

## **REGULAR CITY COUNCIL MEETING**

The Regular City Council Meeting was held on August 9, 2021 at 7:35 p.m. with Council President Sudler presiding. Council members present were Mr. Anderson, Mr. Boggerty, Mr. Neil, Mr. Hare, Mrs. Arndt, Mr. Rocha, Mr. Taylor, and Mr. Lindell.

Staff members present were Police Chief Johnson, Ms. Peddicord (via WebEx), Mr. Harline, Mr. Hugg, Fire Chief Carey (departed at 8:45 p.m.) Mr. Rodriguez, Mrs. Sapp, and Mrs. Ramsey.

### **OPEN FORUM**

The Open Forum was held at 7:20 p.m., prior to commencement of the Official Council Meeting. Council President Sudler declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Mr. Steven Hall, 326 North Bradford Street, expressed concerns regarding safety after the City has cleaned up areas of the community and assistance to decrease the homeless population.

Mr. Andrew Marshall, 648 Venue Drive, spoke about the need for electric charging stations around the City of Dover. Mr. Neil noted that there was a proposal for charging stations for the Bradford Street lot.

Mr. Bennett Downes, 774 South State Street, spoke about the need for electric charging stations.

Mrs. Patty Downes, 774 South State Street, spoke about the need for electric charging stations and how they would be helpful to have anywhere a person has to park.

### **INVOCATION**

The invocation was given by Elder Ellis Loudon.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Councilman Lindell

### **ADOPTION OF AGENDA**

Mr. Sudler requested an addition to the agenda to allow Police Chief Johnson to introduce the Police Department's new facility animal.

**Mr. Neil moved for adoption of the agenda, as amended, seconded by Mr. Rocha and unanimously carried.**

### **ADOPTION OF CONSENT AGENDA**

All Consent Agenda items are considered routine and non-controversial and will be acted upon by a single roll call vote of the Council. There will be no separate discussion of these items unless a member of Council so requests, in which event the matter shall be removed from the Consent Agenda and considered a separate item.

**Mr. Neil moved for adoption of the consent agenda, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

#### **INTRODUCTION OF THE POLICE DEPARTMENT'S FACILITY ANIMAL**

Police Chief Johnson introduced Patrolman First Class (PFC) Lee Killen, Community Policing Unit, and Roy III, the new facility animal from Canine Companions. Chief Johnson stated that Canine Companions match special animals to appropriate parties to serve critical missions which included being in support of victims, staff, and organizations that have high stress and big challenges.

#### **REZONING REQUEST - PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2021-14**

A public hearing was duly advertised for this time and place to consider the rezoning of property located at 1617 Forrest Avenue, consisting of 5.04+/- acres, owned by Draper Farm Properties. This property is currently zoned R-10 (One Family Residence Zone) subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is C-2A (Limited Central Commercial Zone) subject to the COZ-1 (Corridor Overlay Zone). (Tax Parcel: ED-05-075.00-01-07.00-000, First Council District; Planning Reference: Z-21-05) **(Postponed during the Council Meeting of July 12, 2021)**

**Mr. Neil moved that the final reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Rocha and unanimously carried.** (The First Reading of this ordinance was accomplished during the Council Meeting of May 24, 2021).

#### Planner's Review

Mr. David Hugg, Director of Planning and Community Development, reviewed the petition to amend the zoning district and the findings and recommendations of the Planning Commission. He noted that the Planning Commission recommended to deny the rezoning request. Mr. Hugg advised members that the request was subject to a protest petition received on July 12, 2021 and was validated by the Planning Office, which meant to have an affirmative vote, it required a three-quarter vote of Council.

Mr. Hugg noted that the Land Use Classification for the property was changed to Mixed Use as part of the Comprehensive Plan, which allowed a variety of zoning districts including the one being requested.

Responding to Mr. Rocha, Mr. Hugg stated that the Comprehensive Plan Land Use Classification for the property would allow a variety of zoning districts, including the current zoning, R-10, of the property.

Responding to Mr. Hare, Mr. Hugg stated that the Comprehensive Plan was completed the fall of 2020 and on January 13, 2020, Council unanimously approved the plan for that area. He noted that the Land Use Classification - Mixed Use did include the potential zoning classifications C-2, C-2A, C-1 and R-10.

Responding to Mr. Hare, Mr. Hugg stated that he could not confirm, but did not believe that there was public opposition when Council approved the Comprehensive Plan. He noted that there had

been specific discussion about this particular property at that meeting because there was concern about whether it should be shown as a commercial land use classification or mixed use.

Responding to Mr. Hare, Mr. Hugg advised that the Comprehensive Plan was unanimously approved by Council and approved and signed by the Governor.

Responding to Mr. Neil, Mr. Hugg stated that if the property were to remain zoned as the R-10 classification, there would be no rezoning involved so it would not go to Planning Commission or Council. Mr. Hugg stated that the standard procedure was to go through the Planning Commission followed by a public hearing.

Responding to Mr. Taylor, Mr. Hugg advised that a traffic study specifically for the rezoning would not have been done prior to the vote in 2020. He stated that it was a road maintained by the Delaware Department of Transportation (DelDOT), so they would determine whether a traffic impact study or other area-wide studies would be required. Mr. Hugg advised that those activities would take place during the site plan and development process, not normally at the rezoning.

Mr. Taylor noted that when the Comprehensive Plan was signed into law, a traffic study was not done and even at that particular time, they were having issues with traffic that bottlenecked the Dover High School area which was why he asked these questions. Mr. Hugg advised that during that period there had been a number of studies conducted by DelDOT and the Metropolitan Planning Organization (MPO) regarding the Route 8 corridor and the highway system. He noted that every year he presented the City's Transportation Prioritization list, which is part of a series of efforts to look at the entire transportation network, and it was not driven specifically by any one property rezoning at that time. Mr. Hugg stated that when the site actually went for a site plan or development, DelDOT may require traffic impact studies specifically for that particular use.

Responding to Mr. Taylor, Mr. Hugg advised that the Route 8 corridor was identified in the Comprehensive Plan as one of the major transportation corridors that they were concerned about. He noted that the short-term list included Dover, Kenton, College, and Walker Road, but did not include the area of Route 8 west of Kenton Road, specifically.

Responding to Mr. Boggerty, Mr. Hugg advised that if the rezoning application was voted upon, the decision of use would not come back to be voted upon. He noted that by zoning the property, they would have granted the applicant a certain array of uses that fell within the category, in this case it would be the C-2 category which included various commercial uses, office uses and some residential uses, but this decision did not grant final approval for any specific use. Mr. Hugg stated that final approval would go back through the site plan process as a specific proposal which did not go to Council if there was a public hearing before the Planning Commission.

Responding to Mr. Lindell, Mr. Hugg clarified that if the rezoning application passed, the applicant would have a list of things that they could do with the property once it was rezoned. Mr. Lindell asked if the applicant would then take the site plan to the Planning Commission and if there would be more of a standing for the citizens of the surrounding community to reject it at that point. Mr. Hugg requested clarification on the question. Mr. Lindell clarified that he sympathized with the

residents surrounding the property however, looking at the property rights of the applicant, he was trying to navigate a way that they respect the rights of the property owner that was applying while also allowing the citizens surrounding the proposed property to have a say when it went to the Planning Commission. Mr. Hugg advised that the application was for the C-2A - Limited Central Commercial Zone, which would allow the applicant to have retail stores of almost any variety, business, professional government offices, personal service establishments, which would be beauty shops, restaurants, service establishments, hotels, places of public assembly, and one family residence and apartments. He stated that it could be used for a variety of uses that the owner could then pursue, but there was nothing in that night's action that would say it would have to be any one of those uses versus another one.

