

**CITY OF DOVER PLANNING COMMISSION
AUGUST 19, 2019**

The Regular Meeting of the City of Dover Planning Commission was held on Monday, August 19, 2019 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Roach (*arrived at 7:01pm*), Ms. Edwards, Mr. Hartman, Mr. Baldwin, Mrs. Welsh, Ms. Maucher and Mr. Tolbert. Mr. Adams and Dr. Jones were absent.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek, Mr. Jason Lyon and Mrs. Kristen Mullaney. Also present were Mr. William Harman and Mr. Ring Lardner. Speaking from the public was Kathy Potter.

APPROVAL OF AGENDA

Ms. Edwards moved to approve the agenda as submitted, seconded by Mr. Baldwin and the motion was unanimously carried 7-0 with Mr. Adams and Dr. Jones absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JULY 15, 2019

Mrs. Welsh moved to approve the Planning Commission Meeting minutes of July 15, 2019, seconded by Ms. Edwards and the motion was unanimously carried 7-0 with Mr. Adams and Dr. Jones absent.

COMMUNICATIONS & REPORTS

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, September 16, 2019 at 7:00pm in the City Council Chambers.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on July 22 and 23, 2019 and August 12 and 13, 2019.

SPECIAL RECOGNITION

1) Resolution honoring Thomas Holt for his service on the Planning Commission

Mrs. Dawn Melson-Williams stated that City Council did provide a Commemorative Cup and presented it to Mr. Holt at their most recent meeting. There were several members of the Planning Commission who were there. Mr. Holt and his wife are relocating south to San Antonio, Texas.

Resolution

Whereas, Thomas S. Holt became a member of the City of Dover Planning Commission on February 23, 1987 and has served with diligence and distinction in this capacity as an advocate for sound land use planning in the public interest,

Whereas, Thomas S. Holt has played a key role in ensuring fundamental fairness and careful forethought in the planning and development of the Capital City through his service on the Planning Commission; and,

*Whereas, **Thomas S. Holt** has influenced the pattern and appearance of development in Dover through his contributions to the City's 2019 Comprehensive Plan Project; his efforts to ensure compliance with the 2008, 2003, and 1996 Comprehensive Plans (as amended); his participation in the development of amendments to the City of Dover Zoning Ordinance regarding various zoning districts, regulations, and development design requirements; and with his knowledge of real estate; and,*

*Whereas, **Thomas S. Holt** completed his service on the City of Dover Planning Commission on August 12, 2019.*

*Now Therefore Be It Resolved That, the City of Dover Planning Commission does hereby express its sincere appreciation to **Thomas S. Holt** for his faithful and exemplary service to the Citizens of the City of Dover as an active member of the City of Dover Planning Commission, and extends its very best wishes to **Thomas S. Holt** for a bright and prosperous future.*

Mrs. Welsh moved to adopt the Resolution for Mr. Thomas Holt, seconded by Ms. Maucher and the motion was carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval:
 - a. C-17-03 Residence at 91 Saulsbury Road Conditional Use Review – A Request for a One-Year Extension of the Planning Commission approval granted August 21, 2017 for a Conditional Use Review to permit conversion of an existing 1,360 SF two-story structure into residential use. The property consists of an 8,036.6 S.F. +/- parcel (0.1845 acres). The property is zoned CPO (Commercial and Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The property is located on the east side of Saulsbury Road and north of Carver Road. The owner of record is 91 Saulsbury Rd, LLC. Property Address: 91 Saulsbury Road. Tax Parcel: ED-05-076.07-01-47.00-000. Council District 4.

Representatives: None

Mr. Swierczek stated that application C-17-03 Residence at 91 Saulsbury Road is a Conditional Use Review application approved at the August 21, 2017 meeting of the Planning Commission. The application is to permit conversion of an existing 1,360 SF two-story structure into a residential use. The property is zoned CPO (Commercial and Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The property is located on the east side of Saulsbury Road and north of Carver Road. The applicant is requesting the one year extension of the approval granted by the Planning Commission as they have yet to achieve Final Plan approval and their initial approval expires at the end of this month.

Mrs. Welsh moved to approve C-17-03 Residence at 91 Saulsbury Road Conditional Use Review for a one-year extension, seconded by Ms. Edwards and the motion was carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

- b. C-17-04 House of Pride Offices at 45 South New Street – A Request for a One-Year Extension of the Planning Commission approval granted August 21, 2017 for a Conditional Use Review to convert an existing one-family dwelling structure into a philanthropic use as the administrative facility (offices) for House of Pride. The property consists of a 9,090 SF +/- parcel. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of South New Street, north of Reed Street, and south of Division Street. The owner of record is House of Pride, Inc. Property Address: 45 South New Street. Tax Parcel: ED-05-077.05-03-05.00-000. Council District: 4. *This Application has been the subject of compliance reviews by the Planning Commission on October 15, 2018 and May 20, 2019. The next reporting review on compliance status is scheduled for November 18, 2019.*

Representatives: None

Mr. Swierczek stated that application C-17-04 House of Pride Offices at 45 South New Street is again a Conditional Use Review to convert an existing one-family dwelling structure into a philanthropic use as the administrative facility (offices) for the House of Pride. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of South New Street, north of Reed Street, and south of Division Street. The application was also heard by the Planning Commission at their August 21, 2017 meeting where it received conditional approval. It was returned to the Planning Commission for review on several occasions; most recently in May 2019. It is noted by Planning Staff that these periodic reviews were for the confirmation that progress was being made on meeting the conditions of approval as laid out by the Planning Commission. There were not actual reviews for extensions of approval of the Conditional Use Site Plan application which is why they are asking for the extension tonight. The applicant is requesting a one-year extension of conditional approval as again they have not yet achieved Final Plan approval.

