

**CITY OF DOVER PLANNING COMMISSION
SEPTEMBER 16, 2019**

The Regular Meeting of the City of Dover Planning Commission was held on Monday, September 16, 2019 at 7:00 PM in the City Hall Council Chambers with Chairperson Dr. Jones presiding. Members present were Mr. Adams, Mr. Roach, Ms. Edwards, Mr. Baldwin, Mr. Tolbert, Mrs. Welsh, Ms. Maucher and Dr. Jones. Mr. Hartman was 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. Jonathan Street, Mr. Jason Munyan and Mr. Bill Krapf.

APPROVAL OF AGENDA

Mrs. Maucher moved to approve the agenda as submitted, seconded by Mrs. Welsh and the motion was unanimously carried 8-0 with Mr. Hartman absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF AUGUST 19, 2019

Mrs. Welsh moved to approve the Planning Commission Meeting minutes of August 19, 2019, seconded by Mr. Roach and the motion was unanimously carried 8-0 with Mr. Hartman absent.

COMMUNICATIONS & REPORTS

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, October 21, 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 September 9 and 10, 2019.

Mr. Hugg stated that they are trying to get the *Comprehensive Plan* together in a form that they can submit to the State Planning Office for PLUS Review on October 1, 2019. They also continue to operate at a minimum staffing although they do have three applications for the vacant Planner position that they hope to deal with shortly. They will also soon be posting two position announcements for an Inspector and for a Code Enforcement Officer.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval: None

NEW APPLICATIONS

- 1) S-19-19 Delaware Solid Waste Authority Administration Building at 601 & 801 Energy Lane
– Public Hearing and Review of a Site Development Plan and Lot Consolidation Plan

Application to construct a two-story 23,487 SF office building with associated site improvements. The subject properties to be combined total 7.3343 +/- acres and are located north side of Energy Lane east of Bay Road. The submission will be subject to a Performance Standards Review Application. The properties are zoned IPM (Industrial Park and Manufacturing Zone). The owner of record for both properties is Delaware Solid Waste Authority. Property Addresses: 601 and 801 Energy Lane. Tax Parcels: ED-05-077.00-03-04.00-000 and ED-05-077.00-03-05.00-000. Council District 2. *Waiver Requests: Partial Elimination of Curbing, IPM Planned Industrial Park: Alternative Design Standards - Rear Setback Requirement. The subject site is Lots 4 and 5 of the Northgate Center originally subdivided with Application SB-05-05 Stover Professional Campus with Planning Commission approvals in September and November 2005.*

Representatives: Mr. Jonathan Street, Becker Morgan Group; Mr. Jason Munyan, Delaware Solid Waste Authority

Mr. Swierczek stated that this is a review of a Site Development Plan and Lot Consolidation Plan Application to construct a two story 23,487 SF office building with associated site improvements. The overall site was originally subdivided with application SB-05-05 Stover Professional Campus with Planning Commission approvals dating to 2005. That Record Plan subdivided the original tract into twelve lots of which these are Lots 4 and 5. Consolidating these lots would total 7.3 acres. Site Plan S-16-11 developed the parcels that were originally Lots 6-12 to the south of the site as the new Chesapeake Utilities Office. In their application, the applicant has noted two waiver requests with their plan. The first waiver request is from the *Zoning Ordinance*, Article 6, Section 3.6b requiring upright curbing for all parking areas and access drives, stating that curbing will not benefit or enhance the conveyance of stormwater runoff. Staff has approved that request to partially eliminate the upright curbing requirement for the office building. The second waiver request is for the Alternative Design Standards, specifically the reduction of the rear yard setback. Staff has recommended approval of this waiver by the Planning Commission as the applicant has stated that while the majority of the planned building complies with the more restrictive setback, there is approximately a 40 foot wide section that encroaches into the setback. The waiver is sought as the neighboring property is zoned RG-2 (General Residence Zone). The site of the Blue Hen Apartments contains a stormwater management pond and wooded areas where abutting the section of the proposed development along Energy Lane. Also, in accordance with *Zoning Ordinance* Article 5, Section 8.6, this development is required to go through the Performance Standards Review. A letter was submitted by the applicant for the Performance Standards Review and was included in the packets for review by the Planning Commission. Just as a reminder to the members of the Planning Commission, Commission members should act upon the request for waivers as well as the Performance Standards Review Application as part of any motion regarding this project or as a separate motion as necessary.

Mr. Adams recused himself from this project because he has a business relationship with the Delaware Solid Waste Authority.

