout. If they are going to hold any type of activities, this would be important to demonstrate on the plans or a more thorough written description would suffice.
   b. 4th Floor Deck Area: The deck is referred to as a "Roof Top Deck" although it appears from the floor plan that it is on the 4th floor. There is no representation of this area on the Site Plan or Architectural Elevations provided. Clarification is required on

the location of the deck and all visual representations should reflect its location.

c. Bike Parking & Connectivity: Bike parking should be located inside and around the apartment building. The proximity to the multi-use path on Bay Road and the connection to the Capital City Trail and St. Jones Greenway Trail would suggest that heavy bicycle use would be common amongst the tenants.
    i. Add exterior (outside) bike parking specific to the apartment building. The other bike parking locations provided on site are not within the proximity of the apartment building.
    ii. Provide an indoor bike storage area for apartment tenants
d. Pedestrian Connectivity: Staff notes that the sidewalk system could easily be extended in several locations to increase pedestrian connectivity for the overall development and this residential component. This apartment building location is on a bus route and presents many live-near-your-work opportunities.
    i. Extension of the sidewalk from the rear of the building coming out of the northern exit along the site entrance off of Bay Road would result in a safer connection for residents to the mutli-use path along Bay Road.
    ii. Extension of the sidewalk along the west side of the first entrance off of the Bay Court Plaza Boulevard would create a safer pedestrian crossing for residents who may be traveling to the neighboring Bay Court Plaza Shopping Center rather than crossing the drive aisle at its widest part behind the south Restaurant site.
e. Amenities: The project provides 120 parking spaces over the required number of spaces. An attempt to remove some or all of these spaces would result in an opportunity to add more green space and additional amenities for residents. These amenities could include a patio with sail-like shade feature, small fenced in dog yard, additional landscaping or covered bike storage pavilion. In addition, there are opportunities to provide benches and dog waste stations along the sidewalks around the apartment building as it currently exists.

2) The proposed plan presents an area designated for Active Recreation Area for this project. However, the plan is required to provide 22,000 SF of Active Recreation Area and it is currently shown as proposing 5,946 SF of Active Recreation Area. The project deficit is 16,054 S.F. of Active Recreation Area.
    a. The deficiency of Active Recreation Area must be satisfied. There are multiple options to achieve this including, but not limited to, a reduction in the project unit count and/or size of the proposed building to increase outdoor open space availability, the addition of interior recreation space, or a cash-in-lieu donation for the recreation area. The applicant has made a request for Cash-in-lieu of Recreation Area Construction.

3) Consideration of Cash-in-lieu of Recreation Area Construction: The Commission should determine how the proposal should best address the requirement for an Active Recreation Area, which must be at least 275 SF per dwelling unit (275 SF x 80 D.U. = 22,000 SF) as required by the *Zoning Ordinance*. The applicant is seeking to instead pay a Cash-in-lieu for

a portion of the required area not provided. Staff recommends acceptance of the $98,387.52 Cash-in-lieu of Recreation Area Construction donation, as the amount complies with the requirements of the *Zoning Ordinance*.

VII. ADVISORY COMMENTS

1) The Conditional Use Site Plan set including any floor plans depicting the Recreational Area are to include appropriate improvements, plans, and details of the Recreation Area as approved.

2) A Cash-in-lieu of Active Recreation Area Construction payment shall be submitted for the agreed upon amount to the Planning Office prior to the issuance of the Building Permit for the Apartment Building. The Cash-in-lieu donation will be deposited in the City's Parkland Reserve Fund account.

3) There shall be provisions which ensure that the community space (all areas under consideration for active recreation areas) shall continue as such and be properly managed and maintained. The developer shall either retain ownership and responsibility for maintenance of the common use areas or provide for and establish one (1) or more organizations for the ownership and maintenance of all common space i.e. a Homeowners Association. The organization shall be responsible for maintenance, insurance and taxes on the community space.

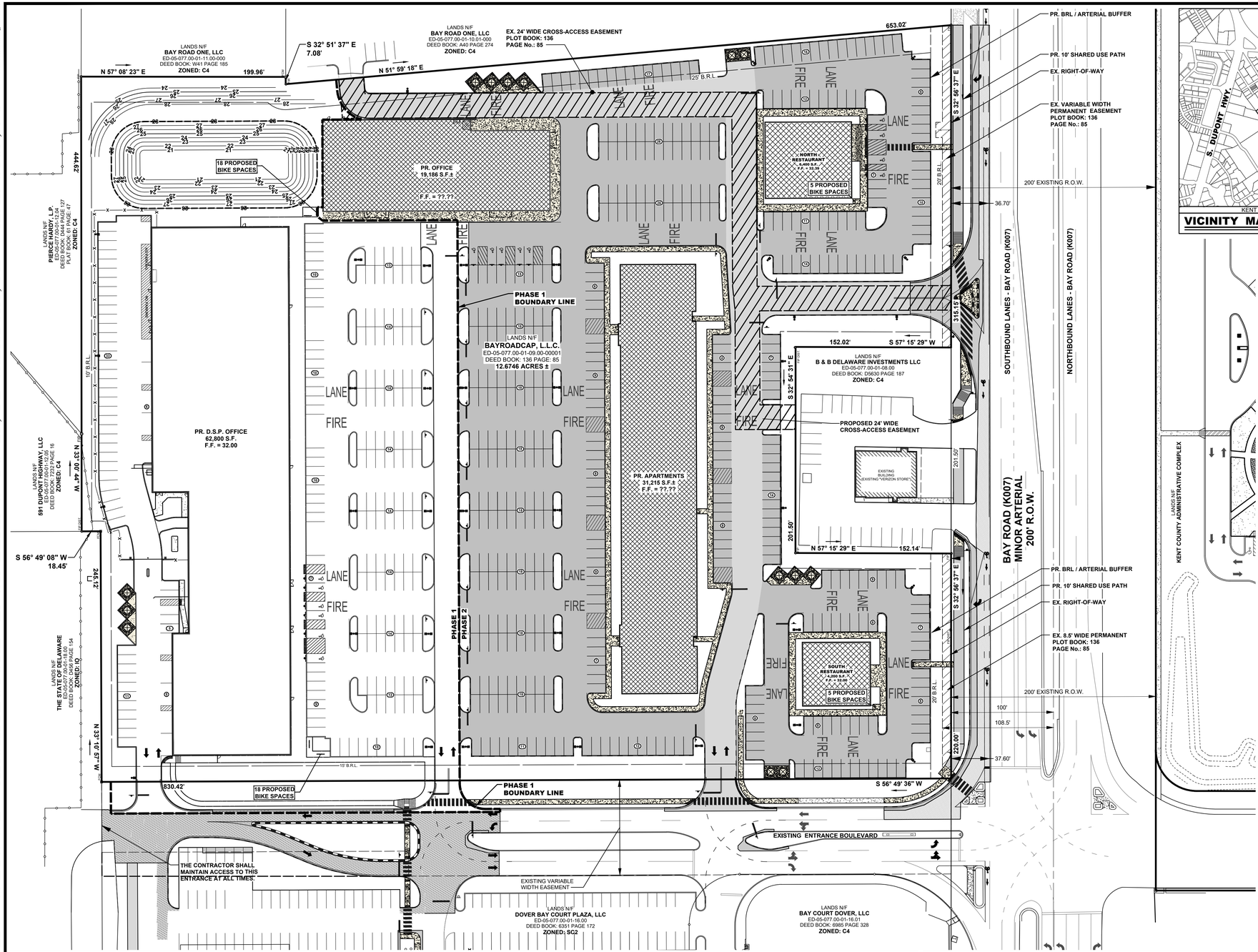
4) In the event, that major changes and revisions to the Plan occur in the finalization of the Plan contact the Planning Office. Examples include reorientation of buildings, relocation of site components, changes in floor area or unit count, or design revisions impacting Active Recreation Areas. These changes may require resubmission for review by the Development Advisory Committee, Planning Commission, or other agencies and commissions making recommendations in regard to the plan.