Mr. Hugg stated that when they determined what they were going to do with the project, they would start a site plan review process which goes through a rigorous review at the staff level then the Development Advisory Committee, which involved State and City offices, would look at all the various impacts. They would have to meet the overlay zoning district, in addition to the normal requirements and then go before the Planning Commission for a public hearing. Mr. Hugg stated that the Planning Commission ultimately decided whether or not that project can move forward.

Responding to Mr. Lindell, Mr. Hugg stated that the Planning Commission was not locked into having to accept the application if there were a large amount of individuals that had concerns about it. He noted that their only decision was the basic zoning which would give them the right to pick from a list of potential uses and then pursue those through the Planning Commission through the site planning and development process.

Responding to Mr. Lindell, Mr. Hugg advised that there was a conditional use application for gas pumps which would go through the Planning Commission.

Mr. Anderson asked if the use was a permitted use in particular, not a conditional use, that the property owner had the right to subject to complying with the regulation. He stated that someone could not oppose the use if it was the proper zoning, it was just a matter of how it is done. Mr. Hugg advised that essentially, Mr. Anderson was correct.

Responding to Mr. Anderson, Mr. Hugg stated that if they chose a zoning classification which allowed a menu of uses, then they would be recognizing that menu of uses as the appropriate use for that property. He noted that the decision to designate a particular land use category was made when the Comprehensive Plan was adopted. The decision to rezone to any one of the particular zoning classifications allows for the listed uses, if they were consistent with the land use classification.

Responding to Mr. Anderson, Mr. Rodriguez confirmed that City Council was obligated to fulfill one of the uses that was consistent with the Comprehensive Plan and they would do that based upon what they thought was the best and appropriate use for that property. Council was not obligated to decide whether an application should be granted because the classification may fit in the Comprehensive Plan, they can choose to approve or not approve any zoning that is appropriate.

Mr. Hare stated that they had spent a lot of time working on the Comprehensive Plan with staff. He noted that during the public hearings there was no opposition, then Council approved it and the

Governor signed it. He asked if an applicant wanted to get a property rezoned, but opposition arose to the rezoning after the Comprehensive Plan was already approved, could Council change that. Responding, Mr. Rodriguez stated that the Comprehensive Plan designated it as mixed use, so any zoning category that fell within that definition of mixed use was appropriate. He noted that both of the two zonings, R-10 and C-2A, fell within that definition of mixed use.

### Public Hearing

Council President Sudler declared the hearing open.

Mr. John Paradee, Baird Mandalas Brockstedt, LLC, 6 South State Street, stated he was there to represent the owners of 1617 Forrest Avenue. He noted that it was an LLC named Draper Farm Property, and the two principles of the LLC were Mr. Eric Goode and Mr. Alan Davis.

Mr. Paradee stated this was not a site plan application and there was no specific use or site plan before Council. He reviewed the letter and exhibits submitted prior to the meeting (**Exhibit #1**). He noted that he respected the neighbors' concerns, but he felt, they were premature because they could not know for sure what was going to be proposed on the property when no one, not even the applicant, had proposed anything specific in terms of a site plan application.

Mr. Paradee noted that no one had done any formal scientific evidence-based study like a traffic impact study or specific to a use on the property so, until a specific use was proposed and evidence-based studies were performed, it was all sheer conjecture and speculation. He stated that was the essence of the Gibson case which was cited at footnote 17 of his letter, which stated vague and unsupported traffic congestion concerns were not adequate grounds to deny an application.

Mr. Paradee summarized the following key points:

- That the Comprehensive Plan identified C-2A as suitable and appropriate for the property.
- The Comprehensive Plan had the force and effect of law.
- There was no specific use proposal before Council at this juncture, and therefore, any consideration of site plan concerns was premature.
- To deny this application on the basis of purely speculative site plan concerns, when the comprehensive plan expressly provides that C-2A was suitable and appropriate for this property would be arbitrary and capricious.

Responding to Mr. Boggerty, Mr. Paradee stated that he had represented someone else and argued a similar position, but that property was across from the Bennie Smith Funeral Home. Mr. Boggerty stated that for that property, Mr. Paradee argued that it should not be resolved based on an assumption of use. He asked why the assumption of laws and everything previously argued applied to this issue and not that issue. Responding, Mr. Paradee stated that it was an entirely different pattern and noted that in the letter and exhibits, tab two included a chart that explained the differences between the applications. He noted that with the other application the Dover Interfaith Mission for Housing (DIMH) lobbied for that application and made it known publicly, as did the applicant, that they were pursuing that rezoning for purposes of selling the property to DIMH for an apartment shelter for the homeless. Mr. Paradee noted in the previous application, the proposed use was not compatible with surrounding uses because there was ample evidence of conflicts. They had

a similar facility in close proximity as to what they were proposing and there was testimony from property owners in the area who had specific conflicts with that use. He noted that they did not know what the use at the 1617 Forrest Avenue was going to be so they did not have any evidence of conflicts. Mr. Paradee stated that the location in the other instance would have violated State law and the proposed use was inconsistent with the Comprehensive Plan because the Downtown District Revitalization Plan, the use which was proposed, would have conflicted with the objective of the Downtown District Revitalization. He stated that none of those factors were present in this case and that the proposed zoning did not violate any State law Table 12-1 showed it was consistent with the Comprehensive Plan.

Mr. Rocha asked Council if they wanted a business, professional office, restaurant, or hotel across the street from the high school. He noted that he did not have a reference of those types of businesses across the street from any school or high school.

Responding to Mr. Rocha, Mr. Paradee stated that many applicants will go before city or county councils and ask for a zoning classification that are not consistent with the current Comprehensive Plan which would result in a rezoning application coupled with an amendment to the Comprehensive Plan. Mr. Paradee stated that sometimes those are approved because the applicant is able to demonstrate that conditions in the neighborhood have changed, and the legislative body makes a judgment that they will amend their Comprehensive Plan and approve the rezoning. He noted that was a case where they could always say no, because they would rely on their constitution. However, Mr. Paradee stated that in this case, where 18 months ago they said all of the uses that were permitted in C-2A were suitable and appropriate in the Comprehensive Plan, they were confronted with an application that was consistent with the Comprehensive Plan and were duty bound to follow it and could not say no.

Mr. Rocha asked if the Comprehensive Plan had tied their hands in making a decision. Responding, Mr. Hugg stated that he did not know that he would use the term "tied their hands." He stated that the Comprehensive Plan was a statement of City policy in regard to the future land use of the City and it had designated certain areas for certain land use classifications that allowed for a number of different things that were compatible with the neighborhood. Mr. Hugg advised that in this particular case, the property was currently zoned to R-10 and could stay R-10 but the applicant would be limited in terms of the uses and activities they could carry out. He stated that by adopting a Comprehensive Plan with a land use classification that is fairly broad, there are other things they may want to do differently than how it was currently zoned. Mr. Hugg noted that in that event, to some degree, the applicant had the ability to say that they would like to use the property for one of the seven uses, but to do that, they needed a different zoning classification allowed in that land use classification.

Mr. Rocha asked if they were conducting business backwards. He asked if the rezoning should come after the determination of what the use of the property was going to be so that they can make an educated decision, as opposed to blindly rezoning the property. Mr. Rocha stated that once they have made a decision then they have to rely on the Planning Commission instead of it going back to Council. Responding, Mr. Hugg stated that Council was relying on the Planning Commission since City Council was being asked to make a broad land use policy, and they were giving the Planning Commission and Planning Staff the responsibility for making determinations about specific uses and

where they fit in the array of ordinances and regulations that they had available. Mr. Hugg noted that as far as being backwards, the risk there would be bordering on zoning for sale or contract zoning.