Mr. Street stated that the renderings on the screen show a graphic of the Site Plan as it is laid out today. There are a couple of easements to deal with on the site. They are moving some sewer

which is the diagonal shaded area shown on the rendering. They are purposing something additional to the project in conjunction with something that Chesapeake has recently done. They have some type of multi-modal walking path that will be interconnected between our site and the Chesapeake site; and they are looking at opportunities to actually connect to Tudor Industrial Park site which is back and to the right of their site through the woods. That is something that they have to research a little further but that is something that they are trying to add to the site. They are going for the LEED certification on the building and the site itself. The presentation also shows a nice symmetric view of the front of the building. These are our renderings as they stand now and from their recent meetings with the Delaware Solid Waste Authority; they don't intend on these changing at all. There are random variable sloping roofs and a green roof on the back. The rear of the building is what the neighbors in the Blue Hen Apartments would be seeing. That small section of sloped roof on the right side of the image is actually what is projecting into that setback that they have requested relief from. For the record, they would like to clarify in the design that they have 23,487 SF as the building square footage, but he would like to increase that a little bit to 23,600 SF. That allows them a little bit of room to play. They don't intend for the building to change anymore but they wanted to update that square footage to make sure that it is correct. They are in agreement with the DAC Report and they have no questions for Staff.

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

Mr. Tolbert questioned if the application was in compliance with the Performance Standards Review Application requirements? Responding to Mr. Tolbert, Mr. Swierczek stated that the letter that was included with the packets was basically required as the zoning is of an industrial nature. It was on the part of the applicant to attest that there would be no pollutants or any kind of detrimental effects on part of this development to the neighboring community. As the development proposed is for an office building, Planning Staff is satisfied with its content.

Ms. Maucher questioned if the motion would need to include approval of the Performance Standards Review Application? Responding to Ms. Maucher, Mrs. Melson-Williams stated yes.

Ms. Maucher moved to approve S-19-19 Delaware Solid Waste Authority Administration Building, including the waiver for the partial elimination of curbing and the alternative design standard rear setback requirement as well as the approval of the Performance Standards Review Application and the DAC comments, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Adams recused and Mr. Hartman absent. Ms. Maucher voting yes; based on DAC recommendations and Staff recommendations. Mr. Roach voting yes; based on reasons previously stated. Ms. Edwards voting yes; based on Staff recommendations and that is a nice looking building and she thinks that it is going to be a really great addition to that side of town. Mr. Baldwin voting yes; based on Staff recommendations. Mr. Tolbert voting yes. Mrs. Welsh voting yes; the building is beautiful and is very nicely done. Dr. Jones voting yes; based on Staff recommendations and the DAC Report.

- 2) S-19-20 Delaware State Police Building Update at Bay Road Commercial: 560 and 600 Bay Road – Public Hearing and Review of a Revision to Site Development Plan S-17-20. The

Plan Revision replaces the two buildings previously proposed as a 70,646 SF grocery store and a 17,664 SF multi-tenant retail building on the west side of the site with the construction of a one-story 62,667 SF office building and associated site improvements. The subject properties total 12.9366 +/- acres and are located on the southwest side of Bay Road. The property is zoned C-4 (Highway Commercial Zone). The owner of record for both properties is Bayroad CAP, LLC. Property Addresses: 560 and 600 Bay Road. Tax Parcels: ED-05-077.00-01-10.00-000 and ED-05-077.00-01-09.00-000. Council District 2. *Waiver Request to Reconfirm: Reduction of Arterial Street Buffer. For Consideration: Tree Mitigation Plan. Application S-17-20 Bay Road Commercial was previously approved by the Planning Commission in July 2017 and received Final Plan Approval on July 23, 2019.*

Representatives: Mr. Jonathon Street, Becker Morgan Group; Mr. Bill Krapf, LC Management

