

CITY OF DOVER PLANNING COMMISSION
MAY 19, 2025

The Meeting of the City of Dover Planning Commission was held on Monday, May 19, 2025, at 7:00 PM as an In-Person Meeting and also using the phone/videoconferencing system Webex. The Meeting Session was conducted with Chair Mr. Witham presiding. Members present were Mr. Michael Lewis, Mr. Roach (arrived virtual at 7:15PM), Mrs. Denney, Mrs. Maucher (virtual), Mr. Baldwin, Dr. Jones, Mr. Reaves (virtual), Mrs. Welsh, and Mr. Witham.

Staff members present were Mrs. Dawn Melson-Williams, Mr. Christopher Salzano, and Mr. Jason Lyon (virtual).

APPROVAL OF AGENDA

Dr. Jones moved to approve the Agenda as submitted, seconded by Mrs. Welsh and the motion was carried 8-0 with Mr. Roach absent.

APPROVAL OF MEETING MINUTES OF APRIL 21, 2025

Mrs. Denney moved to approve the Planning Commission Meeting Minutes of April 21, 2025, seconded by Mrs. Welsh and the motion was carried 8-0 with Mr. Roach absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, June 16, 2025 at 7 PM. At the present time, we do not have a specific application for consideration that evening. They will look to see if they can put together a training opportunity for you that evening; so, stay tuned on that. If you have an idea or a preferred topic for that training, certainly reach out to Staff and they will see what they can do for that.

Mrs. Melson-Williams provided an update on the regular City Council and various Committee meetings held on April 28 & 29, 2025 and May 12 & 13, 2025.

Mrs. Melson-Williams stated that for Planning and Inspection updates, there is not really much to bring to you from our Department. We continue to still have a number of vacancies and as always, she encourages you to look at the City's website in regard to that. Specifically, in the Planning Section, we have a Planner position and the Planning Director position that are currently open.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Melson-Williams presented the audience information on policies and procedures for the In-Person Meeting and Virtual Meeting using the Webex system.

OLD BUSINESS

Requests for Extensions of Planning Commission Approval:

S-23-06 College Road Apartments at Railroad Avenue/Grove Street – Request for a One-Year Extension of Planning Commission Approval granted on June 20, 2023 for a Site Development

Plan for construction of two 6-story mid-rise apartment buildings with a total of 385 units consisting of studio, 1 bedroom, and 2 bedroom units. The ground level of each apartment building is parking and the other site improvements include six 7-car garage buildings, parking lots, landscaping, and recreation areas. The Planning Commission action also included approval of the Active Recreation Area Plan and denial of a Waiver Request to Reduce the Parking Requirements. The Project also includes street construction/improvements to Raymond Street and Railroad Avenue. A Lot Consolidation Plan will combine the four parcels located east of Railroad Avenue for a total of 31.08 acres of land. These properties are zoned RG-5 (General Residence Zone for Mid-Rise Apartments). The subject area is located north of, but not adjacent to College Road, and east of the Railroad corridor in the vicinity of Raymond Street, Railroad Avenue, and Grove Street. Property Owners: Patel College Properties, LLC and Patel Excess College Road, LLC. Tax Parcels: ED-05-067.00-02-53.00-000, ED-05-067.00-02-54.00-000, ED-05-067.00-02-55.00-000, and ED-05-067.00-02-56.00-000. Council District 4.

Representative: Mr. Dominic Balascio, Parkway Law

Mrs. Melson-Williams stated that this is a Request for an Extension pertaining to S-23-06 College Road Apartments. There is an image on the screen that shows the location of the involved properties. The Planning Commission did grant conditional approval to this project for an apartment complex back in June 2023. The applicant is seeking a one-year extension. They have provided a letter to that effect dated April 14, 2025. This letter comes from Parkway Law LLC and their representative Brian T. Riffin, Esq. The letter indicates the reasons for their Request. Specifically, this property and some related areas have been involved in several active court cases that the letter outlines in detail. That is their reasons for seeking the Request for Extension. They cite those as reasons beyond the client's control in referencing this series of litigations and associated disputes. They are requesting a one-year extension. Just to remind the Planning Commission, your approval when you grant approval to a conditional Site Plan is good for a period of two years and the Code outlines a process to seek a one-year extension. In considering that extension, there are items that you can consider and the first of those being whether the project has been delayed for reasons beyond the control of the applicant excluding economic or financial reasons. Another item is whether the applicant has made substantial progress towards obtaining final approvals. An additional criteria or another option is whether there have been any significant changes in the surrounding neighborhood. Then fourth, whether there have been any amendments to the Zoning Map or Text or the *Comprehensive Plan* or any waivers or variances have been granted. Staff would note that there have not been any significant zoning changes in this immediate area and the same *Comprehensive Plan* is in place that was previously. In this case, for S-23-06 College Road Apartments, they are seeking a One-Year Extension of the Planning Commission action.