Mr. Anderson expressed his concerns with Mr. Paradee's argument. Mr. Anderson asked when they okayed C-2 zoning. He stated that was not what the comprehensive plan said and asked where they said C-2A was what they were approving when they specifically said that they were not going to make it a commercial property. Responding, Mr. Paradee stated that on January 13, 2020, Council voted to change the designation for the property from medium density residential to mixed-use. He noted that essentially they were saying that any of the zoning uses set forth in any of the districts that were permitted or designated as mixed use were suitable and appropriate for the property.

Responding to Mr. Rocha, Mr. Hare advised that there were businesses within a 10<sup>th</sup> of a mile from Caesar Rodney High School.

Mr. Lindell asked if Mr. Sudler, Mr. Hugg, Mr. Rodriguez, or Mr. Paradee had experienced a situation where Council had rezoned a property, then the applicant went to the Planning Commission and wanted to do something that was permissible within that zoning approved by Council with residents objecting to it, and the Planning Commission rejected that plan outright, even though it was a permitted use in that rezoning. Mr. Lindell stated that they needed to respect the individual property owners' rights, but they also needed to look at the surrounding property owners as well.

Responding to Mr. Lindell, Mr. Hugg stated that if a rezoning was approved then the project would go through the site plan process. It would need approval from the following:

- DelDOT, which had control over the access and flow of traffic and would establish a significant amount of restrictions
- The Conservation District, which would establish a number of districts relating to storm water and in addition to the Corridor Overlay Zone there were requirements that they would add.
- The Superior Urban Carter Development, which would deal with protecting the neighborhood and ensuring that the purposes that were set forth in the mixed use and zoning district were accomplished.

Responding to Mr. Lindell, Mr. Hugg stated that there was no guarantee that any project that the applicant brought forward would ultimately get site plan approval. He noted that the Planning Department has had site plans that have changed dramatically from what they originally proposed to what was built because of design criteria, other considerations, and impacts from the use, which resulted in a change in the plan.

Responding to Mr. Lindell, Mr. Rodriguez stated that they had the protection of the Corridor Overlay Zone and referred Council to the decision made by City staff noted in Mr. Paradee's letter. Mr. Rodriguez stated if the rezoning was granted, it would also have to comply with a Corridor Overlay Zone, which covered a lot of the objections that may be brought out by other speakers. He noted that he agreed with what staff recommended.

Responding to Mr. Lindell, Mr. Paradee stated that he had been doing land use work for 32 years and he had seen situations where a property was rezoned, the applicant submitted a project and the Planning Commission rejected that option. He noted that it depended on whether it was their first permitted use or conditional use.

Mr. Boggerty noted that a convenience store with a few gas pumps was listed on the rezoning application. He asked if they should automatically approve a rezoning issue if it qualified and if so, why did they hear rezoning issues. He stated that the only thing that should come back and discuss is what was it going to be used for.

Mr. Paradee stated that the engineer who filed the application put what they thought was the highest and best use of the property, but they did not have a contract, site plan or any specific use for the property.

Responding to Mr. Sudler, Mr. Boggerty advised that the proposed use is listed as a convenience store with fuel pumps.

Responding to Mr. Sudler, Mr. Rodriguez advised that their decision was not the use of the property. He stated that no matter what was put down as use, any use within the C-2A zone was appropriate. Mr. Boggerty stated that they had established, as past practice, that their decision was based on assumptions of use. He noted that he has tried to separate the assumption of use and now they were saying not to consider this assumption of use. He stated that his point was that either one or two things had to happen, they were going to consider assumption of use in their rezoning applications or they were going to let all rezonings take place and they would make a vote when it came time for usage.

Responding to Mr. Rocha, Mr. Hugg stated that the Comprehensive Plan was a statement of policy about the future of the City and how it wished to grow, so a permissive document. He noted that the Comprehensive Plan was based on facts, trends, public input, and knowledge of what best uses of land given certain circumstances.

Responding to Mr. Hare, Mr. Rodriguez stated that since the Comprehensive Plan was unanimously approved by Council and now, when there were rezoning applications, if Council did not approve the rezonings and went against what was already approved, it could end up being a costly mistake. He noted that they could be taken to court and in all probability they would lose. Mr. Rodriguez reminded Council members that their decision tonight could not be based on the use of the property, it was strictly on the rezoning.

Mr. Maurice Jenkins, Jr., 130 Yarmouth Way, advised that he knew that the owners wanted to build a convenience store along with some gas pumps on the property. He advised that his issue with the proposal was that his house was right behind the farmland and that it would affect him and everyone in the neighborhood and surrounding neighborhoods. Mr. Jenkins stated that a commercial zoning would diminish their property values. He also expressed safety concerns regarding a convenience store and gas pumps. He noted that they already had a Wawa, Valero, and Royal Farms on Route 8 nearby, and having a fourth convenience store with gas pumps made no sense.

Responding to Mr. Sudler, Mr. Jenkins stated that he was made aware of the convenience store along with gas pumps by a letter posted on his door. He noted that it stated that the rezoning would make the property eligible for any use and included a convenience store with gas pumps.

Ms. Rosemarie Eberly, 109 Tucket Circle, asked why would there be a need for any hearing for a zoning change if, as Mr. Paradee stated, the Comprehensive Plan obligated them to approve the zoning change. She stated that she did not agree with Mr. Paradee and that a C-2A zoning was not appropriate for the area.

Mr. Richard Heisler, 1598 Forrest Avenue, regarding the notification of the rezoning compared to the Comprehensive Plan, asked why they first found out about the rezoning by the sign on the property and the registered letter. He stated that they were never notified about the Comprehensive Plan and that he did not show up because everything was done remotely due to COVID. Mr. Heisler stated that it was reckless of the owner to request a zoning change and have no idea what they were going to put there. He noted that the owner told him that the plan was to have a convenience store on the property. He expressed his concerns regarding noise, light pollution and chances of lawlessness. Mr. Heisler noted that they would also lose a 200-year old tree which sat in the middle of the property, regardless of how it was developed other than single family homes.

Mrs. Ashia Muchison, 129 Falmouth Way, stated that she and her husband were respectfully asking Council to vote no to the rezoning of the property and the initial application for the convenience store. She noted that it was not a presumption because they got a letter that stated it was going to be a gas station. Mrs. Muchison stated that it did not matter if it was a gas station with pumps, it was not an area where they should put a beauty salon either. She stated that allowing the property to be turned into a commercial property would potentially bring trash, chaos, loitering, and potential drug use and selling. She noted that their property value would decrease. Mrs. Muchison stated that they have small children and a playground and the rezoning would open that space for anyone, including sex offenders, drug users and property damage.

Mr. Darryl Muchison Sr., 129 Falmouth Way, stated that he and his wife moved to Dover 13 years ago from Philadelphia. He noted that he still commuted to Philadelphia for work and that his home was his place of solitude. Mr. Muchison stated that they have raised their family here and there were more families in their community on the same path that they were.

Responding to Mr. Sudler, Mrs. Muchison stated that she worked locally and when school was in session, they could not get out of their development to make the left or right turn because of the school busses. She noted that it is about a 15-minute delay. She stated that she could not fathom her daughter coming home from college to random people walking up behind her car.

Responding to Mr. Anderson, Mrs. Muchison stated that she could not imagine the uses with the C-2A zoning that would be compatible with their corridor or that would allow traffic management for young people to cross the street. She stated that when they were zoning for the school, they were going to put a High-Intensity Activated CrossWalk (HAWK) light in front of their development but it was put up on the street at Heatherfield.

Mr. Dennis Rogers stated that he did not want a convenience store or any business across the street.

He stated that it was a beautiful neighborhood for children to go to the playground right across the street and noted that he has taken his grandchildren to Cranberry Run and his children before them. Mr. Rogers also stated that his wife could not pull into their driveway because Route 8 was a nightmare. He stated that he has waited 10-15 minutes at times for traffic because there was not a proper turn lane or light.