Mrs. Melson-Williams stated that this application may look familiar to some of the Commissioners as it was previously known as Bay Road Commercial. It went through the Planning Commission review in July 2017 and actually within the last month and a half, got Final Plan Approval for what was really a shopping center development project. However, this new application has made a change to what is the westernmost building on the property which previously was intended to be a grocery store and a multi-tenant building. With this proposal, that building has now changed into a large office building with an estimated square footage of 62,677 SF. The other buildings on the site and the general overall layout of the site remain the same with two kind of outbuildings closest to Bay Road to be restaurants and then the other building to be another multi-tenant building probably targeted more on the retail and commercial side. The property is zoned C-4 (Highway Commercial Zone) so development activities are subject to those Bulk Standards. With this project, she will note a couple of things and the differences between the previous plan and the one that we are seeing now. With the building change, the overall building floor area has decreased for the project. The total lot coverage for the site has decreased for the project; however, the number of parking spaces on the property has increased. With the office building, it would follow the parking requirements for C-4 (Highway Commercial Zone) which is based on the rate of one space per 300 SF. The same would carry true for the retail building. For the restaurants; however, their parking is based on a seat count provision so they have kind of estimated what those seat counts would be since the restaurant tenants are unknown. Bottom line, the estimate for required parking at this point with the new format to this plan would be a total parking requirement of 445 parking spaces. Their plan as shown is providing 790 parking spaces. The project does include loading space areas, dumpster locations servicing buildings, and the start at compliance for the bicycle parking for the site as well. Access to the site remains the same with this office building which is described as kind of a Phase I area. Access would be traveling from Bay Road onto what is the Bay Court Plaza entrance drive and then the two western most entrances from that Bay Court entrance drive onto this Bay Road Commercial site would be what would be constructed in Phase I. That brings you in kind of flanking the proposed office building. There is a right in/right out proposed off of Bay Road but that would be developed in a likely later phase of construction activity. The property includes plans for sidewalks along the Bay Road frontage and also along the northern edge of the Bay Court entrance drive. Part of that sidewalk area does actually exist today but with their project improvements would be reconstructed. The western part of that constructed with the Phase I and the new points of access to happen with that.

The screen showed the architect's rendition of the new western office building that is proposed there. The parking configuration shown in this rendering isn't quite what is shown on their plan but the architecture of the building basically shows a one story building, a variety of masonry and other siding materials for the building. There are a series of windows and then key entry points are then capped by a hanging canopy over those direct areas. With this project, there is a waiver that was previously approved. There was previously a reduction in the Arterial Street Buffer for the overall site. That Arterial Street Buffer is typically thirty feet in width. It was reduced previously by the Planning Commission to a 20-foot width. With a new Revised Plan, there are no changes in that area so they just ask that the Planning Commission reconfirm that previously issued waiver. With this project, they are seeking a consideration of what is a Tree Mitigation Plan for this project. They are proposing to locate a series of trees along the Bay Court entrance drive; however, it would be located on the Bay Court property rather than their own because of the location of utility lines and other underground utility items in that area of their property. It does go to the intent of creating more of a tree lined entrance way. If you remember correctly, this entrance drive isn't located on their property, it is located on the adjacent property to the south which is why they would have to ask for what is technically called in our Code a Tree Mitigation Plan which occurs when you are planting trees to meet your planting requirement not on your property but on a property elsewhere in the City. In this case, elsewhere in the City is just a few feet to the south on the adjacent property. With the DAC Report, the Planning Office provided the Plan Review comments. They did in the Recommendations Suggested for Additional Considerations noted that Staff continues to support the Arterial Street Buffer reduction from the 30 to 20 feet. They also recommend approval of the request to locate the series of trees onto that adjacent property to create that entrance drive provided that the adjacent property owner grants permission to do so. The other comment that they have made is in regards to parking. Per their DAC Report, on Page 9 they recommend careful evaluation of the traffic circulation for the Revised Phase I area and the evaluation of the proposed amount of parking for the overall project. They note that there are certainly some opportunities to re-evaluate the configuration of parking in this area, they think, to create a simpler traffic pattern in that area immediately in front of this office building. The DAC Report also includes the comments from the other regulatory agencies including the Public Works Office, the Fire Marshal's Office, DelDOT and the Kent Conservation District. Even though they have an approved plan for the project, you may start to see activities for site improvements because they do have to do tree clearing. Those activities may get underway under what they currently have as an approved plan but to do anything to construct the west Phase I as an office building, we need to take care of the application for Site Plan that is before the Commission tonight. It is a Site Plan with two waivers: the renewal of the reduction of the Arterial Street Buffer and the Tree Mitigation Plan Request to plant the trees on the adjacent property.

Mr. Street stated that what you see before you is the line of Phase I and to the left side of that what you are looking at is the extent of the revision. Everything in Phase II essentially is what it was before. As Staff has discussed, basically due to fall through in a lease agreement, they had to go for what they would consider a better tenant for this phase of the project. They are moving forward as quickly as they can to get this underway. The site itself has not changed that much with the exception of the building and some layout in regards to the building itself. He does want to make a clarification for the office building itself will have a total square footage of 62,900 SF as a buffer of what they submitted six weeks ago. They were in the early stages of refining that design. They are not doing the architecture but he was in contact with the architect this morning and he gave him the