Mr. Balascio stated that because of the pending litigation, they are asking for an extension at this time.

Mr. Witham stated that he understands that litigation is holding this matter up. Is that correct? Responding to Mr. Witham, Mr. Balascio stated yes, there is ongoing litigation that is summarized in the letter. He doesn't know if Mr. Mandalas is present tonight but it is quite

complex and at this time, has not made it possible to proceed and move forward due to the various claims that have been filed.

Mr. Witham asked if the parties are negotiating for full resolution of the litigation to allow this matter to proceed. Responding to Mr. Witham, Mr. Balascio stated that they are in discussions and in contact with one another beyond that, he really can't discuss that because of the pending litigation.

Mrs. Denney moved to approve Application S-23-06 College Road Apartments at Railroad Avenue/Grove Street for a One-Year Extension in light of the pending court cases, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mrs. Denney voting yes; as stated in her motion, this Site Plan is being held up by some decisions that need to be made in Chancery Court and those things can take a while. Mrs. Maucher voting yes; based on the reasons in the motion. Mr. Roach voting yes. Mr. Baldwin voting yes; based on previous statements. Dr. Jones voting yes. Mr. Reaves voting yes; for reasons previously stated. Mrs. Welsh voting yes; in conjunction with the reasons stated by Mrs. Denney. Mr. Lewis voting yes. Mr. Witham voting yes; for the reasons stated on the record and also for the mere fact that there are at least two pending litigations and of course that can certainly affect the outcome of this Application making it appropriate to grant an Extension.

Pending Development Application:

Request to Withdraw: AX-25-01 Lands of Robert Pellegrino at 582 Acorn Lane - A Request to Withdraw has been received regarding Annexation Request and Rezoning Request for a parcel of land totaling 2.3096 acres+/- located at 582 Acorn Lane. The property is currently zoned RS-1 (Residential Single Family Zone) in Kent County. The proposed Zoning is R-8 (One Family Residence Zone). The property is located at the southeast corner of Acorn Lane and Old White Oak Road. The annexation category according to Dover's 2019 *Comprehensive Plan* is Category 1: High Priority Annexation Areas and the land use designation is Residential Low Density. The property owner is Robert Pellegrino. Property Address: 582 Acorn Lane. Tax Parcel: ED-00-068.15-01-11.00-000. Proposed Council District 3. Ordinance #2025-08. *The First Reading of this Annexation Request was completed March 10, 2025. Public Hearing before the Planning Commission on began on April 21, 2025 and was held open seeking additional information for the Planning Commission Meeting of May 19, 2025. The Public Hearing originally scheduled for City Council on May 12, 2025 will be cancelled.*

Mrs. Melson-Williams stated that they received a Request to Withdraw AX-25-01 Lands of Robert Pellegrino at 582 Acorn Lane. This Request previously was for annexation of the property. You began consideration of this application at your April 21, 2025 meeting and then the public hearing was begun but you took steps to hold that hearing open seeking additional information to be presented to you at tonight's meeting. The applicant subsequently to that did make a Request in writing on May 5, 2025 to withdraw his Request for Annexation after verbally expressing that to Staff. The Request for Withdraw was presented to City Council as she noted earlier on their meeting of May 12, 2025. City Council took action to withdraw as they were scheduled to have a public hearing on that application that evening. To wrap up all loose ends, they (Staff) needed to place it on your agenda this evening. There has been a Request to Withdraw and it has been accepted as withdrawn by City Council. You can certainly make a

motion to that effect here to close the loop for Application AX-25-01.

Mrs. Denney stated that the question would be just as a matter of keeping a good paper trail here. He has asked for a motion to withdraw and even though City Council is ahead of us because they have already addressed the withdrawal, maybe in order to close the loop we should just go ahead and make a motion based on his Request to Withdraw.

