

# SAFETY ADVISORY AND TRANSPORTATION COMMITTEE A G E N D A



MAY 27, 2014 - 4:30 P.M.

CITY HALL COUNCIL CHAMBERS  
15 LOOCKERMAN PLAZA  
DOVER, DELAWARE

*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](mailto:CityClerk@dover.de.us)) should you wish to be recognized.*

## AGENDA ADDITIONS/DELETIONS

- 1. Request for Waiver of Public Street Frontage Requirement - Appendix A - Subdivisions, Article VI - Subdivision - General Requirements and Design Standards, Section E - Lots (Dover Mall)**  
*(Planning Commission recommended approval of the requested waiver subject to inclusion of the necessary easements)*
- 2. Adjournment by 4:55 p.m.**

/tm

S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Agendas\2014\05-27-2014 SA&T.wpd



PETITION TO WAIVE REQUIREMENT FOR LOTS  
TO HAVE FRONTAGE ON PUBLIC STREET  
Before the City Council Safety Advisory & Transportation Committee  
May 27, 2014

Plan Title: Lands of Dover Mall L.P. at 1365 North DuPont Highway  
SB-14-01

Plan Type: Minor Subdivision Plan

Site Area: 149.3225 acres +/-

Parcels to be created: Lot 1: 53.1704 acres +/-  
Lot 2: 30.7046 acres +/-  
Residual (Dover Mall): 65.4475 acres +/-

Proposed Use: Shopping Center

Zoning Classification: SC-3 (Regional Shopping Center Zone)  
SWPOZ (Source Water Protection Overlay Zone) – Tier 3

Waivers Recommended: Waiver of Requirement for Lots to Have Frontage on a  
Public Street (*Subdivision Regulations* - Article VI,  
Subdivision General Requirements and Design Standards,  
Section E. Lots)

PLAN SUMMARY

This Minor Subdivision Plan proposes to create three (3) parcels of land from the existing 149.3225-acre +/- parcel of the Dover Mall. The parcel will be subdivided into a 53.1704-acre +/- parcel, a 30.7046-acre +/- parcel, and a 65.4475-acre +/- parcel. The property is zoned SC-3 (Regional Shopping Center Zone), and a portion is subject to the SWPOZ (Source Water Protection Overlay Zone) Tier 3 – Excellent Recharge Area. The property is located on the east side of North DuPont Highway and south of but not adjacent to Rustic Lane. The owner of record is Dover Mall L.P. Address: 1365 North DuPont Highway. Tax Parcel: ED-05-057.00-01-14.00-000. Council District 3.

The property includes the existing Dover Mall. Within the larger Dover Mall parcel, three parcels are carved out for the anchor tenants of Sears, Boscov's, Macy's, and JC Penney. The parcels for JC Penney and Boscov's include the parking areas associated with these anchors in addition to the building area. The Minor Subdivision Plan proposal would strike a lot line in a north/south direction east of the Dover Mall building and parking area and another lot line perpendicular to and extending eastward from this line, to create three separate parcels out of the Dover Mall parcel. The two parcels created on the east side of the property are currently undeveloped. There is no development proposed as a part of this application.

In order to subdivide the property, the plan review must ensure that the subdivision does not create any non-conformities with the bulk standards of the *Zoning Ordinance*. These bulk standards include minimum lot size, front yard setbacks, side yard setbacks, rear yard setbacks, floor area ratio, etc.

**Waiver Requested: Creation of Lots without Frontage on a Public Street**

As proposed, the subdivision would create two lots without frontage on a public street. In the waiver request submitted by the applicant, the applicant states that proposed Lots 1 and 2 have frontage on State Route 1. The proposed Lot 2 does not have frontage on State Route 1. Additionally, the purpose of the requirement for frontage on a public street is to ensure access to lots created. As State Route 1 is a limited access highway where direct access is not permitted, frontage on State Route 1 is not deemed adequate to meet the requirements of the *Land Subdivision Regulations*.

According to the *Subdivision Regulations*, Article VI. Subdivision General Requirements and Design Standards, Section E. Lots:

All lots in a subdivision shall have frontage on a public street.

According to the *Subdivision Regulations*, Article VII. Special Provisions, Section A. Variance and Waiver:

1. Upon the findings of the commission that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate, or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the commission may recommend to the city council, and the city council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety, or general welfare, or have the effect of nullifying the intent and purpose of the official map, the zoning ordinance, the development plan or these regulations. In varying or waiving certain requirements, the council may specify such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

**Findings and Recommendations of the Dover Planning Commission**

The Planning Commission at its meeting on May 19, 2014 reviewed the proposed waiver request as part of its review of the Minor Subdivision for the Lands of Dover Mall L.P. **Following a Public Hearing, the Planning Commission recommended approval of the requested waiver subject to inclusion of the necessary easements listed in the DAC report.** The motion passed unanimously 6-0 of the members present.