Mr. John Davis, 4 Stoney Drive, stated that he did not object the Comprehensive Plan because he had a heart valve replaced in November 2019 and that there was no notice like there was for the Planning Commission event which was sent through the mail and was required by law. He stated that during that time there was public outcry. Mr. Davis expressed his concerns with the Comprehensive Plan and stated that they could rule out every single use in the C-2A zoning. He noted that they have a problem on Route 8 and that from Dover High School's west entrance, east to Dover and Kenton Road was a little more than a mile and they had six developments that were in range before Mifflin Road. He noted that traffic was going to hit hard when school started up in September and that every single commercial use that they could put on the property would increase that.

Responding to Mr. Anderson, Mr. Davis stated that it was his understanding that the property was zoned as R-10 which was consistent with the Comprehensive Plan and any vote to keep it that way would be fine.

Mr. Sudler asked what the danger and risk to life that could exist because of the cross traffic was. Responding, Mr. Davis stated that there was an opportunity for loss of life or certainly injury.

Mr. Davis noted that their neighborhood did file a petition with the Planning Commission.

Mr. Charles Moudorf, 1594 Forrest Avenue, stated that he had been a resident for 41 years and had seen changes to Route 8, and it had not been for the better. He stated that he lost 10 feet of frontage on his property when the school opened. He noted that they paid him for it, but a minor amount. Mr. Moudorf stated that he used to enjoy sitting on his wraparound porch, but that traffic had become terrible over the years and the noise was even worse. He noted that recently on Sunday, he was on his front porch and three dirt bikes went down the street doing wheelies. Mr. Moudorf stated that the health and welfare of the children out there had to be paramount in Council's decision.

Ms. Diane Murphy Hill, 668 Artis Drive, stated that the rezoning was consistent with the 2019 Comprehensive Plan, but it did not have to be. She stated that R-10 was consistent with what went on in that area. Ms. Hill expressed her concerns regarding traffic on Route 8. She stated that she was told when the school was built studies would be conducted and then the apartment complex came, but nobody did a good comprehensive plan of all the traffic that was going to come from that. She noted that now a church was coming in, with 300 parking spaces because of all of the parishioners. She stated that she knew that would not be there every day, but as it was, many of the property owners have had to alter their travel times for work because they cannot get caught up in that traffic jam between the school and Mifflin Road.

Mrs. Patty Downes, 774 South State Street, stated that she had lived across from South Dover Elementary for approximately seven years. She noted that her home was originally surrounded by doctor's offices with weekday hours but the office closed and was now a disruptive 24-hour medical

facility with ambulances coming and going. Mrs. Downes expressed her concerns that when Council votes on rezonings they do not always know what business it will bring.

Ms. Christie Johnson stated that she wanted to echo the same sentiments all of the residents and surrounding neighbors had expressed. She noted that she had smaller children and moved from Philadelphia to come to a safer and friendlier environment. Ms. Johnson stated that the thought of having any type of convenience store or commercial business that would not only bring danger to her loved ones and younger children, but also traffic as well scared her.

Ms. Pat Procello, 120 Chelsea Way, stated that in 2019, when Council decided the fate of Route 8, she never received any type of notification, but Mr. John Davis notified her. She stated that she did not notice the sign that was on the farm property until she stopped to read it. She stated that the owners told her that they were entertaining a Sheetz gas station and convenience store. Ms. Procello noted that when she purchased her home nine years ago, she was told that the farmland was zoned farmland forever, and that was one of the reasons why she purchased her home. She noted that if they put a convenience store there, they were not only talking about environmental issues and the smell of the gasoline, but they were directly across from the high school, and the students dart across the street constantly and have many near misses so they walk on the shoulder. Ms. Procello stated that there was never a police presence there.

Mr. Jack Sutton, 1618 Forrest Avenue, stated that everyone else had covered what he wanted to say. He noted that if they put a Sheetz gas station in, it would light up the entire neighborhood and that was going to take quality of life away from the people who were trying to sleep at night. He expressed concerns regarding traffic safety and 18 wheelers parking at Sheetz.

Ms. Patricia Cohen, 1602 Forrest Avenue, requested that Council uphold the Planning Commission's vote to recommend denial of the application. She stated that the proposed changes to rezone the property were not positive changes for the City, nor did they align with the goals outlined in the Comprehensive Plan under Housing and Community Development which stated "to provide safe and healthy livable neighborhoods". She stated that by changing the zoning to commercial opened a gateway to numerous possibilities that would prevent the surrounding residential areas from remaining tranquil and retaining the small town feel as stated in the Comprehensive Plan. She noted that the amount of increased traffic generated by another commercial establishment would endanger residents, motorists and pedestrians, many of whom were high school students. Ms. Cohen expressed concerns regarding safety, traffic, increased noise and trash.

Council President Sudler declared the hearing closed.

Mr. Anderson moved to adopt proposed ordinance #2021-14. The motion was seconded by Mrs. Arndt.

Mr. Anderson stated that it was incomprehensible to be able to adjust the traffic safely for the zoning proposed. He stated that when they did the Comprehensive Plan, it said low intensity and the request was not low intensity. He noted if they voted to overturn the Planning Commission, they must state why and he could not think of a compelling reason to state why they would overturn the Planning Commission on this unanimous vote. Mr. Anderson expressed concerns regarding public health and

safety. He stated that the rezoning would be inconsistent with the other properties immediately adjacent to it.

Mr. Sudler clarified that the Planning Commission's recommendation was to deny the rezoning request.

Mr. Lindell expressed his concerns for possible litigation that could cost more money down the line when they could fight the battle more effectively with what was proposed by the site plan. He stated that the neighbors had valid points, but he was worried if they were to reject the request it would make them more vulnerable to defend the concerns of the neighbors when they had the chance to do it.

Responding to Mr. Lindell, Mr. Rodriguez stated that if they were to lose, the rezoning request would go back to the Planning Commission or to staff to impose the restrictions of the C-2A - Corridor Overlay Zone. He noted that there were a lot of protections that Mr. Hugg had reviewed. Mr. Rodriguez noted that it would be a difficult case to win.

Mr. Taylor expressed his concerns regarding changing the aesthetics of the neighborhood. He stated that the rezoning would only increase the traffic hazards and that it would be inconsistent with what was already there.

Mr. Hare stated that if notifications for hearings were not sent in the bills, they should be to make sure people receive them.

**Mr. Neil called the question. The motion was seconded by Mr. Boggerty and carried with Mr. Taylor voting no.**

Mr. Anderson clarified that the motion was to vote to approve the rezoning request. Mr. Lindell clarified that if someone was voting yes, it was an affirmative motion to support the rezoning and if a person voted no, it was a vote against the rezoning.

Mr. Anderson moved to approve the rezoning request, seconded by Mrs. Arndt. The motion failed by a roll call vote of eight (8) no (Anderson, Boggerty, Neil, Hare, Arndt, Rocha, Taylor, and Sudler) and one (1) yes (Lindell).

Mr. Hare moved to deny the rezoning request, as recommended by the Planning Commission. The motion failed due to a lack of a second.

Responding to Mr. Sudler, Mr. Rodriguez stated that the motion was clear to deny the rezoning and to follow what the Planning Commission did.

**ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF JULY 26, 2021**

**The Minutes of the Regular Council Meeting of July 26, 2021 were unanimously approved by motion of Mr. Neil, seconded by Mr. Boggerty and bore the written approval of Mayor Christiansen.**

**COUNCIL COMMITTEE OF THE WHOLE REPORT - JULY 27, 2021**

The Council Committee of the Whole Meeting was held on July 27, 2021 at 6:00 p.m., with Council President Sudler presiding. Members of Council present were Mr. Boggerty, Mr. Neil, Mr. Hare, Mrs. Arndt, Mr. Rocha, and Mr. Taylor. Mr. Anderson and Mr. Lindell were absent. Civilian members present for their Committee meetings were Mr. Contant (via WebEx) and Mr. Shevock (*Legislative, Finance, and Administration*).