updated number. It's fine to be over but it's not fine to be under when they go to pull the Permit itself. With the exception of the building itself, the site really maintains what they had originally intended. As Dawn said, the Tree Mitigation that they are talking about is on the bottom part of that page; it's a line of twenty some trees. They don't see it being an issue for the neighboring owner to approve this Mitigation Plan as it is the same owner. With that, they have read through Staff's Report itself and the other DAC comments from the other agencies and they don't have any real questions or problems with the recommendations or comments made by the agencies with the exception of one unfortunately. It's the third one where they talk about parking and further consideration of a parking arrangement of what is Phase I. As it is stated on the application itself, these are going to become renovated offices for the State Police. Working in conjunction with our plan, the developer and the State Police, this is the arrangement, orientation and layout that they have all come together to agree on. They request that Number 3 be moved to Advisory. He understands what Staff is talking about but this kind of goes deeper than just what they want. On their side, they are dealing with multiple agencies and owners, developers and tenants. This is what they have seen, this is what they like and this is what they have approved. They would request that Number 3 be moved to the Advisory Comments as to not become a requirement for the application itself.

Mr. Adams questioned what the Delaware State Police plan to use this building for today or in the future? Responding to Mr. Adams, Mr. Street stated that essentially what they are doing is moving from across the street. They have multiple agencies with their offices and support staff. He is not sure what publicly he can disclose but there is a secure section of the building which handles a lot of their response teams. This is not a Troop; it is basically their offices and support staff supporting the State Police themselves.

Mr. Adams questioned the change that Mr. Street wanted made moving to Advisory? Responding to Mr. Adams, Mr. Street stated that Recommendation Number 3, himself and Staff had multiple conversations about how the parking is arranged in front of the building. Staff made a recommendation offline talking about the project itself. They looked into kind of rearranging the parking itself so that it's not facing the building at a 45 degree angle and so that the travel lanes aren't at a 45 degree angle; essentially opposite of what you see. The travel lane would run with the building not into the building for all of the parking. One thing that this does is make this more appropriate for a retail frontage of a building. You have parking along the curb and you've got multiple drive isles facing or entering into the building so to speak. One thing is that they are trying to keep this versatile for the parcel itself as the State Police will be there as a lease. They are still trying to plan for the future and keep the parking and the area itself versatile so that they can use that in the future if needed.

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

Mrs. Welsh questioned if Staff had any issues with the reclassification of the parking as an Advisory Comment? Responding to Mrs. Welsh, Mrs. Melson-Williams stated that it could certainly become an Advisory Comment. She thinks that if you look at the language and how it was written on Page 9, they didn't say "you must". They recommended careful evaluation of the traffic circulation. They offered that there may be a variety of ways to approach that, not locking them into any one in

particular. They basically made the recommendation because they think that there is potential for a better project when it comes to the parking aspect. There are two aspects of parking: one is the circulation in that Phase I area and the other is the overall amount of parking that this project is now being shown with. They note again, the increase in parking while the total square footage for the site has actually been reduced. Those are just food for thought type of things. The Recommendations section is meant to look more carefully at the objectives for considering Site Plans. They felt that with dealing with the safety matters with vehicular traffic on the site, they thought that it was in our interest to put that forward as a Recommendation to evaluate. They can certainly evaluate and say that they have evaluated our options and due to our tenant and lease provisions it is not feasible. It depends on how you want to interpret what Staff said there.

Mr. Adams moved to approve S-19-20 Delaware State Police Building Update at Bay Road Commercial: 560 and 600 Bay Road as submitted to include the two waivers: the Arterial Street Buffer that was previously approved and the Tree Mitigation Plan that was requested as part of this application and a continued conversation around the parking change and moving that parking change to the Advisory Comments but also encouraging the applicant to continue to work cooperatively with Staff to make that happen, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote with Mr. Hartman absent. Mr. Adams voting yes. Mr. Roach voting yes; he asks that the applicant continue to work cooperatively with Staff and try to rectify the issues in regards to parking to meet both needs for Staff and the applicant. Ms. Edwards voting yes. Mr. Baldwin voting yes. Mr. Tolbert voting yes. Mrs. Welsh voting yes. Ms. Maucher voting yes; based on Staff recommendations. Dr. Jones voting yes; based upon Staff recommendations.

NEW BUSINESS

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

Mrs. Melson-Williams stated that at the last meeting, the Commission accepted the appointments of Mrs. Welsh and Ms. Maucher to be the Planning Commission member representatives and you directed Staff to reach out to the previous Design Professionals that had served on that Subcommittee. They have not had the opportunity to do that so they ask that this item be continued. They will try to get that taken care of for you.