Attachments: Minor Subdivision Plan  
Correspondence from Fire Department  
Memo to Planning Commission from Planning Office



# MEMORANDUM

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

**Date:** May 9, 2014  
**To:** Planning Commission  
**From:** Ann Marie Townshend, AICP  
Director of Planning & Community Development  
**RE:** Update on Activity Related to Dover Mall Minor Subdivision - Waiver from Public Street Frontage (SB-14-01)

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The initial plan for the Dover Mall minor subdivision included the potential development of apartments on what would be the northeast parcel created by the subdivision. At the time City Council was considering a zoning text amendment that would allow multifamily residential development within the SC-3 (Regional Shopping Center) zone. This amendment has since been withdrawn, and there is currently no plan to construct apartments on the site. Emergency service agencies expressed concern about the waiver from the requirement that all parcels have frontage on a public street, primarily due to the potential for multifamily residential development on a parcel without street frontage. Some of these concerns have been allayed due to the absence of potential multifamily residential development.

As stated in the DAC report, if the Planning Commission recommends in favor of the waiver of the requirement of public street frontage, staff recommends the following:

- a. That the Planning Commission require cross access easements among all three lots (between the Residual Lot and both Lots 1 and 2; and between Lot 1 and Lot 2) so that permanent access to U.S. Route 13 is secured. Similar easements may also be required of the Boscov's lot, the JC Penney's lot, and the land leased from the State of Delaware on the northwest corner of the ring road.
- b. That these easements allow for the owners of each lot to make any improvements necessary to the internal circulation system, specifically to the Mall ring road and the access drives to U.S. Route 13, that would be required to improve this access to the satisfaction of the Planning Commission as specified in the *Zoning Ordinance*, Article 8 § 1, and to ensure that internal circulation and site access are beneficial to the public health, safety and general welfare.
- c. That the applicant be required to explore the feasibility of extending Rustic Lane to the proposed Lot 1.

cc: SB-14-01



# DOVER FIRE DEPARTMENT

DOVER'S VOL. FIRE DEPT.  
Since 1882

Revised: Monday, April 21, 2014

Ann Marie Townshend  
15 Loockerman Plaza  
Dover, DE 19901  
RE: PROPOSED SITE PLAN/DOVER MALL

Dear Mrs. Townshend:

This letter is in regards to the Dover Mall Subdivision Application currently being brought before the Planning Commission.

The revised plan now suggests utilizing Rustic Lane and Scarborough Road for access points to mall ring road using the same entrance/exit that patrons of the Dover Mall currently use. We still stress that constructing 700 residential units and a 295,000 sf building would undoubtedly cause a considerable increase to the already steady traffic that exists at this location.

The Dover Fire Department would like to suggest the following revisions take place:

- At the very minimum this Department would request the mall ring road add additional lanes to accommodate for the increased access points.
- The existing mall ring road around the Dover Mall would need to be improved and maintained to include curbing on the inside to limit access points to the Dover Mall Parking lot.

If these considerations cannot be meet, then the Dover Fire Department will oppose this revised application.

If you have any questions or require additional information, please do not hesitate contact me.

Sincerely,



Matthew Carey  
Fire Chief – Dover Fire Department

## Townshend, Ann Marie

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**From:** Osika, Jason A.  
**Sent:** Friday, May 09, 2014 4:56 PM  
**To:** Townshend, Ann Marie  
**Subject:** FW: Dover Mall Subdivision

FYI, see below

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**From:** Carey, Matt  
**Sent:** Friday, May 09, 2014 1:43 PM  
**To:** Osika, Jason A.  
**Subject:** RE: Dover Mall Subdivision

Jason,

My views remain the same for any development in that complex. Please contact me with any questions or concerns.