Mrs. Denney moved to withdraw the request for AX-25-01 Lands of Robert Pellegrino at 582 Acorn Lane based on the applicant's Request to Withdraw, seconded by Mrs. Welsh.

Mrs. Maucher asked that since we held the public hearing open, do we need to close that as well?

Mr. Witham stated that it would seem to be a moot issue since it was withdrawn before City Council. They are considered the Court of Appeals. Since it was accepted by them, there is really nothing to come before us.

Mrs. Denney stated that is her intention for the motion. It's just for clarity so they didn't skip a step because essentially we never addressed it and sent it forward.

Mrs. Denney moved to withdraw the request for AX-25-01 Lands of Robert Pellegrino at 582 Acorn Lane based on the applicant's Request to Withdraw, seconded by Mrs. Welsh and the motion was carried 9-0 by voice vote.

NEW APPLICATIONS

S-25-08 PAM Rehabilitation Hospital of Dover Building Addition at 1216 and 1240 McKee Road - Public Hearing and Review of a Site Development Plan application for two parcels of land consisting of a total of 5.3 acres +/- . The properties are zoned IO (Institutional and Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed Addition would expand the existing rehabilitation hospital at 1240 McKee Road by 13,084 SF, adding two additions, one totaling 10,062 SF and one totaling 3,022 SF. The application includes the addition of a therapy garden, 64 parking spaces, associated circulation for parking, and a stormwater management pond. The property is located on the west side of McKee Road and north of the intersection of McKee Road and College Road. The owners of record are Dover MOB, LLC and PAM Cubed Real Estate, LLC. Property Addresses: 1240 McKee Road and 1216 McKee Road. Tax Parcels: ED05-067.00-01-33.00-000 and ED05-067.00-01-34.00-000. Council District 1. *Waivers Requested: Partial Elimination of Upright Curbing and Reduction of Loading Berth Requirements. For Consideration: Superior Urban Design.*

Representative: Mr. Jonathan Richard, Becker Morgan Group

Mr. Salzano stated that this is application S-25-08 PAM Rehabilitation Hospital of Dover Building Addition at 1216 and 1240 McKee Road. The parcels are owned by Dover MOB, LLC and PAM Cubed Real Estate, LLC. Both parcels are zoned IO (Institutional and Office Zone) and are subject to the COZ-1 (Corridor Overlay Zone). The existing land uses on the parcels are an existing Rehabilitation Hospital at 1240 McKee Road and a vacant parcel of land at 1216 McKee Road. The proposal before you today is a request to expand the existing Rehabilitation

Hospital with two additions. One totaling 10,062 SF and the other totaling 3,022 SF. The project will add 64 parking spaces to the site to be in compliance with the required parking as well as any associated site circulation and storm drainage required. The applicant has requested two waivers: a partial elimination of upright curbing which Staff has granted and a reduction of the loading space requirements which the Planning Commission shall consider tonight. They have also requested consideration of the Superior Urban Design. Planning Staff has provided review comments for this project starting on Page 7 of the DAC Report. The Planning Commission is charged with evaluating this Site Development Plan per the *Zoning Ordinance* Article 10 Section 2 and against the requirements of the COZ-1 (Corridor Overlay Zone) and the IO (Institutional and Office Zone) requirements. The applicant is also here to make a presentation and help answer any questions if necessary.