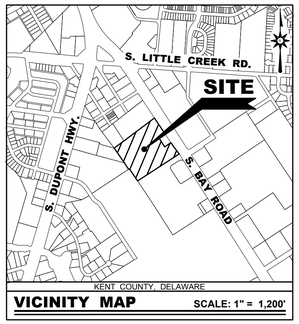
5) The Parks, Recreation, and Community Enhancement Committee shall submit to the Planning Commission a report detailing the recommendations as to the Recreation Area Plan and Request for Consideration of Cash-in-Lieu Donation.

Attachments:

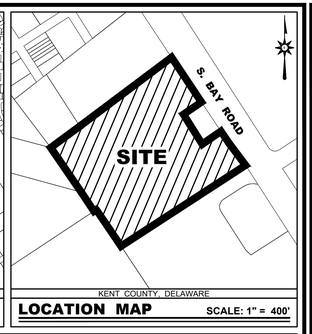
- Site Plan C-20-02 Landing Square (Previously Bay Road Commercial) Cover Sheet (C-001) and Landscape Plan Sheet (L-101)
- Floor Plan of the 1st and 4th floor of the proposed apartment building showing the areas under consideration for Active Recreation Areas.
- Building Architecture: Elevations of Apartment Building
- Letter regarding Recreational Areas and Request for Consideration of Cash-in-lieu Donation dated 6/23/2020

BECKER MORGAN GROUP ARCHITECTURE - ENGINEERING DOVER, DE SALISBURY, MD WILMINGTON, NC www.beckermorgan.com





VICINITY MAP SCALE: 1" = 1,200'



LOCATION MAP SCALE: 1" = 400'

SITE DATA

1.	OWNER / DEVELOPER:	BAYROADCAP, L.L.C. 105 FOULK ROAD, SUITE 200 WILMINGTON, DE 19803 (302) 429-8700		
2.	ENGINEER / SURVEYOR:	BECKER MORGAN GROUP INC. 309 SOUTH GOVERNORS AVENUE DOVER, DELAWARE 19904 (302) 734-7950		
3.	PROPERTY MAP NUMBER:	ED-05-077.00-01-09.00-00001		
4.	ZONING CLASSIFICATION:	EXISTING: C-4/ HIGHWAY COMMERCIAL PROPOSED: C-4/ HIGHWAY COMMERCIAL		
5.	DEED SUMMARY:	DEED BOOK: 136 PAGE: 85		
6.	PRESENT USE:	UNDEVELOPED SITE		
7.	PROPOSED USE:	OFFICE BUILDING, APARTMENTS, W/ 2 RESTAURANT PADS		
8.	TOTAL SITE AREA:	12.9366 ACRES +/-		
9.	BUILDING AREA:	BUILDING	AREA (SQFT)	AREA (SQFT) AREA (SQFT)
		NORTH OFFICE	20,000 SQFT +/-	
		OFFICE BUILDING	62,800 SQFT +/-	
		NORTH RESTAURANT		6,400 SQFT +/-
		SOUTH RESTAURANT		4,200 SQFT +/-
		APARTMENTS		31,215 SQFT +/-
		TOTALS	82,800 SQFT +/-	10,600 SQFT +/- 31,215 SQFT +/-
10.	IMPERVIOUS COVERAGE:	EXISTING: 0.13 ACRES (1.03%) PROPOSED: 10.08 ACRES (77.9%) PREVIOUSLY AP. - 11.50 ACRES (88.9%)		
11.	SETBACKS:	C-4/ HIGHWAY COMMERCIAL FRONT: 20 FT. SIDE: 15 FT. REAR: 10 FT. OR EQUAL TO HEIGHT OF BUILDING LOT WIDTH: 150 FT. LOT DEPTH: 150 FT.		
12.	PARKING CALCULATION:	C-4 ZONE: OFFICE: 1 SPACE / 300 S.F. REQUIRED: 81,986 S.F. / 300 S.F. = 273 SPACES RESTAURANT: 1 SPACE / 4 SEATS REQUIRED: 6,400 S.F. + 4,200 S.F. = 10,600 S.F. 25 S.F. / PATRON = 10,600 / 25 = 424 SEATS / 4 = 106 SPACES APARTMENTS: 2.25 SPACES / D.U + 1 SPACE / 200 S.F. OF OFFICE SPACE REQUIRED: (2.25 x 85) + (400 / 200) = 194 SPACES REQUIRED: 273 + 194 + 106 = 573 SPACES PROVIDED: 681 SPACES (15 HANDICAP SPACES)		
13.	BICYCLE PARKING:	REQUIRED: 1 BICYCLE SPACE PER 20 PARKING SPACES - 681 / 20 = 34 PROVIDED: 46 SPACES		
14.	TREE PLANTING CALCULATION:	C-4 ZONE: REQUIRED: 1 / 3,000 S.F. ; 563,514 / 3,000 = 188 TREES PROPOSED: 188 TREES		
15.	DUMPSTERS:	OFFICE: TWO REQUIRED FOR THE FIRST 16,000 S.F., ONE REQUIRED FOR EACH ADDITIONAL 16,000 S.F. REQUIRED: 19,186 S.F. -16,000 S.F. = 3,186 S.F. 3,186 S.F. / 16,000 S.F. = 0.20 REQUIRED: 2 DUMPSTERS PROPOSED: 4 DUMPSTERS RESTAURANT: TWO REQUIRED FOR THE FIRST 3,000 SQFT, ONE FOR EACH ADDITIONAL 3,000 S.F. REQUIRED: 10,600 S.F. - 3,000 S.F. = 7,600 S.F. 7,600 S.F. / 3,000 S.F. = 2.53 REQUIRED: 5 DUMPSTERS PROPOSED: 7 DUMPSTERS (2 SPACES ARE RESERVED FOR THE NORTH RESTAURANT. D.S.P. OFFICE: TWO REQUIRED FOR THE FIRST 50,000 S.F., ONE FOR EACH ADDITIONAL 24,000 S.F. REQUIRED: 62,800 S.F. - 50,000 S.F. = 12,800 S.F. 12,800 S.F. / 24,000 S.F. = 0.53 REQUIRED: 2 DUMPSTERS PROPOSED: 3 DUMPSTERS		
16.	SIGNAGE:	FUTURE PERMIT SUBMISSION		
17.	WOODLANDS:	EXISTING WOODLANDS = 0.00 ACRES± EXISTING WOODLANDS TO BE REMOVED = 0.00 ACRES± (PREVIOUS WOODLANDS CLEARED AS PART OF THE WOODLAND TREE CLEARING PLAN APPLICATION S-14-08.		
18.	BUILDING HEIGHT:	PERMITTED: 75' OR SIX STORIES PROPOSED: 35'		
19.	POSTED SPEED LIMIT:	45 MPH		
20.	ROAD CLASSIFICATION:	MINOR ARTERIAL		
21.	STATE POLICY FOR SPENDING:	INVESTMENT LEVEL 1		
22.	SOURCE OF WATER:	CITY OF DOVER		
23.	SOURCE OF SEWER:	CITY OF DOVER		
24.	SOURCE OF ELECTRIC:	CITY OF DOVER		
25.	SOURCE OF GAS:	CHESAPEAKE UTILITIES		
26.	SURVEY BENCHMARK:	NGS MONUMENTATION VERTICAL: NAVD88 - L37 HORIZONTAL: NAD83 (2007) - DNREC		
27.	MONUMENTATION:	EXISTING: 10 FOUND PROPOSED: NONE TO BE SET		