Thanks,  
Matthew Carey  
Fire Chief  
Dover Fire Department

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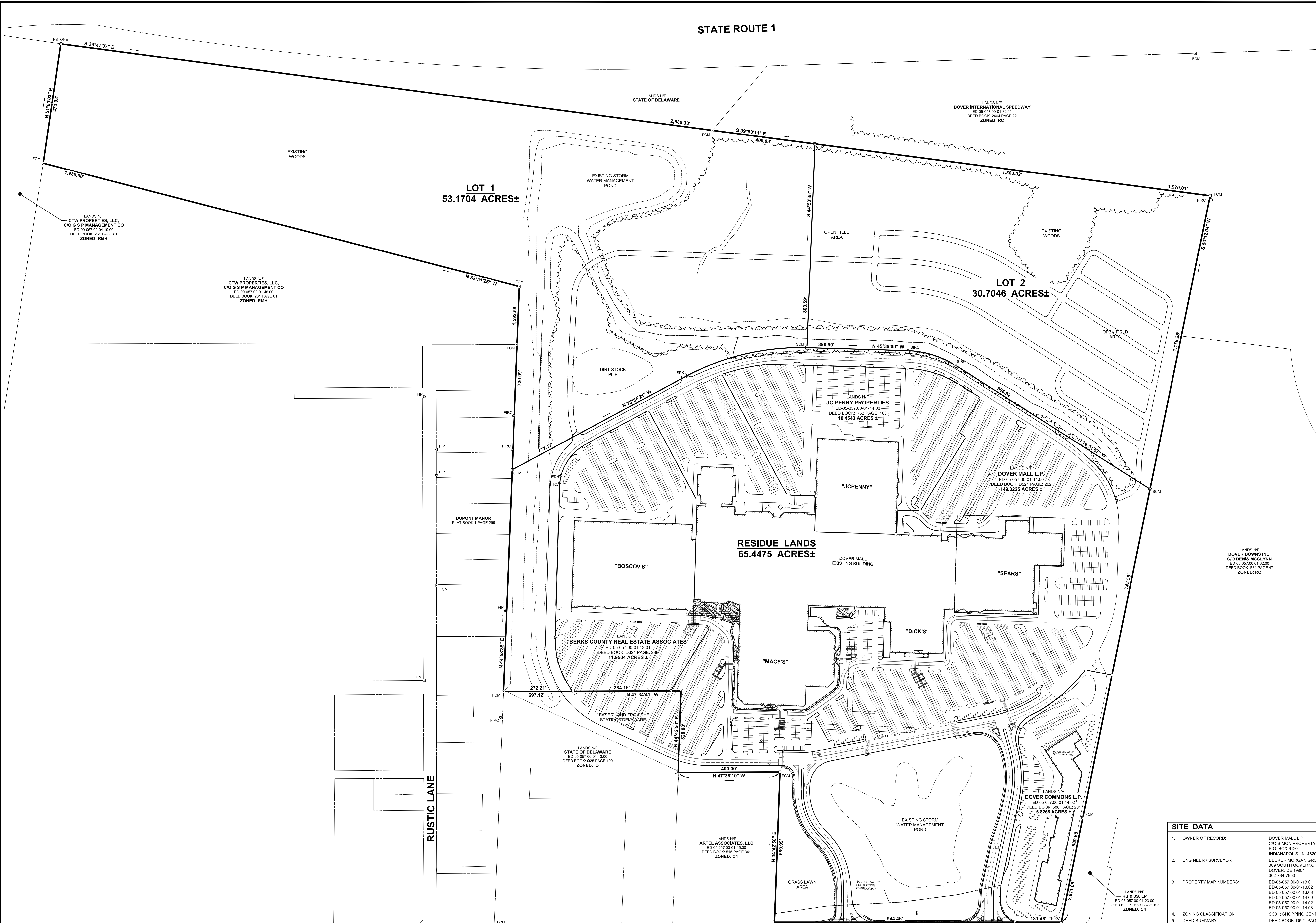
**From:** Osika, Jason A.  
**Sent:** Thursday, May 08, 2014 4:46 PM  
**To:** Carey, Matt  
**Cc:** Townshend, Ann Marie  
**Subject:** Dover Mall Subdivision

Chief,

At this time, the residential portion of the Dover Mall subdivision has been revoked. They are moving forward with the commercial portion of the project. Ann Marie would like to know if your comments are still the same for the commercial portion or does this change your perspective on the project? Let me know if you have any questions or concerns.

Jason Osika  
Deputy Fire Marshal  
Fire Marshal's Office  
15 Loockerman Plaza  
Dover, DE 19901  
Phone: 302-736-4457  
Fax: 302-736-4217  
E-Mail: [josika@dover.de.us](mailto:josika@dover.de.us)

STATE ROUTE 1



CURVE	LENGTH	RADIUS	CHD. BEARING	CHD. LENGTH	TANGENT
102.29'	75.00'	N 05°32'51" E	95.29'	59.73'	
207.45'	430.00'	N 49°49'57" E	205.44'	105.76'	
136.63'	99.00'	N 66°32'54" E	128.04'	61.72'	
286.88'	625.00'	S 87°03'59" E	286.88'	146.01'	
226.93'	330.00'	N 24°38'51" E	222.49'	118.16'	
29.12'	127.50'	N 50°53'28" E	29.06'	14.62'	
163.80'	200.00'	N 80°53'59" E	159.25'	86.81'	
176.63'	884.00'	N 60°25'14" E	176.34'	88.01'	
208.49'	398.00'	N 30°38'44" W	206.11'	106.79'	

