

## **SAFETY ADVISORY AND TRANSPORTATION COMMITTEE**

The Safety Advisory and Transportation Committee Meeting was held on May 27, 2014 at 4:30 p.m. with Chairman Hutchison presiding. Members present were Mr. Dixon, Mr. Perza (arrived at 4:34 ), and Mr. Keller.

### **AGENDA ADDITIONS/DELETIONS**

**Mr. Dixon moved for approval of the agenda as presented, seconded by Mr. Keller and unanimously carried.**

### **Request for Waiver of Public Street Frontage Requirement - Appendix A - Subdivisions, Article VI - Subdivision - General Requirements and Design Standards, Section E - Lots (Dover Mall)**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised the Committee that Simon Property Group, owner of the Dover Mall, L.P., was proposing to create three (3) parcels of land from the existing 149.3225<sup>+/-</sup> acre parcel of the Dover Mall. She explained that the parcel would be subdivided into a 53.1704<sup>+/-</sup> acre parcel, a 30.7046<sup>+/-</sup> acre parcel, and a 65.4475<sup>+/-</sup> acre parcel. Mrs. Townshend stated that the property is zoned SC-3 (Regional Shopping Center Zone), and a portion is subject to the SWPOZ (Source Water Protection Overlay Zone) Tier 3 – Excellent Recharge Area. The property is located on the east side of North DuPont Highway and south of but not adjacent to Rustic Lane.

Mrs. Townshend explained that, as proposed, the subdivision would create two (2) lots without frontage on a public street, which is required by the Zoning Ordinance. She stated that in the waiver request submitted by the applicant, the applicant stated that proposed Lots 1 and 2 have frontage on State Route 1; however, proposed Lot 2 does not have frontage on this route. The purpose of the requirement for frontage on a public street is to ensure access to lots created. As State Route 1 is a limited access highway where direct access is not permitted, frontage on State Route 1 was not deemed adequate to meet the requirements of the Land Subdivision Regulations.

Mrs. Townshend explained that, typically, a request for a waiver from the requirement of the subdivision is presented before the Planning Commission, who then makes a recommendation to City Council; however, due to the nature of this request, which involved street lengths and street design, the Planning Commission's recommendation was being presented to the Committee to make a recommendation to Council. Mrs. Townshend reviewed a map of the property, pointing out the location of Route 1 in relation to the Dover Mall and the proposed subdivided plots in the rear. Mrs. Townshend explained that the original request included residential zoning for Lot 1, but this portion of the request was withdrawn after a negative recommendation from the Planning Commission; therefore, zoning would be commercial only. She advised members that when the property was planned for residential use, all of the emergency services (Police Department, Fire Department, the Fire Marshal, etc.) expressed safety-related concerns about Lots 1 and 2 not having frontage. Once the residential component was removed, the Police Department and Fire Marshal retracted their concerns; however, the Fire Department continued to have concerns.

The Planning Commission recommended approval of the requested waiver subject to inclusion of the necessary easements listed in the Development Advisory Committee Report.

Mrs. Townshend explained that the Planning Commission and the Delaware Department of Transportation (DelDOT) expressed concerns about extending Rustic Lane; however, if the road were marked for emergency access only, they would agree to the extension.

Responding to Mr. Hutchison, Mrs. Townshend advised that, if approved, the application specifies that the property would be commercially based; however, she cautioned that this was based on the current zoning and if the zoning regulations change, this could potentially allow for residential use. Mrs. Townshend expressed her concern regarding that possibility; however, she also noted that only two (2) properties within the City of Dover had the same zoning classification (SC-3); therefore, if there was a proposal to make a change to that section of the zoning ordinance, this property would likely be considered in regard to its potential for residential use and the potential impact. In response to Mr. Hutchison, Mrs. Townshend said that any application for a change to the zoning ordinance to allow for residential use would be considered by the Planning Commission and Council and two (2) public hearings would be required.

Stating his feeling that he would never support residential zoning on the Dover Mall property, Mr. Hutchison asked if discussions had taken place with representatives of the Dover Mall. Responding, Mrs. Townshend advised members that she had made them aware of the City's concerns with approving the frontage waiver request, recognizing that the location is between the speedway, the highway, and the Dover Mall which would not be an ideal situation for a residential area.

In response to Mr. Keller, Mrs. Townshend advised that, presently, no plans were in place for Lots 1 and 2; however, discussions had taken place in consideration of "big box" tenants on Lot 2.

Responding to Mr. Keller, Mrs. Townshend concurred that the infrastructure required to build on the property would be massive. She noted that a determination would have to be made regarding how to provide sewer and water, as there would be no ability to tap into the private lines that serve the Mall. Access to the main line would have to be routed through the property, or off Rustic Lane. In addition, Mrs. Townshend stated that the Delaware Department of Transportation (DelDOT) had started discussions regarding a traffic impact study, noting that there was a concept to put in a service road that would connect Scarborough Road and Leipsic Road, and that the applicant may be responsible for constructing a portion of this road.

Mr. Keller expressed concerns that this proposal would involve major expenditures on the part of the State and City of Dover, questioning who would bear the burden of even the limited access road in the rear of the property. Responding, Mrs. Townshend stated that it was hoped that the State would work on this portion of the funding.

Responding to Mr. Hutchison regarding the timeframe that the property owner would have to move forward if the waiver were approved as presented, Mrs. Townshend advised that if the request were approved and the lots were recorded, the lots could be sold immediately.

Mr. Dixon expressed his disapproval, stating there were too many variables.

Mr. Perza advised members that, although he personally did not have any information regarding this particular project, his firm (May and Perza, PA) represents Simon Property Group; therefore, he indicated that he would not be taking a position on the matter at this time.

Responding to Mr. Hutchison regarding the result if the Committee denied the request, Mrs. Townshend stated that the Committee could only recommend against approving the request; the final decision would be determined by Council. Mrs. Townshend noted that without approval of the request, the applicant would not be able to subdivide the lots.

Mr. Hutchison stated that he believed the Dover Mall was good for the community and wanted to support their growth; however, he also wanted to be sure that the community is protected. Responding, Mrs. Townshend stated that the Committee also had the option of not make a recommendation either for or against approval of the waiver and to defer the decision directly to Council or to defer action until the next meeting and request that the applicant be present to answer questions.

Mr. Keller and Mr. Hutchison conveyed their preference to defer the matter until the next Committee meeting when the applicant could be present to answer questions. Mr. Keller noted that there was a lot of information to be considered and he felt it was very important to have all of the facts and details before a recommendation was made, noting the amount of money and infrastructure involved.

**Mr. Keller moved to defer action on the request until the June 23, 2014 Safety Advisory and Transportation Committee meeting when the applicant can be present to answer questions. The motion was seconded by Mr. Hutchison and unanimously carried.**

**Mr. Hutchison moved for adjournment, seconded by Mr. Keller and unanimously carried.**

Meeting adjourned at 4:48 p.m.

James L. Hutchison, Sr.  
Chairman

JLH/MK/js/dd/tm

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