GENERAL NOTES:

1. BOUNDARY AND TOPOGRAPHIC SURVEY DATA SHOWN HEREON WAS PREPARED BY BECKER MORGAN GROUP, DOVER, DE., IN APRIL OF 2017. VERTICAL DATUM IS BASED ON NAVD 88. HORIZONTAL DATUM IS BASED ON DELAWARE STATE PLANE NAD 83 (2011).
2. THE BOUNDARY LINES PORTRAYED HEREON HAVE BEEN ESTABLISHED BASED SOLELY ON PHYSICAL EVIDENCE DISCOVERED IN THE FIELD IN CONJUNCTION WITH DETERMINATIONS DERIVED FROM SOURCE OF TITLE AND ADJACENT DEED RECORD INFORMATION.
3. PROPERTY SHOWN HEREON IS SUBJECT TO ANY RIGHT-OF-WAY, EASEMENTS, RESTRICTIONS, ETC. AS MAY BE SHOWN OR NOTED IN ANY RECORD, PUBLIC OR OTHERWISE, OR ANY REQUIREMENT OR REGULATION OF ANY PUBLIC AGENCY.
4. THE EXISTING UTILITIES SHOWN WERE TAKEN FROM THE BEST AVAILABLE RECORDS. THE CONTRACTOR SHALL CONTACT MISS UTILITY OF DELMARVA (1-800-282-8555) TO VERIFY THEIR EXACT LOCATION PRIOR TO THE START OF ANY CONSTRUCTION. ANY DAMAGE INCURRED TO ANY UTILITIES SHALL BE REPAIRED IMMEDIATELY AT THE CONTRACTORS EXPENSE. IF THE CONTRACTOR RELIES ON THE UTILITY LOCATIONS SHOWN HEREON, HE DOES SO AT HIS OWN RISK AND WILL NOT BE ENTITLED TO ADDITIONAL COMPENSATION DUE TO TIME DELAYS FROM SAID RELIANCE.
5. THIS AREA OF DEVELOPMENT IS NOT IMPACTED BY THE 100 YEAR FLOOD PLAN AS SHOWN ON FIRM MAP 10001C0169J PANEL 169 OF 435, DATED JULY 7, 2014.
6. DELAWARE REGULATIONS PROHIBIT THE BURIAL OF CONSTRUCTION DEMOLITION DEBRIS, INCLUDING TREES AND STUMPS ON CONSTRUCTION SITES. ANY SOLID WASTE FOUND DURING EXCAVATION MUST BE REMOVED AND PROPERLY DISCARDED.
7. ALL HANDICAPPED PARKING DEMARCATION, STALLS, AND BUILDING ACCESSIBLE ROUTES SHALL COMPLY WITH THE "AMERICAN WITH DISABILITIES ACT".
8. WETLANDS: THIS SITE WAS EVALUATED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THE 1987 CORPS OF ENGINEERS WETLAND DELINEATION MANUAL (TECHNICAL REPORT Y-87-1). AND SUBSEQUENT PUBLIC NOTICES, TO IDENTIFY THE PRESENCE OF JURISDICTIONAL WETLANDS, AS DESCRIBED IN A REPORT PREPARED BY ENVIRONMENTAL CONSULTING SERVICES, INC. DATED JUNE 29, 2001, AND NO WETLANDS WERE FOUND TO EXIST ON THE SITE.
9. PART II, CHAPTER 180, ARTICLE III, SECTION 180-10 OF THE CODE OF KENT COUNTY REQUIRES THAT "NO PERSON SHALL DISCHARGE OR CAUSE TO BE DISCHARGED ANY STORMWATER, SURFACE WATER, UNCONTAMINATED NON-CONTACT COOLING WATER OR UNPOLLUTED INDUSTRIAL PROCESS WATERS TO ANY SANITARY SEWER", THIS SHALL INCLUDE CONDENSATE. SEC. 110-231 OF THE CITY OF DOVER CODE DEFINES STORM SEWER AS "ANY SYSTEM USED FOR CONVERTING RAIN WATER, SURFACE WATER, CONDENSATE, COOLING WATER OR SIMILAR LIQUID WASTES, EXCLUSIVE OF SEWAGE". THE CONTRACTOR, DEVELOPER, OWNER AND DESIGNER SHALL ENSURE DURING CONSTRUCTION THAT NO ILLEGAL DISCHARGES TO THE SANITARY SEWER SYSTEM ARE CREATED WITH THE SITE IMPROVEMENTS.
10. AT IT'S MEETING OF APRIL 21, 2014 THE CITY OF DOVER PLANNING COMMISSION GRANTED APPROVAL OF THE TREE CLEARING PLAN AND THE FOLLOWING WAIVER REQUEST FOR SITE PLAN S-14-08:
    1. ARTICLE 5, SECTION 16.91 - TO ALLOW FOR THE CLEARING OF WOODLANDS TO EXCEED 50% SUBJECT TO COMPLIANCE WITH THE APPROVED WOODLAND MITIGATION PLAN.
11. AT IT'S MEETING OF JULY 17, 2017 THE CITY OF DOVER PLANNING COMMISSION GRANTED APPROVAL OF:
    A. THE ARTERIAL STREET BUFFER REDUCTION FROM 30 FT. TO 20 FT. ALONG THE FRONTAGE OF BAY ROAD.
    B. CROSS ACCESS AND SANITARY SEWER CONNECTION TO PROPERTY AT 580 BAY ROAD IS SHOWN ON THE PLAN.
    C. LANDSCAPING DEPICTED IN COLOR RENDERINGS PRESENTED IN THE PARKING LOT ISLANDS A SERIES OF TREES AND UNDER-PLANTINGS OF SHRUBS AND OTHER LOW PLANTINGS AND PLANTING BEDS WITH SEATING BENCHES SPACED ALONG FRONTAGES OF THE MULTI-TENANT SEGMENTS OF THE BUILDINGS
12. THIS PROJECT, S-17-20, WAS GRANTED CONDITIONAL APPROVAL BY THE CITY OF DOVER PLANNING COMMISSION IN JULY 2017 WHICH GRAND-FATHERED THE SITE WITH A TOTAL IMPERVIOUS COVERAGE OF 88.9% IMPERVIOUS.
13. AT ITS MEETING OF JULY 15, 2019 THE CITY OF DOVER PLANNING COMMISSION GRANTED A ONE YEAR EXTENSION OF THE ORIGINAL APPROVAL.
14. AT IT'S MEETING OF SEPTEMBER 16, 2019 THE CITY OF DOVER PLANNING COMMISSION GRANTED APPROVAL OF:
    A. THE ARTERIAL STREET BUFFER REDUCTION FROM 30 FT. TO 20 FT. ALONG THE FRONTAGE OF BAY ROAD.
    B. THE TREE MITIGATION SHOWN ON THE CURRENT LANDSCAPE PLAN LOCATED ON THE ENTRANCE BOULEVARD SOUTH OF BAYROAD COMMERCIAL.
15. THE KENT CONSERVATION DISTRICT RESERVES THE RIGHT TO ENTER PRIVATE PROPERTY FOR PURPOSE OF PERIODIC SITE INSPECTION.
16. THE KENT CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, MODIFY, OR DELETE ANY EROSION OR SEDIMENT CONTROL MEASURE, AS IT DEEMS NECESSARY.
17. THE PLANNING COMMISSION ALSO APPROVED THE OFF-SITE TREE MITIGATION AT ITS MEETING ON APRIL 21, 2014. THE TREE MITIGATION IN THE WOODLAND (FOREST) MITIGATION PLAN PREPARED BY MCBRIDE AND ZIEGLER DATED MARCH 1, 2006 WAS AMENDED BY LETTER DATED OCTOBER 16, 2009 DEVELOPED IN CONJUNCTION WITH DNREC DIVISION OF PARKS AND RECREATION. MITIGATION PLAN WAS IMPLEMENTED AT THE McCLEMENTS WOODLAND TRACT AT THE FORK BRANCH NATURE PRESERVE. MITIGATION WAS COMPLETED ON OCTOBER 17, 2013. A LETTER DATED OCTOBER 25, 2013 DOCUMENTED THE PLANTING OF 140 TREES. THUS THE WOODLAND MITIGATION PLAN WAS IMPLEMENTED PRIOR TO THE TREE CLEARING ON THE SUBJECT SITE.
18. SANITATION SERVICE COLLECTION FOR THIS PROJECT SHALL BE PROVIDED BY A PRIVATE HAULER.
19. FOR ALL EASEMENTS AND RECORDED BOUNDARY FOR THIS PARCEL, PLEASE REFER TO THE RECORDED DOCUMENT TITLED "LANDS OF BAYROADCAP, LLC" RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS DATED MAY 21, 2019, PLOT BOOK 136, PAGE 85.