**OWNERS CERTIFICATION**  
WE, DOVER MALL L.L.C. HEREBY CERTIFY THAT WE ARE THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, AND THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

MICHAEL F. HARTMAN, SENIOR CIVIL ENGINEER, AGENT DATE \_\_\_\_\_

**SURVEYORS CERTIFICATION**  
I, JEFFREY C. DODD, HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR 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 SURVEYING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

JEFFREY C. DODD P.L.S. NO. 782 DATE \_\_\_\_\_

**SURVEY LEGEND**

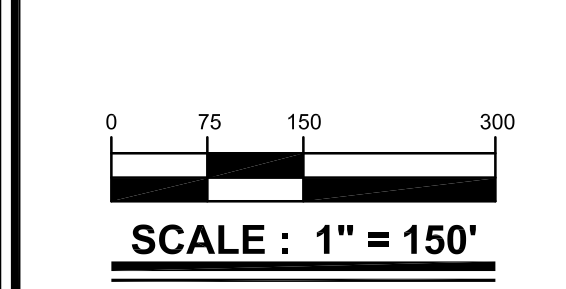
ITEM	EXISTING
UNMARKED POINT	○
CONCRETE MONUMENT	□ FCM
IRON PIPE	⊗ FP
IRON PIPE W/ CAP	⊗ FPC
IRON ROD	⊗ FIR
IRON ROD W/ CAP	⊗ FRC
DRILL HOLE	⊗ FDH
STONE	○ FSTONE
PK NAIL	⊗ FPK

- SITE DATA**
- OWNER OF RECORD: DOVER MALL L.P., C/O SIMON PROPERTY GROUP, P.O. BOX 6120, INDIANAPOLIS, IN 46206
  - ENGINEER / SURVEYOR: BECKER MORGAN GROUP INC., 359 SOUTH GOVERNORS AVE., DOVER, DE 19904, 302.734.7950
  - PROPERTY MAP NUMBERS: ED-05-057-00-01-13.01, ED-05-057-00-01-13.02, ED-05-057-00-01-13.03, ED-05-057-00-01-14.00, ED-05-057-00-01-14.02, ED-05-057-00-01-14.03
  - ZONING CLASSIFICATION: SC3 (SHOPPING CENTER DEVELOPMENT)
  - DEED SUMMARY: DEED BOOK: 0251 PAGE: 202
  - PLAT REFERENCE: PLAT BOOK 45 PAGE 47
  - PRESENT USE: RETAIL
  - TOTAL SITE AREA: 149.3225 ACRES ±
  - SOURCE OF WATER: CITY OF DOVER
  - SOURCE OF SEWER: CITY OF DOVER
  - SOURCE OF ELECTRIC: CITY OF DOVER
  - SURVEY BENCHMARK: NGS MARKER RM1 RESET (BRASS DISK) VERTICAL, NAVD 88; HORIZONTAL, NAD 83; EXISTING, 14 FOUND
  - MONUMENTATION: URBAN SURVEY
  - SURVEY CLASSIFICATION: URBAN SURVEY
- GENERAL NOTES:**
- BOUNDARY AND TOPOGRAPHIC SURVEY DATA SHOWN HEREON WAS PREPARED BY BECKER MORGAN GROUP, DOVER, DE, IN NOVEMBER 2010. VERTICAL DATUM IS BASED ON NAVD 88. HORIZONTAL DATUM IS BASED ON DELAWARE STATE PLANE NAD 83.
  - 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.
  - NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF. 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.
  - THE EXISTING UTILITIES SHOWN WERE TAKEN FROM THE BEST AVAILABLE RECORDS. THE CONTRACTOR SHALL CONTACT MISS UTILITY OF DELAWARE (1-800-262-8858) 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 GOES SO AT HIS OWN RISK AND WILL NOT BE ENTITLED TO ADDITIONAL COMPENSATION DUE TO TIME DELAYS FROM SAID RELIANCE.
  - THIS SITE IS NOT LOCATED WITHIN THE ONE HUNDRED YEAR FLOOD PLAIN, BASED ON KENT COUNTY DE FIRM MAPS 13001C01594, PANEL 136 OF 430, DATED MAY 5, 2003.

PROJECT TITLE  
**LANDS OF DOVER MALL L.P., C/O SIMON PROPERTY GROUP**  
**DOVER MALL**

US ROUTE 13  
CITY OF DOVER  
KENT COUNTY, DELAWARE

SHEET TITLE  
**SUBDIVISION PLAN**



ISSUE BLOCK

MARK	DATE	DESCRIPTION

PROJECT NO.: 2003182.13  
DATE: 02/07/14  
SCALE: 1" = 150'  
DRAWN BY: D.S.G. / PROJ. MGR.: J.C.D.  
SHEET  
**1 OF 1**  
COPYRIGHT 2010