**COUNCIL COMMITTEE OF THE WHOLE****Adoption of Agenda**

**Mr. Rocha moved for adoption of the agenda, seconded by Mr. Neil and unanimously carried.**

**LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

The Legislative, Finance, and Administration Committee met with Mrs. Arndt presiding in the absence of Mr. Anderson.

**Adoption of Agenda**

**Mr. Neil moved for adoption of the agenda, seconded by Mr. Shevock and unanimously carried.**

**Replacement of 2003 Pierce Lance Engines 3 and 6 (David Carey, Fire Chief)**

Mr. David Carey, Fire Chief, reviewed the background and analysis regarding the evaluation of bids for the replacement of 2003 Pierce Lance Engines 3 and 6.

Staff recommended approval of the purchase of 2022 Pierce Enforcer Pumper.

Responding to Mr. Shevock, Chief Carey stated that as far as he was aware there had been no correspondence back from the other two companies they had sought to bid.

Responding to Mr. Neil, Chief Carey stated that two vehicles would be retired. He noted that normally they would sell the fire trucks to pay for new equipment but one of the trucks may have a blown engine so they were not sure if they would sell it as is or if they would fix it up to sell.

Responding to Mr. Neil, Chief Carey stated that they had not lost any capability for the City despite going from two trucks to one due to the fact that the rescue engine had an extra pump that could carry water that the previous engine did not.

Responding to Mr. Contant, Chief Carey stated that they had not applied for any grant money for the fire apparatus but they could look into it.

Responding to Mr. Taylor, Chief Carey stated that he would work with the City of Dover Grant Writer and the Fire Department Grant Writer to get financial assistance in this process.

**Mr. Hare moved to recommend approval of staff's recommendation, seconded by Mr. Neil and unanimously carried.**

**By consent agenda, Mr. Neil moved for approval of the Committees' recommendation, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

**Discussion of Regular Council Meeting Start Time (Councilman William Hare)**

Mr. William Hare, Councilman Second District, reviewed the benefits of changing the start time of Regular Council Meetings from 7:30 p.m. to 6:30 p.m. He explained that the annual meeting would remain at 7:30 p.m. per the City of Dover Charter. Mr. Hare noted that Mr. David Anderson, Councilman Fourth District, had said that he was fine with changing to a 6:30 p.m. start time and would like his support included on the record.

The recommendation was to change the Regular Council Meeting start time to 6:30 p.m. beginning in September 2021.

Mrs. Arndt noted that Mr. Matthew Lindell, Councilman First District, had contacted her and expressed that he was not opposed to the 6:30 p.m. start time.

**Mr. Neil moved to recommend approval of changing the Regular Council Meeting start time to 6:30 p.m. beginning in September 2021. The motion was seconded by Mr. Taylor and unanimously carried.**

**By consent agenda, Mr. Neil moved for approval of the Committees' recommendation, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

**Evaluation of New Monthly Reports by the Mayor, Council President, and Members of City Council**

Mr. Roy Sudler, Council President, explained that the monthly reports he had requested of the Mayor, Council President and Members of City Council were not mandatory and he asked that the Council members decide whether it was something they wanted to do moving forward.

Responding to Committee Members questions, Mr. Sudler advised the following:

- The reports would be presented at the first Council Committee of the Whole meetings of each month rather than at Council Meetings
- The reports could be presented either in written format or verbally
- The reports would be no longer than 3 minutes long
- If the representative has nothing to report, a report would not be required

**Mr. Sudler moved to recommend that the new monthly reports by the Mayor, Council President, and Members of City Council be presented at the first Council Committee of the Whole meeting each month either written or verbally and would be limited to three (3) minutes in length. The motion was seconded by Mr. Hare and unanimously carried.**

**By consent agenda, Mr. Neil moved for approval of the Committees' recommendation, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

**Mr. Hare moved for adjournment of the Legislative, Finance, and Administration Committee meeting, seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 6:26 p.m.

#### **SAFETY ADVISORY AND TRANSPORTATION COMMITTEE**

The Safety Advisory and Transportation Committee met with Chairman Taylor presiding.

##### **Adoption of Agenda**

**Mr. Sudler moved for adoption of the agenda, seconded by Mr. Boggerty and unanimously carried.**

##### **Dover Bicycle and Pedestrian Plan Update (Marilyn Smith, Executive Director, Dover/Kent County Metropolitan Planning Organization (MPO) and Leah Kacanda, Project Manager, Whitman, Requardt & Associates, LLP)**

Ms. Marilyn Smith, Executive Director, Dover/Kent County Metropolitan Planning Organization (MPO) introduced Ms. Leah Kacanda, Project Manager, Whitman, Requardt & Associates, LLP.

Ms. Kacanda reviewed the background on the Dover Bicycle and Pedestrian Plan and the recommendations for the project.

Dover/Kent County Metropolitan Planning Organization (MPO) recommended adoption of the Dover Bicycle and Pedestrian plan as presented (plan was adopted by MPO Council on May 5, 2021).

Mr. Neil and Mr. Sudler stated that they would like to reroute a bicycle route that was currently in front of Bennie Smith Funeral Home. Mr. Sudler requested that when the MPO and Delaware Department of Transportation (DelDOT) looked into rerouting the bicycle route that an eight foot multi-use pad be used as the alternative.

Responding to Mr. Sudler, Mr. Taylor stated that there was no way to include changes to the delineator or to rerouting the bicycle path at the current time.

Ms. Kacanda stated that there was nothing binding in the plan presented and that there was a lot of flexibility when it came to designing the facility.

Mr. Matt Harline, Interim City Manager, stated that the Committee could add a note to the study and accept it with a note from staff or it would go back to the MPO for revision. He noted that accepting the plan did not mean they could not continue to pursue some changes to the Senator Bikeway as it currently was.

Responding to Mrs. Arndt, Mrs. Lisa Chase, Grant Writer, stated that the deadline to submit the Bicycle Friendly application had been extended to September 1, 2021.

**Mr. Neil moved to recommend approval of the Dover/Kent County Metropolitan Planning Organization's (MPO) recommendation with the provision that the delineator discussion be revisited. The motion was seconded by Mr. Boggerty and unanimously carried.**

**By consent agenda, Mr. Neil moved for approval of the Committees' recommendation, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

Mr. Sudler moved to recommend that City Council declare the delineators on West Division Street, primarily in front of the Bennie Smith Funeral Home, undesirable, and potentially unsafe for that particular area and to instruct the City Manager and the Planning and Community Development Director to meet with DelDOT to discuss an alternative such as the multi-use eight foot asphalt pad.

Mr. Rocha requested that the motion be amended to include emergency vehicles.

**Mr. Sudler moved to recommend that City Council declare the delineators on West Division Street, primarily in front of the Bennie Smith Funeral Home, undesirable, and potentially unsafe for that particular area and to instruct the City Manager and the Planning and Community Development Director to meet with DelDOT to discuss an alternative such as the multi-use eight foot asphalt pad. The motion was seconded by Mr. Rocha and unanimously carried.**

**By consent agenda, Mr. Neil moved for approval of the Committees' recommendation, seconded by Mr. Boggerty and carried by a unanimous roll call vote.**

**Mr. Hare moved for adjournment of the Safety Advisory and Transportation Committee meeting, seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 6:57 p.m.

**Mr. Hare moved for adjournment of the Council Committee of the Whole meeting. The motion was seconded by Mr. Boggerty and unanimously carried.**

Meeting adjourned at 6:57 p.m.