OWNERS CERTIFICATION

WE, BAYROADCAP LLC, HEREBY CERTIFY THAT WE ARE THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, AND THAT THE PLAN WAS MADE AT MY DIRECTION, AND THAT I ACKNOWLEDGE THE SAME TO ME BY ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

SIGNATURE DATE

ENGINEERS CERTIFICATION

I, J. MICHAEL RIEMANN, HEREBY CERTIFY THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

J. MICHAEL RIEMANN P.E. NO. DATE

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COVER SHEET	
C-001	COVER SHEET & OVERALL SITE PLAN
C-002	COVER SHEET & OVERALL SITE PLAN NOTES
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C-100	OVERALL EXISTING CONDITIONS AND DEMOLITION PLAN
C-101	EXISTING CONDITIONS PLAN
C-102	DEMOLITION PLAN
SITE PLANS	
C-200	OVERALL SITE PLAN
C-201	SITE, SIGNAGE & STRIPING PLAN
C-202	SITE, SIGNAGE & STRIPING PLAN
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C-300	OVERALL UTILITIES PLAN
C-301	UTILITIES PLAN
C-302	UTILITIES PLAN
CONSTRUCTION DETAILS	
C-901 - C-903	CONSTRUCTION DETAILS
LANDSCAPE PLANS	
L-101 - L-102	LANDSCAPE PLANS

BECKER MORGAN GROUP

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NAD 83

PROJECT TITLE

LANDING SQUARE (PREVIOUSLY BAY ROAD COMMERCIAL)

560 & 600 BAY ROAD
DOVER
KENT COUNTY, DELAWARE

SHEET TITLE

COVER SHEET AND OVERALL SITE PLAN

0 25 50 100

SCALE : 1" = 50'

ISSUE BLOCK

MARK	DATE	DESCRIPTION

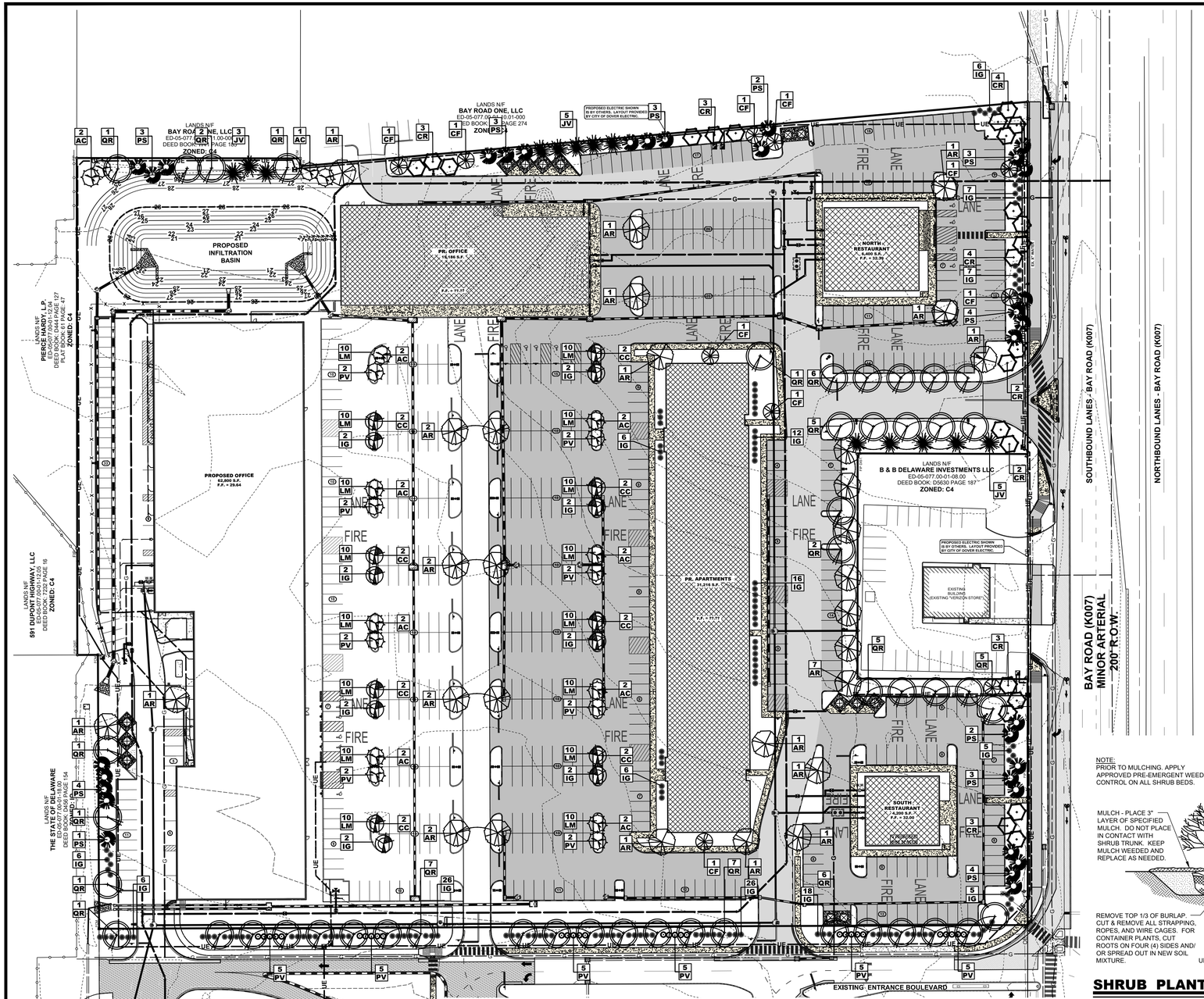
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DATE:	**06-05-2020**
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SHEET

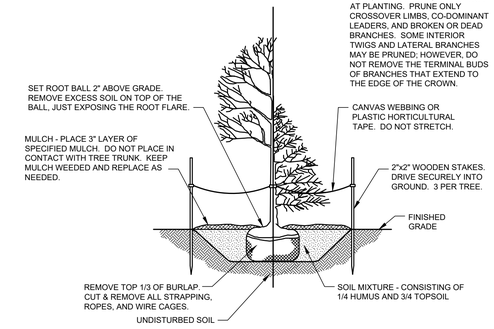
C-001

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F:\AutoCAD\Projects\2016\2016134\2016134.03\DWG\201613403-SITE-C3D18.dwg, Jun 05, 2020 - 10:00am



NOTE:
DO NOT HEAVILY PRUNE THE TREE AT PLANTING. PRUNE ONLY CROSSOVER LIMBS, CO-DOMINANT LEADERS, AND BROKEN OR DEAD BRANCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED; HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN.