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

Mrs. Melson-Williams stated that they have been giving the Commission updates on project activities and the news that she has today is perhaps the most significant in a long time. The release of a Draft Plan is imminent in that they will be looking to make a submission to the PLUS Review Process which is the Preliminary Land Use Services Review Process with the Office of State Planning Coordination. For a project update, they are basically in the final review and editing of what they call a Staff Draft of the document. They released it as a complied document to Planning Staff and to City Department Heads in mid-August. They have slowly had comments coming back in and they have been trying to manage those and make updates to the various chapters to reflect those comments. They are working with the City's GIS Department on

maps. There is a whole series of a dozen or so maps that are associated with the Comprehensive Plan. Over the last year, there have been a couple of those maps issued as Preliminary Drafts but there are additional tweaks to those. They have issued a Land Development Plan Map and two maps associated with Annexation; both an Annexation Area and an Annexation Area Land Use Map. Both of which have had some minor tweaks as they met with their adjacent jurisdictions and did additional refinement with the Planning Staff review process. The key things that she wants to note to the Commission is if you trust Staff enough to go ahead and submit a Draft to PLUS. With that, that is going to be our introduction to the public of our initial draft of the Comprehensive Plan and its Map Series. In the month of October, you will see them pushing that to the public for them to start to get their initial look. With that, they are planning for another Open House Event on October 23rd. It will be a late afternoon or early evening event for people to come learn about, take views of the Plan Maps and get a look at the Draft document. They are also thinking of a Visitation during the day on the following day to capture opportunities for all. To start to see at least on the public side what this document looks like. They will be updating the City Council at the Committee of the Whole Meeting next week and they will actually provide to them Chapter 15 which is the Implementation Plan. The first pieces of that Implementation Plan is to release a Draft, go to PLUS and then start the formal public review process. She would certainly encourage any endorsement of Staff proceeding to the PLUS filing. They do have the City's website that has a page dedicated to the *Comprehensive Plan* and when it is released publicly it will be posted there. They are anticipating that part of your October meeting will be a little bit more of a formal introduction to that Draft so that the Commission really starts to understand all of the components of it. It will not be the public hearing or formal review process but at least a pretty good introduction for what is out on the street for initial and more complete public review of the document.

Mr. Hugg stated that he thinks Mrs. Melson-Williams has covered it quite well. They look forward to the Commission's continuing input. It has been a somewhat long and arduous process to get as to the point to where we are but he thinks that they have a very good document that just needs some good editing and house cleaning before they can submit it.

Mr. Tolbert questioned if a copy of the Draft Plan would be on the City's website? Responding to Mr. Tolbert, Mrs. Melson-Williams stated yes, the entire Plan. They have to make a submission of the entire plan document meaning all fifteen chapters. The Commission has seen the Goals and Recommendations for the chapters in the past year and there is also a series of about twelve maps. That entire document must be submitted to PLUS and when that is done, they will post that entire document on the City's website on our Comprehensive Plan Project Page. They will probably set it up so that if you only wanted to read certain chapters you could pull down a chapter but the document will be there electronically. Staff will give the Commission at least a synopsis presentation at the October meeting. If you would like a full printed copy of the document, Staff can provide that to you as well.

Ms. Maucher questioned with the PLUS Review, will there be a second review if there are changes recommended after the first review? Responding to Ms. Maucher, Mr. Hugg stated that the PLUS Review is primarily the State Agency's review of the document. He suspects that they will have both text and map questions or comments and they may have questions relating to the ultimate certification of the Plan. Once they get those comments back, they will do kind of an

editorial review of the *Comprehensive Plan* based on the PLUS comments and address any certification issues. They will simultaneously be doing the Public Workshop and ultimately a presentation and approval by the Planning Commission and a presentation and approval by City Council. The State will get one more crack at it once it's approved by City Council and then there is a certification process.

Mrs. Melson-Williams stated that by issuing it to PLUS it becomes a public document so they are looking to take that month as an opportunity to really introduce the public to the document. The PLUS Review process does garner comments from various State Agencies. They may find data corrections that need to be made. They also at the other end of that extreme would be what they call "certification issues" meaning that there is material or parts of the Plan that could not be certified ultimately by the Governor. When that happens, it becomes what do you have to do to fix it and it's somewhat of a negotiation process depending on what that certification comment is. They are trying to avoid those but they will see.

Mrs. Welsh moved to approve and support the PLUS submission based on the DRAFT proposals, seconded by Mr. Tolbert and the motion was carried 8-0 by voice vote.

Meeting adjourned at 7:55 PM.

Sincerely,

Kristen Mullaney
Secretary