**By consent agenda, Mr. Neil moved for acceptance of the Council Committee of the Whole Report, seconded by Mr. Anderson and carried by a unanimous roll call vote.**

**MONTHLY REPORTS - JUNE 2021**

**By motion of Mr. Neil, seconded by Mr. Boggerty, the following monthly reports were accepted by consent agenda:**

City Assessor's Report  
City Council's Community Enhancement Fund Report  
City Manager's Report  
City Planner's Report  
Fire Chief's Report (May and June)  
Police Chief's Report

**APPOINTMENT OF INTERIM ASSISTANT CITY CLERK/ASSISTANT TREASURER - MEGAN RAMSEY (EFFECTIVE AUGUST 4, 2021)**

**By consent agenda, Mr. Neil moved for approval of the appointment of Mrs. Megan Ramsey. The motion was seconded by Mr. Boggerty and unanimously carried.**

**RESOLUTION NO. 2021-20 - AUTHORIZING SIGNATURES FOR BANKING SERVICES ON BEHALF OF THE CITY OF DOVER - CONTROLLER/TREASURER, ASSISTANT TREASURER, AND INTERIM ASSISTANT TREASURER**

**By consent agenda, Mr. Neil moved for adoption Resolution No. 2021-20. The motion was seconded by Mr. Boggerty and by a unanimous roll call vote, Council adopted the following Resolution:**

**A RESOLUTION AUTHORIZING SIGNATURES FOR BANKING SERVICES ON BEHALF OF THE CITY OF DOVER, DELAWARE**

**WHEREAS**, the City of Dover's investment policy includes the investment of funds up to \$100,000 per banking institution, investments in the State of Delaware Investment Pool, and the purchase and sale of investment grade corporate bonds, and U.S. Treasury and agency securities; and

**WHEREAS**, the banking institutions, brokerage firms, trust companies, and other various financial institutions require an Authorizing Resolution for the opening of accounts, and for purchasing, selling, transferring, assigning, and handling securities.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dover, that the Controller/Treasurer, Assistant Treasurer, and Interim Assistant Treasurer are hereby authorized to open accounts with banking institutions and purchase, sell, transfer, assign, and handle securities and that they are authorized to sign all related forms;

**BE IT FURTHER RESOLVED** that the transactions in these accounts be carried out with any one signature; and

That the following are the office holders authorized for these purposes, until further notice:

Lori Peddicord	-	Controller/Treasurer
Janella Sapp	-	Assistant Treasurer
Megan Ramsey	-	Interim Assistant Treasurer

**ADOPTED:** AUGUST 9, 2021

**ANNEXATION/REZONING REQUEST/FIRST READING OF PROPOSED ORDINANCE #2021-16 - PROPERTY LOCATED AT 633 PERSIMMON TREE LANE, OWNED BY DOVER INDOOR TENNIS, INC.**

A request was received for annexation and rezoning of property located at 633 Persimmon Tree Lane, consisting of 3.1707 +/- acres, owned by Dover Indoor Tennis, Inc. This property is currently zoned AR - Agricultural Residential District (Kent County Zoning Classification) and the proposed zoning is RC - Recreational and Commercial Zone (City of Dover zoning classification). Staff recommended that the request be referred to the Utility Committee on September 14, 2021 and to the Planning Commission on September 20, 2021 and that a public hearing be set before City Council on October 11, 2021 at 6:30 p.m. (Tax Parcel: LC-00-058.00-01-32.00-000; Planning Reference: AX-21-03; Council District 3)

**Mr. Hare moved for referral, as recommended, seconded by Mr. Lindell and unanimously carried.**

In accordance with Section 1-9 of the Dover Code, Council acknowledged the First Reading of the proposed Ordinance as read by the City Clerk, by title only, as follows:

ORDINANCE #2021-16 AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF DOVER BY CHANGING THE ZONING DESIGNATION OF PROPERTY LOCATED AT 633 PERSIMMON TREE LANE

**INTERIM CITY MANAGER'S ANNOUNCEMENTS**

Mr. Matthew Harline, Interim City Manager, provided the following information:

- In June 2020, the City received a request to rename the New and Dover Street Park to Bishop LT Blackshear Park and they have officially renamed it. They are looking to plan an event possibly on September 18<sup>th</sup>, which is almost the anniversary of his passing.
- Mr. Harline would be going on vacation, but would be available by cell phone and email.
- With the Human Resources (HR) Department, the Parks and Recreation Department, and the Blood Bank of Delmarva, there was a blood donation drive scheduled at the Pitts Center on Monday, August 16<sup>th</sup>, from 12:00 p.m. to 6:00 p.m. If anyone wanted to register they could contact HR and all employees who donated would be entered to win a \$50.00 Amazon gift card.

**COUNCIL MEMBERS' ANNOUNCEMENTS**

Mr. Anderson thanked Council members and the Interim City Manager for their support with the Dover Health Care Blitz. He noted that 3,200 people were served which met their goal, 1500+ glasses had been issued and over a \$1,250,000 worth of services were rendered.

Mr. Rocha advised that his appointee to the Utility Committee, Ms. Jennifer Harris, passed away. He stated that while she did not get a chance to serve the City, she was willing.

A moment of silence was held for Ms. Jennifer Harris and her family.

**Mr. Hare moved for adjournment, seconded by Mr. Boggerty and unanimously carried.**

Meeting adjourned at 10:51 p.m.

JANELLA MAE T. SAPP  
INTERIM CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Regular Meeting of August 9, 2021 are hereby approved.

ROBIN R. CHRISTIANSEN  
MAYOR

RRC/JS/mr

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**Exhibits**

Exhibit #1 - Correspondence submitted by Mr. John Paradee, Baird Mandalas Brockstedt, LLC

# TAB 1



BAIRD  
MANDALAS  
BROCKSTEDT LLC

John W. Paradee, Esq.  
302-677-0061  
[www.bmbde.com](http://www.bmbde.com)  
[john@bmbde.com](mailto:john@bmbde.com)

August 9, 2021

**VIA HAND DELIVERY**

Roy Sudler, Jr.  
City Council President  
City of Dover  
The Plaza  
Dover, Delaware 19901

**RE: Lands of Draper Farm Properties, LLC  
5.0+/- acres located at 1617 Forrest Avenue  
Rezoning Application #Z-21-05**

Dear President Sudler and Members of City Council:

I represent Draper Farm Properties, LLC (“DFP”), the owner of a 5.0+/- acre parcel of unimproved real property on the north side of Route 8 in the City of Dover, more particularly identified as Tax Parcel #ED-05-075.00-01-07.00-000 (the “Property”). The Property is located directly across from the new Dover High School, along a major arterial roadway which serves as the western gateway into the City, in close proximity to a number of retail and commercial uses.

The Property is presently zoned R-10 (Residential). DFP has filed the above-referenced application (the “Application”) to rezone the Property to C-2A (Limited Central Commercial). Critically, the City’s most recently-adopted Comprehensive Plan – *which has the force and effect of law* – recommends that the Property be developed for “Mixed Use”, which includes C-2A (Limited Central Commercial) uses. The purpose of this letter is to explain, respectfully, why City Council has no lawful alternative but to approve Rezoning Application #Z-21-05.



### *Background*

As you may recall, the City's prior (2008) Comprehensive Plan recommended that the Property be developed for "Medium Density Residential" uses, including C-1 (Neighborhood Commercial) uses. Among the goals of the 2008 Comprehensive Plan were the creation of "neighborhood centers" and "urban centers", which the Plan recommended "be established along major roadways and feature mixed use development." The 2008 Comprehensive Plan also acknowledged that "Route 8, west of the railroad tracks, has become a key commercial corridor for the City", that "jobs and commerce in the retail, wholesale, and service sectors are an important part of Dover's economic vitality", and that "commercial centers and corridors contribute to the City's overall image and the positive feeling of its residents." Finally, with regard to the Route 8 corridor in particular, the 2008 Comprehensive Plan recommended that the area "continue to develop as either commercial or professional offices."