TREE PLANTING DETAIL

NO SCALE — BMG NO. : L-01

GENERAL LANDSCAPE NOTES :

1. QUALITY AND SIZE OF PLANTS, SPREAD OF ROOTS, AND SIZE OF BALLS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS OF THE AMERICAN ASSOCIATION OF NURSERYMEN "AMERICAN STANDARDS FOR NURSERY STOCK."

   EVERGREEN TREES SHALL HAVE A FULL, WELL-BRANCHED, CONICAL FORM TYPICAL OF THE SPECIES.

   ALL DECIDUOUS SHADE TREES SHALL BRANCH A MINIMUM OF 7'-0" ABOVE GROUND LEVEL. TREES SHALL BE PLANTED AND STAKED IN ACCORDANCE WITH THE DETAIL SHOWN.

   PLANT MATERIALS DELIVERED TO THE SITE IN UNCOVERED TRUCKS WILL BE REJECTED.

   UNACCEPTABLE PLANT MATERIALS: MATERIALS WHICH HAVE DAMAGED OR CROOKED LEADERS, DEFORMED GROWTH HABIT, ABRASIONS OF THE BARK, SUN SCALD, WINDBURN, DISFIGURING NOT COMPLETELY CALLUSED WILL BE REJECTED. IN ADDITION, TREES HAVING THEIR CENTRAL LEADERS HEADED BACK WILL ALSO BE REJECTED. PLANTS WITH LOOSE OR CRACKED ROOT BALL OR CONTAINERS WILL BE REJECTED.

2. ALL PLANTS SHALL BE PLANTED IN TOPSOIL THAT IS THOROUGHLY WATERED AND TAMPED AS BACKFILLING PROGRESSES. NOTHING BUT SUITABLE TOPSOIL, FREE OF DRY SOD, STIFF CLAY, LITTER, STONES IN EXCESS OF ONE (1) INCH DIAMETER, ETC. SHALL BE USED FOR PLANTING.

   MULCH FOR PLANTING BEDS SHALL BE SHREDDED HARDWOOD BARK MULCH UNLESS OTHERWISE SPECIFIED ON THE PLANS AND SHALL HAVE NO LEAVES, YOUNG GREEN GROWTH, BRANCHES, TWIGS, GREATER IN DIAMETER OF ½", WEEDS, SHAVINGS OR FOREIGN MATERIAL SUCH AS STONES, ETC. SHALL BE MIXED WITH THE MULCH. ALL SHRUB MASSES SHALL BE PLANTED IN CONTINUOUS MULCHED BEDS WITH A LIGHTLY COMPACTED DEPTH OF THREE (3) INCHES. ALL CONTAINER PLANTS ARE TO HAVE ROOTS CUT ON FOUR SIDES AND/ OR SPREAD OUT IN NEW SOIL MIXTURE.

3. ALL AREAS NOT STABILIZED IN PAVING OR PLANT MATERIALS SHOULD BE SEEDED AND MULCHED. (SEE EROSION & SEDIMENT CONTROL PLAN AND NOTES.)

4. LANDSCAPE BEDS NOT DEFINED BY CURBS, SIDEWALKS, WALLS OR OTHER STRUCTURES SHALL BE ENCLOSED BY ALUMINUM EDGING UNLESS OTHERWISE INDICATED.

5. AREAS DISTURBED BY LANDSCAPE OPERATIONS SHALL BE GRADED TO MATCH EXISTING TOPSOIL AND SEED OR SOD AS REQUIRED.

6. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES AND MAY MAKE MINOR ADJUSTMENTS IN SPACING AND/OR LOCATION OF PLANT MATERIALS. CONTACTOR TO VERIFY "AS BUILT" LOCATION OF ALL UTILITIES.

7. NO PLANT, EXCEPT GROUNDCOVERS, SHALL BE WITHIN THREE (3) FEET FROM SIDEWALKS.

8. NO TREE SHALL BE PLANTED CLOSER THAN TEN (10) FEET FROM ANY STRUCTURE OR BUILDING.

9. NO TREE SHALL BE PLANTED WITHIN TEN (10) FEET OF UNDERGROUND UTILITIES OR FIRE HYDRANTS.

10. ONLY TREES THAT REACH A HEIGHT AND SIZE AT MATURITY OF SMALL TO MEDIUM SHALL BE PLANTED UNDER POWER LINES.

11. THE CONTRACTOR SHALL WATER ALL PLANTS THOROUGHLY TWICE DURING THE FIRST 24-HOUR PERIOD AFTER PLANTING, AND THEN WEEKLY OR MORE OFTEN, IF NECESSARY, DURING THE FIRST GROWING SEASON, UNLESS THE OWNER AGREES TO MAINTAIN AND WATER THEM.

12. TREES TO REMAIN ON-SITE SHALL BE PROTECTED WITH SNOW FENCE DURING CONSTRUCTION (SEE DETAIL). SNOW FENCING TO BE MAINTAINED DURING CONSTRUCTION BY CONTRACTOR.

13. THE PLANTING PLAN SHALL TAKE PRECEDENCE OVER THE PLANT SCHEDULE SHOULD ANY PLANT QUANTITY DISCREPANCIES OCCUR.

14. NO SUBSTITUTIONS SHALL BE MADE WITHOUT APPROVAL OF THE OWNER, THE LANDSCAPE ARCHITECT, AND THE CITY OF DOVER PLANNING OFFICE..

15. ALL NEW TREES SHALL BE GUARANTEED TO SURVIVE FOR ONE FULL YEAR AFTER INSTALLATION (FULL COST). ALL STAKES AND GUYS SHALL BE REMOVED FROM TREES AND SITE AS EARLY AS THREE (3) MONTHS, BUT NO LONGER THAN ONE (1) YEAR AFTER PLANTING.

TREE DENSITY REQUIREMENTS :

1. TREE DENSITY REQUIREMENT : 1 TREE PER 3,000 S.F. OF DISTURBANCE
   563,514 S.F./ (3000 S.F. / TREE) = 188 TREES
2. TREES PROVIDED : 170 TREES PROPOSED ON SITE
   20 TREES PROPOSED ON ADJACENT SITE ALONG BOULEVARD

LANDSCAPE ARCHITECTS CERTIFICATION

I, CHAD D. CARTER, RLA, ASLA, HEREBY CERTIFY THAT I AM A LANDSCAPE ARCHITECT IN THE STATE OF DELAWARE, THAT THE LANDSCAPING INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF, REPRESENTS GOOD LANDSCAPING PRACTICES.

CHAD D. CARTER, RLA, ASLA — S1-499 — DATE

OWNERS CERTIFICATION: DOVER BAY COURT PLAZA, LLC.

WE, DOVER BAY COURT PLAZA LLC, HEREBY CERTIFY THAT WE ARE THE OWNERS OF PARCEL NO. ED-05-077.00-01-16.00 AND SHOWN AS AN ADJOINER ON THIS PLAN. WE RECOGNIZE AND AGREE THAT PLANTINGS SHOWN ON THIS PLAN ARE ACCEPTABLE AS SHOWN TO BE PLANTED ON OUR PROPERTY, AND THAT THE PLAN WAS MADE AT OUR DIRECTION, AND THAT WE ACKNOWLEDGE THE SAME TO US BY ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

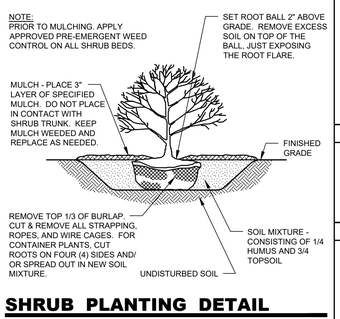
SIGNATURE — DATE

OWNERS CERTIFICATION: BAYROADCAP, LLC.