Ms. Edwards moved to approve C-17-04 House of Pride Offices at 45 South New Street for a one-year extension, seconded by Ms. Maucher and the motion was carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

NEW APPLICATIONS

- 1) Revised S-19-15 White Oak Road Property: Apartments and Townhouses on 3 parcels of land on White Oak Road – Public Hearing and Review of a Site Development Plan Application to construct a three-story apartment building to contain twenty-four (24) dwelling units as well as eight (8) townhouse units, comprising thirty-two (32) total dwelling units and associated site improvements. The subject area of three parcels consists of 11.17 acres +/- and located north side of White Oak Road west of State Route 1. The properties are zoned C-2A (Limited Central Commercial Zone). The owner of record for all three (3) properties is Harman Brothers LLC. Property Addresses: 1317 White Oak Road and other

not yet addressed properties on White Oak Road. Tax Parcels: ED-05-068.11-01-05.00-000, Tax Parcels: ED-05-068.11-01-03.00-000, and Tax Parcels: ED-05-068.11-01-01.00-000. Council District 3. *Waiver Requests: Reduction of Parking Requirement, Partial Elimination of Sidewalk, Rear Emergency Access Requirements, Consideration of Cash-in-lieu of Partial Recreation Area Construction.*

Representatives: Mr. William Harman, Harman Brothers; Mr. Ring Lardner, Davis, Bowen & Friedel

Mrs. Melson-Williams stated that this is the first appearance of this application at the Planning Commission. It previously was submitted for an earlier Planning Commission date but the applicants chose to postpone and do a little more work on their plan. This is the project called White Oak Road Property. It is a project for proposed apartments and townhouse units. It's located on the north side of White Oak Road just to the east of Baytree. On the screen, White Oak Road is the diagonal road that you see at the bottom right hand corner of the map. The property actually consists of three parcels of land that are zoned C-2A (Limited Central Commercial Zone). This zoning classification does allow for apartments and also for townhouse units. They are proposing an apartment building of twenty-four units. The proposal for the townhouse units consist of eight units. There is one access point onto White Oak Road. A turn to the left once you are on the site brings you to the parking lot which surrounds the apartment building. A turn to the right and you travel down an internal drive aisle to where the townhouse units are located, each with their own shared driveway and garage for parking purposes.

There are a series of waivers that the application is seeking this evening. The first is related to parking. For the apartment building, the C-2A (Limited Central Commercial Zone) typically requires that parking be based on a floor area calculation; however, there are other provisions in our Code that base the parking of apartment buildings on a per unit basis. They are seeking to utilize the per unit parking requirement which would be parking for twenty-four apartment units at a rate of 2.25 spaces per unit which would result in a requirement for fifty-four parking spaces for the apartment building. Their plan is showing us fifty-eight parking spaces. The townhouses do satisfy the parking requirement which is only one space in this zone. That is accomplished by both the single garage unit for each unit and the driveway area. The next waiver that they are requesting is for the partial elimination of sidewalk. Our Code requires that sidewalk be extended along the entire property frontage. In the case of this project, a portion of it once we get past the Old White Oak Road segment that goes off to the south, they are seeking to stop the sidewalk in that location because of the grade differences between White Oak Road as it begins to elevate to cross over Route 1 and the project site. The grade difference there is substantial and not quite feasible for installation of a sidewalk. There is a sidewalk that is more internal to the site in this area and this occurs right in front of the townhouse units. The sidewalk that is internal to the site does continue east to what is the recreation area for the project. The third waiver that they are seeking is in regards to emergency access. For an apartment building such as this, it is required to provide that rear emergency access with an eighteen-foot secondary fire lane. There is a fire lane of adequate dimension that totally circles the apartment building. For the townhouse units, it depends on their type of construction. Our Code requires that if it is not what is deemed a "fire protected" townhouse, then a rear alley is required. For townhouse units that are in groups of three to five that are "fire protected" and that means a separation between units as well as