In August of 2018, when the City was in the process of updating its 2008 Comprehensive Plan, I wrote a letter to then City Planning Director Dave Hugg, asking that the City to give due consideration to the Plan's recommendations regarding potential future uses of the Property. See Exhibit "A" attached hereto. In that letter, I noted the City's desire to annex a number of parcels of land located to the west of the Property, as part of the natural growth and expansion of the City's western boundaries. I further noted that, given the continuing trend of growth and development along the Route 8 corridor at the western gateway of the City, and the 2008 Comprehensive Plan's recommendations that this growth and development be planned in such a way as to create "neighborhood centers", it was logical and appropriate to upgrade the Comprehensive Plan recommendation for the Property from "Medium Density Residential" to "Mixed Use" or "Commercial", in order to allow for mixed-use development that will bring more retail and commercial business services closer to the growing number of residential neighborhoods on the west side of the City. I thus requested, on behalf of DFP, that the City upgrade the Comprehensive Plan recommendation for the Property to "Mixed Use" or "Commercial", for all the reasons set forth above.



Subsequently, on December 16, 2019, in response to DFP's request, the City Planning Commission recommended (by a 5-2 vote) that the Comprehensive Plan designation for the Property be changed from "Medium Density Residential" to "Mixed Use". See Exhibit "B" attached hereto. Thereafter, on January 13, 2020, the City Council voted unanimously to change the Comprehensive Plan designation for the Property from "Medium Density Residential" to "Mixed Use". See Exhibit "C" attached hereto. Thus, as matters now stand, the City's current Comprehensive Plan – *which has the force and effect of law* – designates the Property for "Mixed Use" development, including (according to Table 12-1) a number of different "Commercial" zoning classifications, namely: C-1 (Neighborhood Commercial), C-1A (Limited Commercial), C-2 (Central Commercial), C-2A (Limited Central Commercial), C-3 (Service Commercial), CPO (Commercial and Professional Office), and IO (Institutional and Office). Indeed, C-2A is not even the most intensive commercial use available to the Property under the City's current Comprehensive Plan.

Notably, the change made to the Property's designation by the 2019 Comprehensive Plan – from "Medium Density Residential" to "Mixed Use" – is consistent with the goals expressed in the body of the 2019 Comprehensive Plan. Recalling that the 2008 Comprehensive Plan sought to "provide a more aggressive plan of action for the City", with economic development being "one of the most pressing issues in Dover"<sup>1</sup>, the 2019 Comprehensive Plan builds upon the 2008 Plan's goals (creating "neighborhood centers" and "urban centers" which feature mixed use and commercial development "along major roadways", particularly along the key commercial corridor of Route 8 on the western side of the City) by seeking to "attract and retain high-paying quality jobs by targeting business sectors that are best suited for Dover and Kent County" and "ensure that land development, zoning, infrastructure and other development requirements encourage the economic development and uses desired".<sup>2</sup> Recognizing that "[t]he western portion of Dover has received the vast majority of new residential development since 1985", and understanding that convenient access to retail and commercial uses "located along major arterial roadways" like Route 8 is necessary

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<sup>1</sup> See page 1-6 of the 2019 Comprehensive Plan.

<sup>2</sup> See page 1-12 of the 2019 Comprehensive Plan.



to serve the residents of these developments,<sup>3</sup> one of the express policies of the Land Development Plan (Chapter 12) within the 2019 Comprehensive Plan is to “permit limited compatible neighborhood commercial uses that support surrounding residences within residential areas.”<sup>4</sup> With regard to “Mixed Use Areas” in particular, among the stated goals of the 2019 Plan is a recognition that “there are opportunities for the creation of urban centers. These centers should be established along major roadways and feature mixed use development...”<sup>5</sup> With regard to “Commercial Land Uses”, the 2019 Plan states:

Route 8/Forrest Avenue, west of the railroad tracks, has also become a key commercial corridor within the City. Dover’s residential neighborhoods also create various local commercial needs. *The Land Development Plan also identifies specific locations* [like the Property] *for the development of neighborhood retail and community shopping center uses within the suburban fringe* [emphasis added].<sup>6</sup>

The Delaware Route 8/Forrest Avenue/Forest Street corridor continues to be an area subject to ongoing development pressure. It is a western gateway to the City...*The Plan identifies areas for Commercial Low Intensity areas* [like the Property] *intended for predominantly neighborhood commercial use to meet the convenience retail and service needs of existing and future residential areas* [emphasis added].<sup>7</sup>

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<sup>3</sup> See page 2-4 of the 2019 Comprehensive Plan (“convenience retail/service commercial uses have followed residential development along DE Route 8 in western Dover.”). See also page 2-8 of the 2019 Comprehensive Plan (“There is no defined area for retail growth other than that along Route 13/DuPont Highway, Bay Road, and portions of the Route 8 corridor. In this time period [2008-2018], the Route 8 corridor saw development of Walgreens, CVS, the rebuild of McDonald’s, Redners, AAA Auto Care, and planning for a new Dunkin Donuts.”).

<sup>4</sup> See page 12-3 of the 2019 Comprehensive Plan.

<sup>5</sup> See page 12-7 of the 2019 Comprehensive Plan.

<sup>6</sup> See page 12-11 of the 2019 Comprehensive Plan.

<sup>7</sup> See page 12-13 of the 2019 Comprehensive Plan.



Additionally, one of the primary purposes of land use and transportation recommendations generated by the *Delaware Route 8 Concept Plan and Operations Study* performed by the Dover/Kent County MPO – referenced at page 12-13 of the 2019 Comprehensive Plan – is to “promote superior urban corridor development”.<sup>8</sup> As the *Study* notes, the City’s Corridor Overlay Zone (COZ) “identifies areas along the [Route 8] corridor consistent with the identified Study Area Transects”, and tellingly, Exhibit 2-6 of the *Study* indicates that the Property here in question falls within the transitional “Rural to Suburban Zone”, where “it is anticipated that the rural and rural to suburban transects will become more suburban in character.”<sup>9</sup> Indeed, Exhibit 2-7 of the *Study*, entitled “Future Land Development Opportunities”, identifies the Property here in question as an “underutilized” site (shown in dark blue)<sup>10</sup>, which the *Study* recommends be targeted for development.

As if it were not obvious enough already that the City of Dover is growing in a westward direction, and thus, the areas surrounding the Property here at issue are presently transitioning from rural/suburban to suburban/urban – a trend which the 2019 Comprehensive Plan recognizes will continue over the next 10-20 years – the Growth and Annexation Plan (Chapter 13) of the 2019 Comprehensive Plan identifies substantial swaths of land just south and west of the Property as areas targeted for annexation over the next 5-10+ years (“most of the existing developed or developing areas along Dover’s western boundary”).<sup>11</sup> Given the continuing westward growth of the City along the Route 8 corridor, it is simply unrealistic naivety (and poor land use planning) to expect that future development of vacant lands fronting on Route 8 will be anything other than commercial in nature.

It is thus readily apparent that rezoning the Property here in question – from R-10 Residential to C-2A Limited Central Commercial – is not only consistent with, but also expressly contemplated by, the 2019 Comprehensive Plan and its

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<sup>8</sup> See page 2-18 of the *Delaware Route 8 Concept Plan and Operations Study*, attached hereto as Exhibit “D”.

<sup>9</sup> See page 2-19 of the *Study*.

<sup>10</sup> See page 2-21 of the *Study*.

<sup>11</sup> See Map 13-1: Potential Annexation Areas, attached hereto as Exhibit “E”.



accompanying Land Use Maps (*see* Maps 12-1 and 12-1C).<sup>12</sup> And, as will be articulated in greater detail below, because the Comprehensive Plan and its Maps have ***the force and effect of law***, the City Council has no lawful alternative but to approve Rezoning Application #Z-21-05.