WE, BAYROADCAP LLC, HEREBY CERTIFY THAT WE ARE THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, AND THAT THE PLAN WAS MADE AT MY DIRECTION, AND THAT I ACKNOWLEDGE THE SAME TO ME BY ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. IT IS OUR UNDERSTANDING THAT ALL COSTS ASSOCIATED WITH INSTALLATION AND MAINTENANCE ARE THE RESPONSIBILITY OF BAYROADCAP LLC.

SIGNATURE — DATE

NOTE:
PRIOR TO MULCHING, APPLY APPROVED PRE-EMERGENT WEED CONTROL ON ALL SHRUB BEDS.



SHRUB PLANTING DETAIL

NO SCALE — BMG NO. : L-03

PLANT LIST

KEY	QUANTITY	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	REMARKS
SHADE TREES						
AR	29	ACER RUBRUM 'RED SUNSET'	SUNSET RED MAPLE	2-2 1/2" CAL.	B&B	SINGLE-STEM TRUNK, BRANCHING 7'-0" ABOVE GRADE
QR	46	QUERCUS RUBRA	NORTHERN RED OAK	2-2 1/2" CAL.	B&B	SINGLE-STEM TRUNK, BRANCHING 7'-0" ABOVE GRADE
EVERGREEN TREES						
JV	13	JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	5'-6'	B&B	MATCHED, DENSE
PS	32	PINUS STROBUS	EASTERN WHITE PINE	5'-6'	B&B	MATCHED, DENSE
FLOWERING TREES						
AC	20	AMELANCHIER CANADENSIS	SHADBLOW SERVICEBERRY	6'-8'	B&B	
CC	16	CERCIS CANADENSIS	EASTERN REDBUD	6'-8'	B&B	
CF	10	CORNUS FLORIDA	WHITE FLOWERING DOGWOOD	6'-8'	B&B	
CR	24	CORNUS RUBRA	PINK FLOWERING DOGWOOD	6'-8'	B&B	
SHRUBS & GRASSES						
IG	165	ILEX GLABRA 'SHAMROCK'	SHAMROCK INKBERRY	24"-36"	CONT.	1M : 9F
LM	160	LIRIOPE MUSCARI 'BIG BLUE'	BIG BLUE LIRIOPE	2 QT	CONT.	
PV	46	PANICUM VIRGATUM 'NORTHWIND'	NORTHWIND SWITCHGRASS	3 GAL.	CONT.	

TOTAL: 190 TREES / 371 SHRUBS

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Ph. 410.546.9100
Fax 410.546.5824

Wilmington, NC
3205 Randall Parkway, Suite 211
Wilmington, North Carolina 28403
Ph. 910.341.7600
Fax 910.341.7506

www.beckermorgan.com

NAD 83

PROJECT TITLE

LANDING SQUARE (PREVIOUSLY BAY ROAD COMMERCIAL)

560 & 600 BAY ROAD
DOVER
KENT COUNTY, DELAWARE

SHEET TITLE

OVERALL LANDSCAPE PLAN

0 25 50 100

SCALE : 1" = 50'

ISSUE BLOCK

MARK	DATE	DESCRIPTION

LAYER/STATE: L-101

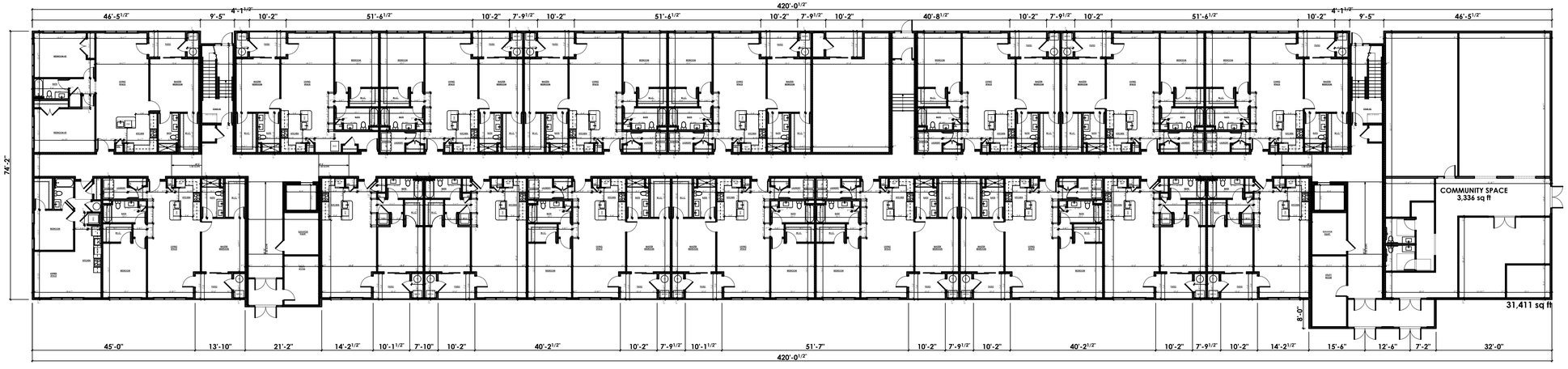
PROJECT NO.:	2016134.03
DATE:	06-05-2020
SCALE:	1" = 50'
DRAWN BY: C.D.C.	PROJ. MGR.: J.N.S.

SHEET

L-101

COPYRIGHT 2015

F:\AutoCAD\Projects\2016\2016134\2016134.03\DWG\201613403-LANDSCAPE-C3D18.dwg, Jun 05, 2020 - 9:35am



TOTAL (80 UNITS) OPTION 2		
1BR:	13	16%
1BR STUDIO: 5	6%	
2BR:	52	65%
3BR:	10	13%

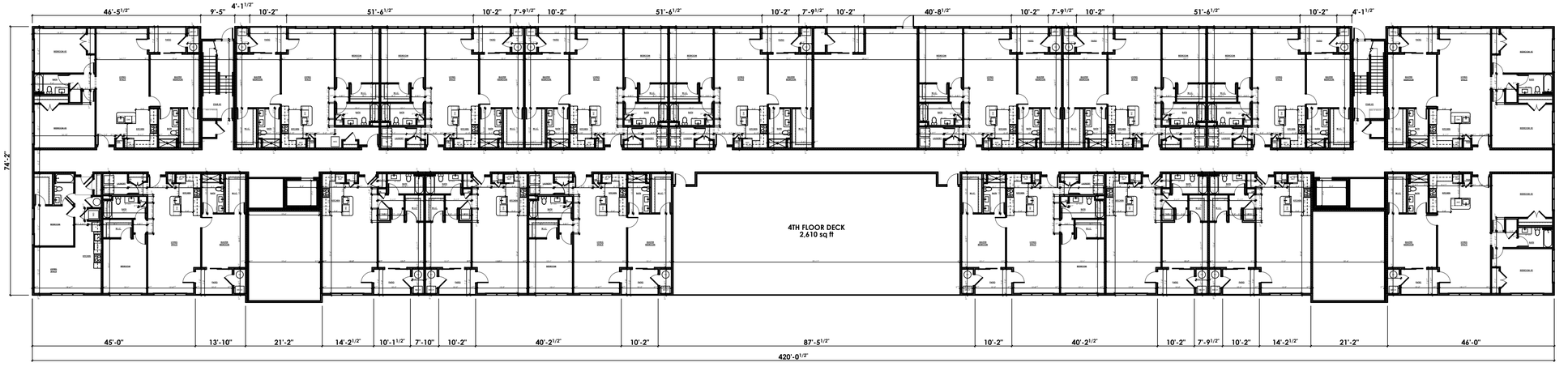
1st FLOOR
1BR: 4 UNITS
1BR STUDIO: 2 UNITS
2BR: 12 UNITS
3BR: 1 UNITS
COMMUNITY USES 2 3BR