Mr. Richard stated that as Mr. Salzano mentioned, this is on McKee Road on the west side of McKee Road and north of College Road. It backs up to the subdivision known as Emerald Pointe. This project came before this body in March 2017 and PAM opened their doors in December 2018 and has been operational since then. PAM has purchased the southern parcel and northern parcel that abuts the north and south of the subject site. As of last year, PAM is looking to expand their operations at their Dover facility. As Mr. Salzano mentioned, they have an existing building of approximately 32,000 SF gross floor area with two floors. There are two additions that will occur that totals about 13,000 SF gross floor area, bringing the overall site gross floor area to about 56,000 SF gross floor area. Currently, there is 35 beds for this rehabilitation hospital and they are looking to expand with 12 beds for the patients that they currently serve now. As Mr. Salzano mentioned, there are 189 parking spaces that are proposed so they meet the requirements for the City of Dover Code. There is one loading space that they are looking for a waiver. The Code actually references that they should be providing three. The reason why they are requesting one loading space is that the scheduling of deliveries only requires one so they don't really need to have the additional two that are required by Code. As you will notice on the Site Plan itself, this has the stormwater management on the south side and then there is an outdoor therapy garden for patients that seek rehabilitation. It helps the patients work on their mobility on traversing multiple surfaces such as pavement, concrete, stone, and one other material that he can't remember at the moment. There is actually steps and ramps out there as well so the patients can gain that mobility back themselves. The architectural view shows that the building is going to be an expansion of what is currently there now. It's going to have the same configuration as far as the exterior with EIFS and some corner stone items and stone at the very bottom of the façade itself. He thinks the colors are going to still remain which is the tan and a darker tan. As Mr. Salzano mentioned, they are requesting a Waiver for upright curbing directly adjacent to the stormwater management pond to have that ability to drain sheetflow into the pond itself. As he already mentioned, the reduction in the loading dock requirements from three down to one based on the fact that the scheduling of the deliveries is only necessary to have one itself. Based on Section 27.61A, the maximum setback is 90 feet or the plan has to exhibit Superior Urban Design in Section 27.62. The addition that is going to be going on the south side is going to directly line up with the existing building right now. So, we currently would meet the existing requirement or existing setbacks set forth back in the 2017 Plan approval that they received. The second one is Section 27.63A, parking is not permitted between the building and the street (except when) the Plan exhibits the Superior Urban Design. Back in 2017, they obtained the Superior Urban Design approval on this for ADA spaces alone.

They have done the same for this particular Plan; only adding the ADA spaces because of the existing entrance in the front of the building itself. There is a sprinkle of ADA spaces around the Site Plan itself. A couple of the requirements that they have to provide as far as the Superior Urban Design and how we meet that. These are several that are up on the screen that we believe that we will meet with the site itself. There is a multi-modal transportation aspect of it, which they are providing a sidewalk connection as a barrier free pedestrian access from McKee Road to the site itself. For the architectural features, as he mentioned before, it is going to be constructed with EIFS siding bands, corner quoins coping and trimmed with stone veneer on the building itself which will match the existing building already there. The robust landscaping is going to be in the front and around the therapy garden and the plants that are in the back. He thinks this aerial (image) was slightly dated. As you can tell, there are several landscaping trees that are up at the front that have grown over time since this aerial has been taken. He thinks that in conversations with Mrs. Melson-Williams, she has mentioned that a couple of the landscaping trees out there have died over a period of time. He thinks they will kind of go back and refresh those that have need be. The last item that they would meet for the Superior Urban Design would be the green technologies. They are currently going through the process right now of figuring out the stormwater management that is going to be for the site but he believes that it is going to be an infiltration practice or quite possibly a submerged gravel wetland which meets DNREC's current requirements for green best management practices. A couple other notes that he just wants to bring up. They have met with DelDOT on this subject project and they have said that there is no TIS (Traffic Impact Study) required for this particular project. Our trips are low enough that they do not require a TIS. It actually happens to be an additional 162 trips to the site itself. DelDOT will only be requesting for the parcel that is currently vacant, to widen that multi-use path that is out in front and to upgrade an existing bus path that is out there. The site currently has a left turn lane, a right turn lane and a full access entrance that is usable today. A couple other items that he does want to mention is that this is existing business looking to grow within the community and to better serve the community. This is a plus for the Dover community itself. This operation, meaning PAM, has two others in the State of Delaware: one in Georgetown and one in Milford. They are looking to bring a couple of services that they have in those other two locations to Dover. One being the outdoor therapy garden and they plan on adding a little bit more of outpatient services to this facility as well. He would like to say that they are in review of Staff's DAC Report and they agree with the Report.

Mrs. Denney stated that she is retired but having managed an orthopedic surgery, she thinks these rehab centers are sorely needed. She thinks we need more and she thinks it is in keeping with what is there; so, she thinks it's a needed addition.

Mr. Witham stated that he is curious as to where the proposed therapy garden is going to be. Responding to Mr. Witham, Mr. Richard stated if you look in the right-hand corner of the plan shown on the screen that is going to be the outdoor therapy garden. It is kind of like a walking track so to speak. The different surfaces that he was mentioning are bits and pieces of the track itself. Then in the center of the track is kind of a field so to speak. There is a canopy that stands out there and a couple of steps and a ramp so the patients can traverse like they would be going to a house or a store of some sort.