exterior combustible and noncombustible materials, then a rear open yard is required. Technically, the Code is silent when it comes to what you do with eight units that are “fire protected”. They suggested that the easiest way to deal with this is through the waiver process. The applicant is in their design of the townhouses, focusing on making them “fire protected” which would include the separation between units which is required by Fire Code anyway as well as the alternating combustible and noncombustible exterior. They are also including in their proposal to include a residential sprinkler system in each of the townhome units to go above and beyond what the Code would require. The project, because it is residential, is required to have a recreation area. There is a specific recreation plan review document. For this project, to summarize their active recreation, they are providing an open field area which is in the far eastern portion of their property that would consist of 6,450 SF of an open area where multi-purpose activities could be easily done. In order to achieve the requirement for active recreation area, they are requesting to utilize Cash-in-lieu of Recreation Area Construction to satisfy the remaining area. With the Code requirements, that would require a cash-in-lieu payment amount of just over \$3,490.00. The Parks Recreation and Community Enhancement Committee last week did consider these components of the Active Recreation Area and the Cash-in-lieu; and they recommended approval subject to the Staff Recommendations which can be found in the Active Recreation Area Plan Report. Staff, in its recommendations, had supported both the approval of the open field and the Cash-in-lieu amount. They did make some comments as to ensuring that the open field area is ready and continues to be ready as a play surface during the life of the project. They also indicated that the applicant should explore options to create a clear pedestrian pathway or bicycle pathway that would lead to Dover Park which is located within a half mile to the west of this project site. There are some sidewalk networks in the area that can help satisfy that already. With this project, they do have other Code requirements which do include the tree planting. Planning Staff did make recommendations on each of the waiver requests and that is found on Page 9 of the DAC Report. They are supporting the parking rate of the per unit versus the floor area calculation. They are supporting the partial elimination of sidewalk in that eastern portion of the site due to the grade differences. They also support the rear emergency access waiver for the townhouses recognizing the enhanced efforts by the applicant to also include the residential sprinkler system per unit in that area. They also recommended approval of the Cash-in-lieu payments as well. The DAC Report was provided to the Planning Commission and also includes the comments from the other agencies including the City’s Public Works and Electric Departments, the Office of the Fire Marshal, DelDOT and the Kent Conservation District. This evening, the Commission is dealing with a Site Plan application. There are three waiver requests: the reduction of parking requirement, the partial elimination of sidewalk, and the rear emergency access requirement for townhouses. There is also needs to be consideration on the Cash-in-lieu of Active Recreation Area Construction.

Mr. Hartman stated that he would like to understand more about the cash-in-lieu waiver. He doesn’t understand why we have suggested that it be approved when there is another alternative which is to reduce the size of the footprint of the area. Responding to Mr. Hartman, Mrs. Melson-Williams stated that the City’s *Zoning Ordinance* does allow in cases where the required amount of Active Recreation Area may not be practical or desirable to implement, there is the opportunity to seek a Cash-in-lieu of building recreation area. In this case, the overall property is somewhat limited because of the impacts of floodplain and wetlands to what can be the development area for the project site. Planning Staff thought it was reasonable that the open field

provided at least some on-site opportunity for the active recreation to fit a variety of ages and that the balance of it could certainly make use of the Cash-in-lieu of Recreation Area Construction. The unit count for this site would require them to provide a half acre of land for Active Recreation Area which would be a substantial impact to the project site. Even if they were to reduce the number of units, they are still going to have that half acre requirement because it is the greater of the two when you do the Active Recreation Area calculation which is based on a per unit calculation to start. They are required to have 275 SF of Active Recreation Area per unit or a half acre, whichever is greater. "Whichever is greater" is going to govern for a substantial part of this project no matter what the unit count is. It does not qualify for some of our small development exemptions because of the size of the overall property to start with. That is part of the reasons collectively that Staff felt comfortable recommending the Cash-in-lieu of Active Recreation Area Construction.

Mr. Hartman stated that when he looks at the plans for Unit B, the townhomes, it doesn't appear that they have access to a rear yard. Is that correct? Responding to Mr. Hartman, Mrs. Melson-Williams stated that is true. They are not individual lots for the townhouses; they are collectively on the same parcel. There is limited area to the rear of the townhouse units because of what are limitations due to proximity of wetlands and floodplain areas where development would be prohibited.

Mr. Hartman questioned if those were artificial limitations? Those were limitations that were designed in and you have three units where people will be stepping out of their back door right into the floodplain. They won't be able to have a patio or anything back there and then to cut down the Active Recreation Area to the little area up in the corner. Did Staff consider that? Responding to Mr. Hartman, Mrs. Melson-Williams stated that there is some limited tree clearing that is occurring but she thinks that the area where the active recreation is proposed is somewhat of a clear area. It does not have major tree growth that you see to the northern part of the property. You may also wish to hear from the applicant and their presentation about the project and some of their design thinking. Certainly, this site is limited in where development activity can happen because of the floodplain and the wetland areas, both of which are limited by the *Zoning Ordinance* to remain as a natural area with no development impacts.

Mr. Lardner stated that it is a very unique project in that these parcels have been in the LLC's name for decades. Over time it has seen the Route 1 construction occur on the adjacent property. In doing so, it has also seen the environmental challenges that have occurred regarding the floodplain and how the floodplain has increased with some of that construction. It is in the City Code to protect the floodplain and wetlands and that has severely limited the developable area of this project. This project is a little over eleven acres of which only three acres is outside of the floodplain so it has a lot of natural features that are being protected. People can walk through the wetlands, they just can't physically put anything pervious on that area. So walking trails and things of the like which would be a great asset cannot be constructed with the limitations. In doing so and looking at the surrounding areas, they thought that this type of project, a mixed housing type project, would be appropriate with apartments and townhouses. Given the adjacent communities and other residential areas, they thought this would be a good fit for that surrounding area. They submitted some of their waivers due to these limitations such as the sidewalk cannot go beyond Route 1 anyway. The only way to bring in that sidewalk would be at

grade on White Oak Road. The parking makes sense from a residential standpoint versus a commercial standpoint. They talked about the Active Recreation Area. He is getting ready to drop his youngest daughter off to college this Saturday. Just to be able to enjoy time with his kids and throw around a ball, that is why they thought having a small little pocket for that ability there and then being able to use the Dover Park that it made sense. That is why they brought this application before this body tonight.