2nd-3rd FLOOR (ea.)
1BR: 3 UNITS
1BR STUDIO: 1 UNIT
2BR: 12 UNITS
2BR ELEV: 2 UNITS
3BR: 3 UNITS

4th FLOOR OPTION 2
1BR: 3 UNITS
1BR STUDIO: 1 UNIT
2BR: 10 UNITS
2BR ELEV. 2 UNITS
3BR: 3 UNITS
PATIO USES (2)2BR

FIRST FLOOR PLAN

SCALE: 1/16" = 1'-0"



FOURTH FLOOR PLAN

SCALE: 1/16" = 1'-0"



LANDING SQUARE APARTMENTS front elevation



LANDING SQUARE APARTMENTS rear elevation

BECKER MORGAN GROUP

ARCHITECTURE
ENGINEERING

PLANNING OUR
CLIENTS' SUCCESS

RECEIVED

JUN 24 2020

CITY OF DOVER
PLANNING & INSPECTIONS

June 23, 2020

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

RE: **Site Plan Application (supplemental information)**
LANDING SQUARE (Formerly Bay Road Commercial
Dover, Delaware
2016134.03

Dear Mrs. Melson-Williams:

On behalf of our client, Bayroadcap, LLC, we are hereby submitting a supplemental package for the conditional use application for a Site Development Plan for the Landing Square project (formerly Bay Road Commercial) previously submitted June 5, 2020. With this letter we are providing additional information as well as outlining the intended use and space of the active recreation spaces for the project. As requested, we are providing the following:

1. Project Contact List form.
2. PDF's of all forms submitted
3. PDF's of all Architecture
4. Summery of the Appraised Value of the property
5. Explanation of the Active Recreation

As previously submitted, the project is proposing approximately 5,600 square feet of Active Recreation area within the apartment building structure. A first floor "Club House" and a top floor "Roof Top Deck". These spaces can be used by the residence This leaves a balance of 16,180 sqft. We are proposing a fee in leu contribution for the remaining Active Recreation. We would request the fee in leu be applied to the balance for this project.

As previously discussed, we are requesting this phase of the project be left out of the PLUS process as the original Bay Road Commercial development went through that process and this is merely an update to that original application. Additionally, we are requesting that the previously approved waiver for the Arterial Street buffer, tree Mitigation plan for the street trees on Bay Court's property, and impervious coverage requirement be applied to the update to Phase 2 of the project.

Please contact me with any questions you may have.

Sincerely,

BECKER MORGAN GROUP, INC.

Jonathan N. H. Street
Civil Designer

JNS/

Enclosures

cc: Bill Krapf, Bayroadcap, LLC
201613403ak-COD-ltr

BECKER MORGAN GROUP, INC.

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FINAL DRAFT
LETTER TO U.S. REPRESENTATIVES

To: United States House of Representatives 2020 **July 14, 2020**

Lisa LaTrelle Blunt Rochester [Delaware's At-Large Congressional District]

Tom Carper Senior United States Senator

Chris Coons Junior United States Senator

Washington, D.C. 20515

RE: Approval to Backfill a Blighted Federally Protected Area

Dear Honorable Tom Carper,
Honorable Chris Coons,
Honorable Lisa Blunt Rochester:

I am the Honorable Roy Sudler, Jr. 4th District Councilman for the City of Dover, reaching out to you in great urgency on behalf of our constituents located at Woodcrest Drive [Pat Lynn Drive] Dover, Delaware 19904.

Dated as far back as 2001, the Woodcrest community has been tormented with community enrichment and environmental problems that have exceedingly impeded upon our constituent's freedom to enjoy their real property, hardscape, and family gatherings. Within the last two decades, issues centered on the federally protected wetland/water-drainage system has generated a public safety and environmental anxieties that require your approval to be eliminated from their community.

Problems such as infectious mosquitoes, snakes, groundhogs, wild fox, snapping turtles, and chemicals used to mitigate undesirable vegetation all serve as the focal point for a reduction in the community's satisfaction and optimal well-being. This predicament has diminished the opportunity for community members to enjoy a lovely evening on their patio or entertain guests in their backyard because of all the problems, as mentioned earlier, that now take habitat in the federally protected area.

Those who live near the blighted area have encountered several groundhogs that come searching for food reshaping their landscape and devaluing their property. Furthermore, the quality of the water appears to be weak, and no surface water seems to be flowing during dry periods. Nevertheless, the Woodcrest community members are frightened by the thought that the pipe construction activity and land modifications have significantly contributed to the water level inconstancy accelerating cavities and two sinkholes in the ground near the wetland.

Furthermore, individual community constituents assume that the shift in the once known runoff-storage ditch/pond in concomitance with the weight of the installed pipe material may have triggered the decay of the roof of an existing subsurface, resulting in the evolution of two sinkholes. The concerns, as pointed out earlier, navigate to the background of the problem.

FINAL DRAFT
LETTER TO U.S. REPRESENTATIVES

Background of the Problem:

According to the former City of Dover Manager (Toney DePrima -575 Westwood Drive Dover DE 19904), the Capital School District wanted to expand their parking lot area adjacent to the ditch; however, the ditch area rendered a perceived public safety issue. To address the public safety issue, the Capital School District asked the City of Dover to construct and install a pipeline in the ditch in preparation for backfilling that area.

However, it was not until that point that the City of Dover and Capital School District discovered that the perceived ditch area was a federally protected wetlands area; thus, coercing the cessation of completing the primary goal of the project. The consequence of an uncompleted project two decades ago has rendered an adverse effect on the Woodcrest Community, which now needs U.S. Representatives' assistance in rectifying the problem.

The Woodcrest Community in conjunction with the Capital School District, City Council, Mayor of Dover, 31st District of House of Representatives, and 17th District Senator have exercised due diligence in working together to achieve this goal as one force; unfortunately, we have exhausted all accessible means of completing this task and now seek your support.

With your support and approval, a critical step towards restoring the community's satisfaction and optimal well-being will be accomplished while simultaneously rendering psychological and physical relief to our constituents that are confronted with these dilemmas. According to title 7 Conservation Natural Resources, Chapter 66. (Wetlands) your approval is needed to backfill the blighted area, as mentioned above.

Therefore, the local and state representatives, as mentioned earlier, in conjunction with the Capital School District, urge the United States Delaware Representatives to grant our request and authorize the backfill of the wetlands area in quest of rendering immediate relief to our Woodcrest Community Constituents upon your most immediate convenience.

In closing, we appreciate your public service and look forward to gaining your approval and support in resolving this crisis.

Respectfully,



Honorable Roy Sudler, Jr.
City of Dover Councilman District 4

Honorable David Anderson
City of Dover Councilman District 4

FINAL DRAFT
LETTER TO U.S. REPRESENTATIVES

Honorable Timothy A. Slavin
City of Dover Councilman At-Large

Honorable Robin R. Christiansen
City of Dover Mayor

Capital School District (Title/Name?)

Honorable Sean M. Lynn
Delaware House of Representatives District 31

Honorable William Charles Paradee III

Delaware Senate District 17

City Council etc…

ACTION FORM

PROCEEDING: Council Committee of the Whole – Parks, Recreation & Community Enhancement
DEPARTMENT OF ORIGIN: Parks & Recreation **DATE SUBMITTED**: July 8, 2020
PREPARED BY: Robin Eaton, Director of Parks, Recreation and Grounds
SUBJECT: Summer Park Activities Update
REFERENCE: COVID 19 Impact
RELATED PROJECT: N/A
REVIEWED BY: Donna Mitchell, City Manager & Matt Harline, Assistant City Manager
EXHIBITS: N/A
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Now thru Fall of 2020
STAFF RECOMMENDATION: N/A

BACKGROUND AND ANALYSIS

Parks and Recreation programming was greatly impacted with the COVID19 closures and subsequent guidelines put forth by Governor Carney. Programming such as Tae Kwon Do, Adult Fitness Classes (Yoga, Zumba, Soul Line Dancing to name a few) were ceased and cancelled for the remainder of the summer. The Youth Soccer League had to be cancelled along with the Adult Softball Leagues. Camps took a hard hit, we were not able to host our Spring Break Camp, Super Summer Playground camp, Camp Small Wonder or the variety of sports camps. Activities such as Card Making for Adults and Movies in the Park all had to be cancelled.