Mr. Witham asked if the access to get to the therapy garden crossed any parking area.

Responding to Mr. Witham, Mr. Richard stated that it does cross the parking area. It is a little long in length but he thinks the reason why that is, is they try to reserve as much room for a larger truck to back into the loading area. But they are looking at options to kind of shorten that up a little bit.

Mr. Witham stated that he assumes they have that well marked for pedestrian safety. Responding to Mr. Witham, Mr. Richard stated yes, they will have a crosswalk there and probably a couple of signs and so forth.

Mrs. Welsh stated that she was thinking the same thing as Mr. Witham while reading that comment about access to the therapy garden and she sees it goes straight across the parking area. But you say that you are going to evaluate a different path, perhaps to get there? Responding to Mrs. Welsh, Mr. Richard stated that unfortunately, there is not really a different path to get there. This is kind of the only space that they have leftover to place an outdoor therapy garden area. Looking at the plan visually, there may be an option to the left in the rear. He showed space on the screen that is unavailable green space. It is actually used for stormwater management because we have a sub-surface stormwater management facility underneath the parking lot. That is kind of an overflow detention area. The next closest available spot that we have to place an outdoor therapy area happens to be in that lower right-hand corner of the site itself. Yes, it is a long distance away and they are looking at running larger vehicle templates through there to see if they can actually shorten up that distance a little bit. He can't guarantee that it will be down to a 24-foot drive aisle, but they might be able to shorten it up a little bit.

Mrs. Welsh stated that when she looked at it she thought that was kind of a long way across the parking lot. Responding to Mrs. Welsh, Mr. Richard stated that these patients are not walking out there by themselves. They typically have a Staff member that will be tending to them so they will have a crossing guard so to speak that will help them get across the parking lot.

Mrs. Melson-Williams stated that she wanted to note that there is a person that has joined us online that is part of the project team. It is listed as Barry Travis with PAM. She doesn't know if he has any additional comments as part of the applicant team that he wishes to make.

Mr. Travis stated that he did not have any additional comments.

Mr. Witham opened a public hearing.

Ms. Michelle Keiffer – 411 Topaz Cir Dover, DE 19904 (virtual participant)

Ms. Keiffer stated that the only issue that she foresees is when construction begins. She is more worried about the back part of her property there. Responding to Mr. Keiffer, Mr. Richard stated that he is not sure exactly where she is located based on the aerial but he will say that there is going to be no disturbance on the other side of the property line. As you can tell, we currently already have a fence and a buffering that backs up to the Emerald Pointe Subdivision itself and then they are just going to be creating an extension of the fence and landscaping screening that is already there now.

Mr. Witham closed the public hearing.

Mrs. Welsh moved to approve S-25-08 PAM Rehabilitation Hospital of Dover Building Addition at 1216 and 1240 McKee Road inclusive of the DAC comments and the Waivers for the partial elimination of upright curbing and the reduction of the loading birth requirements, seconded by Mrs. Denney.

Mrs. Melson-Williams asked for the motion maker to clarify the Planning Commission's stance on the consideration of their request for Superior Urban Design.

Mrs. Welsh moved to approve S-25-08 PAM Rehabilitation Hospital of Dover Building Addition at 1216 and 1240 McKee Road inclusive of the DAC comments and the Waivers for the partial elimination of upright curbing and the reduction of the loading birth requirements and to also note the applicant has demonstrated that they meet two of the requirements for the Superior Urban Design policy and therefore they meet those requirements for landscaping and architecture as noted by the DAC comments, seconded by Mrs. Denney and the motion was carried 9-0 by roll call vote. Mrs. Welsh voting yes; for reasons stated in the motion. Mr. Lewis voting yes. Mrs. Denney voting yes. Mr. Roach voting yes. Mrs. Maucher voting yes; based on DAC comments. Mr. Baldwin voting yes. Dr. Jones voting yes; the services are much needed and she likes to see this coming. Mr. Reaves voting yes. Mr. Witham voting yes; for the reasons set forth on the record by the Commissioners, including the additional statement that the applicant agrees with the conditions of approval set by DAC and it does appear to meet at least two of the conditions for Superior Urban Design. He adds that since the present building met that Superior Urban Design, he would extend that to the new addition as well.

NEW BUSINESS

Meeting adjourned at 8:01 PM.

Sincerely,

Kristen Mullaney
Secretary