Mr. Tolbert questioned if the applicant would be able to continue working with Staff having heard Mrs. Melson-Williams' comments? Responding to Mr. Tolbert, Mr. Lardner stated yes and they have read the DAC Report and they will comply and continue to work with Staff.

Ms. Edwards stated that when you are looking at the right three townhomes being very close to the wetlands, do you know what the distance is between the construction area and where that begins and what plans are in place to make sure that it is not disturbed? Responding to Ms. Edwards, Mr. Lardner stated that he does not know the distance off of the top of his head. As far as protections, the homeowners will be notified of the limitations of that area. There is probably a way that they can mark it so they can understand where those limits are whether they do it by signage or some other means.

Ms. Edwards further questioned how they plan to not disturb that area during the construction phase of the project? Responding to Ms. Edwards, Mr. Lardner stated that it is going to be a challenge during the construction phase knowing that they cannot disturb those wetlands. It is something that they will have to work with the home builder on how to do that. It is not the first project to have severe limitations on traffic ability so they will work with the construction company to build these houses in a safe way and to not disturb the environment that they are trying to protect.

Ms. Edwards stated not that it matters, but do they know who the construction company is yet? Responding to Ms. Edwards, Mr. Gardner stated no, not at this time.

Mr. Roach stated that as far as he noticed the recreational areas are all of the way to the side by the townhome units. He sees a little area where a pond is going to be. He doesn't know anything about why but is it possible to split that area so there could be some recreational space between the apartments and townhomes versus having to pass the townhomes to get to that area? Responding to Mr. Roach, Mr. Lardner stated that they could take a look at it. Stormwater management is going to be its own challenge with the current regulations. They chose the stormwater where it is because it's central to both projects. Depending on how infiltration rates turn out, they could look at tweaking it. If it makes sense for the project, they could look at moving that active recreation area closer. But right now based on what they know today, he thinks that the stormwater is going to have to stay where it is.

Mr. Hartman questioned if the applicant thinks that Staff's recommendation to enhance the pedestrian/bike access to Dover Park is feasible? Responding to Mr. Hartman, Mr. Lardner stated that on the surface right now, they do think it's feasible. They will have to work with DelDOT. They first looked at coming across Baytree. He just doesn't know if there is enough room between the edge of paving and the wall. Two foot of sidewalk would make DelDOT satisfied

from a safety standpoint. We could then look at crossing White Oak Road. The question would be where would that crossing be as there is no signalized intersection. They would have to work with DelDOT on the appropriate location. On the surface, they are saying yes it is feasible, they just haven't gotten the true details yet on where that path needs to go and all of the different requirements of DelDOT to get that path to connect to the existing sidewalk towards Dover Park.

Mrs. Maucher stated that for the overflow parking, the parking is limited for the number of apartment dwellings and townhomes. Is there parking along the access road going in? Responding to Mrs. Maucher, Mr. Lardner stated that there will be no parking on the access road. It is parked at 2.25 spaces per unit so the 0.25 spaces allows for the overflow parking. Parking has been interesting and they have had a lot of questions. What that means is that some of the other apartment companies that they have represented in the past, tell them that their numbers are about 1.6 to 1.75 per unit. The Code does allow for overflow parking of 0.25 spaces per unit so on a twenty-four unit building they are at ten extra spaces above and beyond the two spaces per residence which he thinks is more than enough. Plus the townhomes have an extra parking space per unit for overflow as well but per the Fire Marshal regulations, they would not be able to park in the alleys or the fire lanes.

Mr. Roach questioned if they knew the sizes of each apartment unit? Responding to Mr. Roach, Mr. Lardner stated that they are about 900 square feet and there are eight units per floor with a common stairwell on the left side or right side. So its four units per stairwell.

Mr. Tolbert opened a public hearing.

Mrs. Kathy Potter

Mrs. Potter stated that she is a homeowner in Dover; not within the 200 feet of this project but she travels Acorn Lane a lot because she lives just off of Acorn Lane. When she saw the sign, she took a picture and started researching information. She has several questions and she doesn't know if she will get answers tonight or if it is just her presenting her questions for the Commission to discuss later. For the parking, she doesn't know why they need a waiver. There are engineering standards for these numbers and she thinks that most of us have been to an apartment complex and have not found a parking spot. She doesn't see why we would even consider a parking waiver. She thinks personally that it is probably just cost or space but again, we have engineering standards for a reason and they are based on empirical data. She had looked at some documents that were online and she thought that she read where there was a 40% difference in parking between if you use Method A or Method B. That is a pretty big difference so please keep it in mind. Based on this drawing she would anticipate a lot more people than 2.5, but that is because she has lived in apartments in her lifetime. For the townhomes, will the parking in the driveway block the cross walks? If you look at any other townhome development in Dover, there are generally people parked two up because they can't fit in front of the townhomes because the driveways are too close. We can't block the crosswalks because that would certainly be a violation for people walking by with strollers or wheelchairs. For the sidewalk, she is not quite sure if it will connect from Baytree to this development? She doesn't expect it to go beyond over to Route 1 but connect it up to Baytree because there is no sidewalk on the opposite side of the road. If you are going to have children walking to Dover Park because there is no park on the property, they are going to have to walk down towards Baytree and cross