As restrictions have been slightly lifted, our staff thought outside of the box to find new and enticing opportunities to get families back outside with programming for all ages. Working within the guidelines, staff has developed a path forward to get us back on track, offering our citizens the quality recreational programming they have come to know.

Currently, the Spring and Summer Performing Arts Series is off to a great starting the first week of June. Staff modified the program by ensuring signage of facial coverings and hand sanitizer is available for concert goers. Circles were painted to allow families to sit together, while keeping the required six feet apart guideline. Concert attendees have expressed their gratitude for brining the series back this year, even though they have to wear their mask while at the show.

Sports Coordinator, Steve Pickering was able to work with high school field hockey league participants to offer an amended version of the Summer High School Field Hockey League. Games kicked off Monday, July 6 with athletes, officials and spectators following social distancing and facial covering guidelines. This is an exciting evening of true athletes giving it their best. Join us at Schutte Park on Monday & Thursday evenings (facial masks required)!

Grab and Go Kits! A new way to entice children with fun craft ideas. The recreation specialist developed weekly themes for inexpensive craft kits to give a way. Wednesdays in July, families may drive up to the

Pitts Recreation Center and staff will hand them a craft kit to take home and enjoy! This program received great feedback, with a family even posting their creation on Facebook! This offers families an afternoon of fun with limited exposure to others.

Looking to get those Easter Eggs out, Saturday, July 11, we are hosting the Super Summer Egg Hunt for ages 10 and under. Staff is excited to get this new form of Easter Egg hunting open to our families.

Can't dance inside, so our Soul Line Dance instructors, said we'll dance outside! Thursday evening, C & K Soul host line dancing in front of the Pitts Recreation Center. Class participants come, register on site and dance their problems away. We have put out special decals in the parking lot, they pick a spot and get moving and maintain social distancing.

This fall, we are looking to restart Adult Softball Leagues and Youth Soccer League. Future guideline updates will dictate whether or not we can actually move these outside leagues forward. We will be ready and prepared to get programs back on the field!

Playgrounds were opened on June 22 and the Pitts Center was opened on June 29 for walking with social distancing. Staff is able to monitor social distancing in the Pitts Center, but not at playgrounds. We have one set of basketball goals open which is the only place where we did not have problems with vandalism.

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole - Parks, Recreation, and Community Enhancement
DEPARTMENT OF ORIGIN: City Manager's Office **DATE SUBMITTED**: July 7, 2020
PREPARED BY: Matt Harline, Assistant City Manager
SUBJECT: Library Reopening Plan
REFERENCE: N/A
RELATED PROJECT: N/A
REVIEWED BY: Donna Mitchell, City Manager
EXHIBITS: None
EXPENDITURE REQUIRED: No additional funds **AMOUNT BUDGETED**: $0.00 **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIME TIMETABLE: See below
STAFF RECOMMENDATION: Staff proposes a soft reopening on Monday, July 27 with a full Grand Reopening on August 10. ***If the Committee is in agreement the Committee should direct staff to proceed. Option B would be to push the dates back by a week or two.***

BACKGROUND AND ANALYSIS

The Dover Public Library closed to the public on Saturday, March 14th at the beginning of the COVID-19 pandemic. The closing was in part due concern for public health, but there were also public safety concerns. In the four months since Dover Public Library closed, numerous physical renovations and policy changes have been implemented to clean the Library, the reduce the chance of spreading disease in the Library, and to improve the safety of our patrons.

Improvements and major events in the Dover Public Library since March 14, 2020

Cleaning/COVID

- A thorough and deep cleaning of the library has been conducted. The entire front area has been rearranged with a reduction in clutter.
- The Friend's of Library area is cleaned and organized.
- Approximately six tons of non-circulating books, materials and unusable furniture have been discarded. Other items were auctioned either on GovDeals or transferred under consignment to a local auctioneer.
- Procedures have been developed to leave all book returns and new materials for 72 hours followed by hand-cleaning before being put into circulation.
- The windows, gutters, benches and sidewalk in front of the Library has been cleaned.
- Social distancing will be required. Waiting lines in in front circulation, public service desks, and public printers were marked with "X"s at 6 foot intervals. New signage was created for physical distancing, hygiene, etc. Half of the computer terminals have been disabled at the computer table
- Plexiglass shields are in use at circulation and public service desks.
- The green roof has been cleared of weeds and new vegetation will be planted as soon as weather permits.

Security

- Additional electronic Pro-Watch electronic access panels have been added to the Library including on the restrooms to allow staff and security guards to quickly access the restrooms in emergency situations.
- Additional cameras and monitors have been installed indoors by Advantech that allow the security guard and the Library Director to view the interior and exterior cameras live or search recorded information. In the next month or so, the feed should be directly available to the Dover PD.
- Advantech also completed a seamless 360° view of the Library exterior.
- Several secluded areas, originally designed to provide patrons with quiet and privacy, have been sealed up to become closets or private study rooms requiring a key from the circulation desk.
- Sunstates Security will return to the Library under the State Contract to provide security all hours we are open. We expect to bring them in a week early and coordinate training on the security video playback system.
- Areas outside the library have been cleared of vegetation or fenced off to eliminate areas where people had previously been sleeping, leaving trash, urinating, and defecating.

New Policies/Staff

- Bag sizers are being ordered and a new policy is being implemented to restrict the size and amount of baggage that patrons can bring into the Library. (One small personal item like a purse and a one that is carry-on size [24" W x 16" H x 10" D or smaller]) – No bedding.
- Masks and social distancing will be required and enforced by staff or security service.
- We are instituting a 60-minute limit at the computer per session; 90 minutes per day.
- Enforcement against sleeping and eating in the Library will be uniformly enforced.
- Curbside service for library materials began June 8th and we are exploring ways to continue the service for the foreseeable future. Curbside print services followed a couple weeks later.
- One-line programming started in early June and we are likely to continue it as a hybrid in-person/on-line offering in the future.
- New Director Brian Sylvester and the new Assistant Director, Megan Johnson begin Monday, July 20th.

What is left to be decided: When to reopen and at what level.

- Soft Reopening: Recommend – July 27. Mon – Sat.
    - 10 a.m. – 1 p.m. Building open to public
    - 1 p.m. – 3 p.m. Building closed to public. Curbside delivery/pick-up available. Staff cleaning, and working on programming and projects
    - 3 p.m. – 6 p.m. Building open to public
    - Public Meeting Rooms still closed except for City Functions (allow reservations for meetings after August 10)

- Grand Reopening: Recommend – August 10 same days and hours.
    - Public Meeting Rooms available at 60% capacity (Room A – 30; Room B – 15)

- Resume Passport service Tuesday through Saturday when U.S. Department of State begins issuing passports for non-emergency. Appointments will be by appointment only.
- Job Center services to resume when the State of Delaware is ready.
- **DE Phase III -** Resume regular schedule Mon. – Fri. 9 a.m. – 7:55 p.m.; Sat. 10 a.m. – 4:55 p.m.; Sun. 1 p.m. – 4:55 p.m.; Room reservations to full capacity.