over either before Manchester Square or after. There is no sidewalk on the other side of the road; it is heavily vegetated and no one is going to walk over there. When she was reading the documents before she came, it stated a wetland determination and it noted in the Report that there is construction very close. Potentially deed restrictions can be done but as Mr. Hartman pointed out; people aren't going to be able to use their yard. You can put a deed restriction in or put signs up but people are going to do what they want to do. You are going to have someone who wants to put a shed in the back yard of that townhome and they are going to put in right on a wetland. She would personally never suggest putting a pathway through a wetland. That is regulated and you can't just arbitrarily cut through or put down wood planks to make your own path through a wetland. That is not possible and it is not approved by the EPA since they are in charge of wetlands or maybe its DNREC. She is just kind of surprised by some of the waivers and she just wanted to get more information as to why the waivers were requested. She had no problem with the fire one because she read where they wanted to construct the buildings with a little more fire retardant and alter the materials from house to house.

Responding to Mrs. Potter, Mrs. Melson-Williams stated that she can address several of the questions. The first question was about the parking waiver. You are correct; there are two methods of calculating parking for this property based on its zoning. The zoning district of C-2A (Limited Central Commercial Zone) is typically developed in a commercial fashion meaning you have retail stores, offices and those types of things where doing a parking calculation based on floor area is the typical means. In allowing the apartments and the residential components to occur in the C-2A (Limited Central Commercial Zone), there was not additional guidance or provisions specifically given as to how to calculate parking. For the townhouses, the Code is actually clear about what that rate should be but the apartments are rather silent about what you do with apartments in C-2A. Apartments as a use in general have a parking requirement which is referred to as Method B which is a per unit calculation of two regular parking spaces plus 0.25 spaces to accommodate for a visitor rate for the overall complex. That is the differences in the Code. It's perhaps where the Code should be clarified about what you should do when you have multi-family, meaning apartments, in the C-2A (_____). Probably some better Code writing could or should have happened there but they do have as part of our Code provisions, the ability for them to seek a waiver to reduce the parking. In this case, it would be a reduction if you consider Method B versus Method A in the two ways of calculating it. The second waiver that you had a concern about was the sidewalk. There are two different sidewalk issues with this project. One is the Code requirement of the property involved; the frontage of it is required to have sidewalk along it. That is where they are seeking a waiver. The discussion of sidewalk connection leading to Dover Park is a recommendation for them to evaluate that. It is not a Code requirement; it's something that Staff realized due to the proximity of this location to what is an existing City Park that there should be an opportunity to traverse to that. You are correct. There are portions on the White Oak Road frontage between this location and the park which are perfectly fine and have sidewalks that actually occur on both sides of the road; however, there are areas where there is no sidewalk. There is somewhat of a shoulder that is striped on White Oak Road in this area. She thinks the applicant has heard the concern about making that potential connection for their residents to Dover Park and is going to at least make some attempt with DelDOT which would be the governing agency in dealing with White Oak Road about where and perhaps improvements can be made to make that pathway connection. On the question of wetlands construction and how close that is to the townhouses, that is noted in our Report and

she thinks that they will have to be cognizant of that. As their design gets refined, there may be the opportunity to tweak the placement of that building to push it a little bit further away from that wetland area and to make that distinction much better.

Mr. Tolbert questioned if Mrs. Potter had talked to her neighbors about her concerns?

Responding to Mr. Tolbert, Mrs. Potter stated just a few of them but she has neighbors who are not sometimes using that road because she can go either way on Acorn Lane. She knows her first thought when she was speaking to Mrs. Melson-Williams was that she already knows that it is a State road. She already knows that DelDOT is going to have to determine if there is a traffic light that is going to have to be put in place. She personally thinks that there will be down the line but it's not the City's decision and she understands that. She has not found a person at DelDOT to ask the question to yet but she knows that it is very early into the project. Other than seeing the yellow sign, they (her neighbors) didn't know.

Mr. Tolbert stated that her neighbors aren't here to support what she is saying. Responding to Mr. Tolbert, Mrs. Potter stated that she just came with questions. She wants to know why the parking waiver is even requested. On the other hand, why is it approved because she can see where maybe there can be additional parking done with impervious surface done but again with the wetlands it is interesting. When she sees the topography which you don't see at all on that, it's much closer than what she first thought.

Mr. Tolbert questioned if Mrs. Potter has had any conversations with the developer about her concerns? Responding to Mr. Tolbert, Mrs. Potter stated that she didn't know anything that was going on other than what she read online several weeks ago.

Mr. Tolbert stated that he would suggest that she sit down and have a talk with the developer and her neighbors for any concerns that you may have regarding what they are doing.

Mr. Tolbert closed the public hearing.

Mr. Hartman questioned if it is possible to vote on the project and defer the waiver concerning the Cash-in-lieu until the applicant can provide us with a better plan on the pedestrian bicycle access to Dover Park? Responding to Mr. Hartman, Mrs. Melson-Williams stated that the Cash-in-lieu is what they have proposed for meeting part of their Active Recreation Area Construction. Having a pathway leading to Dover Park isn't necessarily going to count directly towards them having constructed Active Recreation Area. The Cash-in-lieu of Active Recreation Area Construction is to help satisfy the deficit that this property has in what it is constructing. The other is more of a recommendation about the larger circulation in the area. It is related to Active Recreation amenities perhaps for the applicant's proposal but if they get a sidewalk, the area of that sidewalk is not going to be able to count towards their Active Recreation Area Construction. They either have to build area on their property or the Cash-in-lieu of Active Recreation Area Construction has to be the makeup piece of it.

Mr. Hartman stated that he thinks he understands that but wasn't it Staff's recommendation to approve that waiver partially based upon access to Dover Park? Responding to Mr. Hartman, Mrs. Melson-Williams stated that their recommendation in the Recreation Area Report on Page

6, in their statement for recommending approval of the open lawn, they do note that it is within proximity of the City Park. She doesn't know that it specifically says that they have to provide the way to get there and that is the only reason why they are granting approval. She thinks that in this case, this project site has the impacts of the floodplain and wetlands area are perhaps in this case, more significant than dealing with the fact of the proximity to Dover Park. It is related but not as significant as the limitations that the natural areas of the floodplain impact on this property.

Mr. Roach stated that he had a similar concern about the amount of parking. Obviously from a logical standpoint, and he is not an architect, if there are twenty-four apartment units and there are two adults in all units, that is forty-eight spaces right off the back. Therefore, that doesn't allow for a lot of parking spaces in regards to visitors and because of the fact that there is no off-street parking in that area. Is that all access behind the building to the right of those six and eight spaces at the top of the rendering? Is there any way possible to be able to add more parking spaces? Responding to Mr. Roach, Mr. Lardner stated that there are no other locations to add parking spaces. If you look on the north side of the access road, they are adjacent to the floodplain which is one of the concerns that Mrs. Melson-Williams had about the proximity of that. They can't do parking closer to the building because then they don't meet the separation distance for the Fire Marshal Regulations. So they have provided as much parking as they can fit within the constraints of the site. He does hear what you say about parking and it is a common thing. It is common for there to be two adults living in the apartment units but they don't always have two cars, sometimes it's only one car. There is also the mixture of bedroom counts. He doesn't know what that mixture is going to be yet between one bedroom, two bedroom or three-bedroom apartment units. Industry wide, two parking spaces has always been the magic number. He did a project recently where they counted three apartment complexes and they only need 1.67 spaces. They counted those four times during the day: at midnight, 8 in the morning, middle of the day to see what the parking count was. Typically, you have a 90% occupancy rate because there are some unit turnovers that are there. You have some people that work night-time versus day time. So to have all of that perfectly happen, it could happen but it is highly unlikely.

Ms. Maucher questioned what happens to the project if they don't get that parking waiver? Responding to Ms. Maucher, Mr. Lardner stated that if the parking waiver isn't approved, the only thing that could be built there is commercial. An apartment building based on square footage would require ninety-seven parking spaces. That would be the entire building footprint to put ninety-seven spaces there. The project is dead if the residential parking would not be allowed. He doesn't know if a commercial use makes sense even though it is zoned to be that way.

Ms. Maucher further questioned if there has been a consideration in reducing the number of apartment units? Responding to Ms. Maucher, Mr. Lardner stated that it is based on the building square footage is how that calculation comes out; it doesn't matter about the residential units anymore. The Code is written based on the square footage of the building; it doesn't care what the use is. Even if he knocked out eight units, it would still require seventy parking spaces. They would never get down to that number and if they did, there would be twelve apartments at that time. It doesn't make sense to do an apartment complex for twelve units. This Code is written towards a commercial ideology and for whatever reason the Code is silent for a residential use

although it is permitted. The thing that makes the most sense would be to apply a residential parking requirement which for apartments is 2.25 spaces per unit. The waiver is to apply the residential parking count versus a commercial parking rationale. That is why they requested a waiver to allow the residential to be calculated versus a commercial square footage process.

Ms. Maucher stated that she still has concerns because there is no parking on the side of the access road going in for the townhomes. Responding to Ms. Maucher, Mr. Lardner stated that it will be signed and striped that there will be no parking allowed on it and the Fire Marshal would have jurisdiction to enforce that requirement.

Ms. Edwards moved to recommend approval for Revised S-19-15 White Oak Road Property: Apartments and Townhouses on 3 parcels of land on White Oak Road to include the waiver requests for the reduction in parking, the partial elimination of sidewalk and the rear access for townhouses, with the DAC Comments and the consideration of Cash-in-lieu, seconded by Mr. Baldwin and the motion was carried by roll call vote with Mr. Adams and Dr. Jones absent. Ms. Edwards voting yes; based on the applicant's willingness to adhere to all of the recommendations that have been set forth and based on Staff approval of the waiver requests. Mr. Hartman voting yes; based on the applicant's assurances particularly regarding the cash-in-lieu of the Active Recreation Area and providing the access to Dover Park. Mr. Baldwin voting yes; based on the applicant's willingness to work with Staff and also Staff's comments. Mrs. Welsh voting yes; based on previous comments. Ms. Maucher voting yes; based on Staff comments. Mr. Roach voting yes; he thinks that it is going to be a great addition to the City. There is always a need for more housing and they appreciate the applicant's willingness to work with Staff and the community in regards to their concerns as it pertains to the project. Mr. Tolbert voting yes; for all of the reasons stated and the applicant is willing to continue to work collaboratively and cooperatively with Staff regarding this matter because a lot of issues have been raised.

- 2) MI-19-04 Text Amendment: Industrial Park Manufacturing Zone – Technology Center IPM-2 – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, Article 3 – District Regulations, Section 20A - Industrial Park and Manufacturing Zone – Technology Center (IPM-2); Article 4 Section 4.16 - Zoning Bulk and Parking Regulations; and Article 12 - Definitions. The proposed Ordinance allows for a broader range of potential uses in the IPM-2 zone while retaining the emphasis on technology versus general manufacturing uses. It also adds definitions for the following terms: logistics, warehouse, and warehousing. Ordinance #2019-15.
- A copy of the Proposed Ordinance #2019-15 is available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>
 - *Amendments on June 11, 2019 and First Reading was held by City Council on June 24, 2019 where the Public Hearing dates were set for Planning Commission on August 19, 2019 and City Council on September 9, 2019.*

Representatives: None

Mr. Hugg stated that the proposed Text Amendment adds provisions to the IPM-2 (Industrial Park and Manufacturing Zone – Technology Center) zoning classification to clarify the business and professional services, data management, trans-shipment and distribution and logistics support are permitted uses in the Zoning District. It also modifies the name of the Zoning District to IPM-2 (Industrial Park Manufacturing Zone – Business and Technology Center). About twenty years ago the City and the State determined that this area of Kent County needed an additional industrial park that was devoted primarily to technology based firms and at that particular time, the microchip industry was looking seriously at Delaware. The State provided money to the City to buy the property known as the Garrison Tract and in the course of that process; the City adopted the IPM-2 Technology Center Zoning District that exists today. There was language in the State Bond Bill back in 2000 that required that for at least a period of ten years, the primary uses be directed to information technology, life sciences, semi-conductor fabrications, scientific research and development and high tech manufacturing jobs. As you know, we are now at almost twenty years later. Until about 2009 when the property was fully subdivided and improvements were met, there were essentially no uses of the property. The activities that are out there today are a solar park, a combined cycle gas fired energy generation facility, a flooring materials manufacturer and probably only use that is very consistent with the original intent; this year Advantech built their facility at this location. They are a high technology security firm so they may be the closest to what was originally envisioned. In September of last year, Kent County through their new Economic Partnership, commissioned a study by Rockport Technologies that looked at Kent County in terms of potential markets for new jobs and new business activity. One of the top three that emerged based on an analysis of what they call inputs and outputs was the wholesaling, logistics, and distribution area where there is about a \$300 million deficiency. In other words, jobs that could be and would fit in Kent County and economic activity would have been directed elsewhere. The City, State and the KEP are all interested in making Kent County more attractive and more viable for those kinds and other kinds of industries. As part of our City marketing strategy, we went to City Council and asked that the overall purpose of the park be refined and clarified to allow an expanded list of potential business activities. In particular, the current IPM-2 zoning district specifically prohibits warehousing and distribution kinds of businesses, the very thing that Kent County and the City are trying to promote. The amendment to the Ordinance is offered to reflect the expansion of the original purpose and nature of the park, reflecting current business conditions and the changing marketplace and to hopefully make the facility much more marketable. The City Council Committee of the Whole Legislative Finance and Administration Committee was presented with a proposed Text Amendment on June 11, 2019 and they recommended approval of the proposed Text Amendments at their first reading on June 24, 2019. Because this is a Text Amendment, a public hearing and recommendation of the Planning Commission is required which is what we are doing tonight. City Council will conduct a public hearing and take final action on the Ordinance on September 9, 2019. They may act to adopt the Ordinance or part of it or to amend it as appropriate. This Ordinance was developed by the Planning Staff so therefore they recommend its adoption. The Planning Office provided an opportunity to the Development Advisory Committee to comment on the proposed Text Amendment at their meeting of July 31, 2019 and no negative comments or recommendations were received from the DAC members.

Ms. Edwards questioned if the reason for the Text Amendment is so that this particular park can house different types of businesses? Responding to Ms. Edwards, Mr. Hugg stated yes; it changes the prohibition on those couple of uses to a permitted use.

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

Mrs. Welsh moved to recommend approval to City Council for MI-19-04 Text Amendment: Industrial Park Manufacturing Zone – Technology Center IPM-2, seconded by Ms. Maucher and the motion was carried 7-0 by roll call vote with Mr. Adams and Dr. Jones absent. Mrs. Welsh voting yes; because it is a necessary change in order to comply with the intent of the park as it is now. Ms. Maucher voting yes; this expands opportunity for different businesses. Mr. Roach voting yes; for reasons previously stated. Ms. Edwards voting yes; based on reasons previously stated. Mr. Hartman voting yes; based on Mr. Hugg's comments and he believes that it is a good step for Dover. Mr. Baldwin voting yes; for the reasons previously stated. Mr. Tolbert voting yes; this amendment is clearly needed at this point in time.

NEW BUSINESS

1) Nomination and Election of Officers (Chairman and Vice-Chairman)

Mrs. Melson-Williams stated that this is the time of year when the Planning Commission conducts their Annual Meeting. Typically, it is held in July but since we were still in the middle of appointments and re-appointments we held off until this evening. Included in the packet were the By-laws of the Planning Commission. A couple of key things about the officers of the Planning Commission; there is a Chairman and a Vice-Chairman that are elected each year. The election of officers is typically done by a secret ballot. In years past, they have suspended that rule but we will have to have a motion to do that. In electing the Chairman and Vice-Chairman, they are limited to four consecutive one year terms, meaning your Chairman can serve for four years before having to vacate that seat for a period of one year before being re-elected to that Chairman position. The same holds true for the Vice-Chairman. She has to report to the Commission that the current Chairman Mr. Tolbert has now completed his fourth year of service and as per the By-laws barring any kind of amendment to the By-laws he would be required to vacate that Chairmanship and have a new Chairman elected to serve the Commission. Currently, Dr. Jones is the elected Vice-Chairman of the Commission. She was elected to that position in February 2019 after Mr. Dean Holden resigned his time of service here with the Planning Commission due to his relocation move.

Mr. Roach moved to suspend the use of the secret ballot process, seconded by Mr. Baldwin and the motion as carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

*Mr. Roach nominated Mrs. Maucher as Chairman for the Planning Commission.
Mrs. Maucher nominated Dr. Jones as Chairman for the Planning Commission.*

Mr. Tolbert stated that Dr. Jones was going to be his nomination because she has had a wealth of experience dealing with the government in various capacities.

Mr. Roach questioned if it is possible to nominate Dr. Jones as Chairman in her absence? Responding to Mr. Roach, Mr. Tolbert stated that she is in favor. She has no problem with the

nomination.

Mr. Roach moved to change his nomination of Chairman to Dr. Jones and to nominate Mrs. Maucher as Vice-Chairman, seconded by Mrs. Welsh.

Mr. Baldwin moved to close the nominations with the two names presented, seconded by Ms. Edwards and the motion was carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

Mr. Roach moved to elect Dr. Jones as Chairman and to elect Mrs. Maucher as Vice-Chairman, seconded by Mrs. Welsh and the motion was carried 7-0 by voice vote with Mr. Adams and Dr. Jones absent.

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

Mrs. Melson-Williams stated that also associated with the Annual Meeting is the appointment of the Architectural Review Oversight Subcommittee of Planning Commission. This is outlined in the Ordinance as well. Typically, it consists of two members of the Planning Commission that serve, there is the Mayor or the Mayor's designee if he is unavailable and then there are design professional members that are appointed. Currently, the composition of that Subcommittee is Planning Commission members Mrs. Welsh and Mrs. Maucher. If they are both interested in continuing to serve in that capacity when called upon, this will be an easy task. If not, we will need some volunteers or nominations for those positions.

Mrs. Welsh stated that she is happy to continue.

Mrs. Maucher stated that she is happy to continue as well.

Mrs. Melson-Williams stated that they will reach out to the current design professional members that are listed here. If you have other suggestions, they can certainly take those into consideration as well. If there are no objections, Staff can confirm if Mrs. Sarah Keiffer, the Director of Planning Services Department for Kent County and Dr. R.J. Chandler who is a faculty member at Del-Tech would be interested in continuing to serve as the design professionals on that Subcommittee.

3) Project for Dover's 2019 Comprehensive Plan
a. Update on Project Activities

Mrs. Melson-Williams stated that as of last Wednesday they have issued a Staff Draft #1 which means that all of the text writing that they have done to date and all of the Chapters are in one cohesive document and it has been released to Planning Staff to read through. The Staff Draft #1 was also released to City Department Heads for their initial review to make sure that they have not done some glaring mistakes in data related to their departments. She imagines that they are reading anxiously as well as a number of them have asked about it. They are making progress towards bringing a document to the Planning Commission. They are on track to have it submitted to PLUS for an October 1st deadline. So within the next month and a half there should be a full document that is released to the public to really start the formal review process of the project.

Mr. Tolbert questioned if the Planning Commissioners would also get a copy? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that they will certainly get a copy. They will have to read it and will have hearings to go along with it; so be prepared.

Mrs. Maucher thanked Mr. Tolbert for four years of leadership of this Commission. Responding to Mrs. Maucher, Mr. Tolbert stated that personally he thinks that every member should have an opportunity to conduct this hearing especially when the Chamber is full of people.

Meeting adjourned at 8:26 PM.

Sincerely,

Kristen Mullaney
Secretary