***The Comprehensive Plan Has “The Force And Effect Of Law”***

One of the most basic and universally recognized principles of Delaware land use law is that, once adopted, “[a] ***comprehensive plan shall have the force of law and no development shall be permitted except as consistent with the plan.***” *See* 22 Del. C. § 702(d). The General Assembly’s mandate that development be “consistent” with the comprehensive plan “is, of course, no mere technicality...” *See O’Neill v. Town of Middletown*, 2006 WL 205071 at \*31 (Del. Ch. 2006), *citing Lawson v. Sussex County Council*, 1995 WL 405733 at \*4 (Del. Ch. 1995). To the contrary, the requirement to zone in accordance with the City’s Comprehensive Plan is a “fundamental feature” of the General Assembly’s delegation of zoning authority to the City. *Id.* The question is ***not*** whether a proposed rezoning is reasonably related to the public health, safety, or welfare, but rather, ***whether the act of the zoning authority is arbitrary and capricious for failure to comply with the law (i.e., the Comprehensive Plan)***, thereby exceeding the statutory delegation of zoning authority by the General Assembly to the City. *O’Neill* at footnote 279. Any zoning determination which is inconsistent with the City’s adopted Comprehensive Plan is *per se* arbitrary and capricious, and will be reversed by Delaware courts. *See, e.g., Green v. County Council of Sussex County*, 508 A.2d 882 (Del. Ch. 1986); *Gibson v. Sussex County Council*, 877 A.2d 54 (Del. Ch. 2005) (“Put simply, it is impossible to avoid the conclusion that the County Council’s rejection of the Project was driven by a desire to please the opponents of the Project, and not by rational factors pertinent to the decision before the Council. In making a land use approval decision of this kind, the Council is not free to bend to the prevailing breeze, but must rationally and fairly apply its zoning code and regulations. That did not occur here and instead the Gibsons were subjected to an ad hoc exercise of power.”).

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<sup>12</sup> *See* Exhibit “F” attached.



In sum, because the City of Dover's 2019 Comprehensive Plan designates the Property here in question for "Mixed Use" development, including C-2A Limited Central Commercial – and because that designation has *the force and effect of law* – the City Council has no alternative but to approve Rezoning Application #Z-21-05. Indeed, to do otherwise would be arbitrary and capricious *per se*.

***There Is No Specific Use Proposal Before Council At This Juncture, And Therefore, Any Consideration Of Site Plan Concerns Is Premature***

Here, it is critical to note that the Application before Council is not a site plan application for any particular/specific use – rather, the Application presently before Council is merely a rezoning application. And while it may be true that the Application indicates as the proposed use a "convenience store with fuel pumps", it is also true that granting the Application would not (could not possibly) lead inescapably or irreversibly to the conclusion that the Property will be developed for use as a convenience store with fuel pumps. We know this to be true for at least two (2) reasons: (1) DFP does not have the property under contract with anyone, for any particular/specific use, and thus, there is no identifiable end user for the Property at this point in time; and (2) more critically, even if the instant Rezoning Application is approved, DFP must still secure site plan approval from the City Planning Commission before any particular/specific use of the Property can be made (*see* Article 10, Section 2 of the City Code).<sup>13</sup> For these reasons, it is ***impossible*** to say at this juncture what the actual end use of the Property may someday be – indeed, if the Application were to be approved, the actual end use of the Property could be any one of the numerous uses permitted in the C-2A Limited Central Commercial zone under Article 3, Section 14 of the City Code: a retail store; a business, professional, or governmental office; a personal service establishment; a restaurant; a service establishment; a hotel; a place of public assembly; a drive-through; a number of one family residences, including attached and semi-detached dwellings; an apartment or multi-family dwelling; or a parking

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<sup>13</sup> Furthermore, any proposal to operate a convenience store with fuel pumps at the Property would require an additional conditional use approval from the Planning Commission (*see* Article 3, Section 14.2(b) and Article 10, Section 1 of the City Code).



lot or parking structure. *See* Article 3, Section 14 of the City Code. The plain and simple reality here is that – even if the Rezoning Application is approved – no one, not even the Applicant, has any idea what particular/specific use may ultimately be made on the subject Property. For this reason, it is an exercise in pure conjecture and speculation to evaluate the Application on the basis of site planning issues or concerns – like traffic volume or congestion, noise, lights, trash, parking, setbacks, landscaping, or similar “nuisance” factors – when ***no one knows for sure what the actual end use of the Property might be.*** This is the very reason why any consideration of site plan concerns is utterly premature at this nascent stage of the development process.<sup>14</sup>

### ***Conclusion***

The only question properly before the City Council at this juncture is whether or not the zoning classification sought by Rezoning Application #Z-21-05 is consistent with the City’s 2019 Comprehensive Plan.<sup>15</sup> The answer to that question is obviously and undeniably in the affirmative. *See* Table 12-1 of the 2019 Comprehensive Plan, attached hereto as Exhibit “G”. *See also* the recommendation of the City’s professional planning staff, attached hereto as Exhibit “H” (“Staff recommends that the rezoning for C-2A (Limited Central Commercial) while retaining the COZ-1 (Corridor Overlay Zone) be granted as requested, as ***the proposed zoning is consistent with the 2019 Comprehensive Plan*** (as amended) for the Mixed Use Land Use Classification Category.” [emphasis added]).

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<sup>14</sup> *See* DelDOT’s Development Advisory Committee Application Review Commentary, at page 67 under Exhibit “H”, wherein DelDOT indicates no objection to the proposed rezoning and states, “At such time the property develops it shall be submitted to DelDOT. At ***that*** time schedule a pre-submittal meeting to ***begin the process*** [emphasis added].” Clearly, at this nascent stage of the “process”, any attempt to evaluate the potential traffic impacts of any particular use of the Property is premature at best and utterly speculative at worst.

<sup>15</sup> *See* 22 Del. C. § 304 (“The regulations shall be made in accordance with a comprehensive plan...”). *See also* Section 5.6, Article 10 of the City Code (“In all cases where the city council shall approve an amendment to the zoning map, the said council shall find that, for the reasons fully set forth in the said findings, such amendment is in conformity with the comprehensive plan for the city.”).



The City Council has already made the legislative determination, just 18 months ago – and *unanimously* so<sup>16</sup> – that the C-2A Limited Central Commercial zoning district is a district whose character and uses are suitable and appropriate for the Property. It would therefore constitute the epitome of arbitrary and capricious decision-making to deny Rezoning Application #Z-21-05, on the basis of purely speculative site plan concerns, when the 2019 Comprehensive Plan expressly provides that C-2A Limited Central Commercial is a suitable and appropriate zoning classification for a property (like this one) designated for “Mixed Use” development. In summary, City Council is compelled to approve Rezoning Application #Z-21-05 for four (4) very simple reasons:

1. The 2019 Comprehensive Plan identifies C-2A Limited Commercial Zoning as a suitable and appropriate zoning district classification for the Property.
2. The 2019 Comprehensive Plan has “the force and effect of law”.
3. There is no specific use proposal before Council at this juncture, and therefore, any consideration of site plan concerns is premature.<sup>17</sup>
4. To deny Rezoning Application #Z-21-05, on the basis of purely speculative site plan concerns, when the 2019 Comprehensive Plan expressly provides that C-2A Limited Central Commercial is a suitable and appropriate zoning classification for the Property, would be wholly arbitrary and capricious.

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<sup>16</sup> On January 13, 2020, Council members David Anderson, Roy Sudler, Fred Neil, Ralph Taylor, and Matt Lindell – all of whom are still on City Council – all voted in favor of changing the designation of the Property to “Mixed Use” (*see* Exhibit “C” attached), a designation which clearly permits C-2A Limited Central Commercial zoning. To deny Rezoning Application #Z-21-05 now, having previously determined that the C-2A Limited Central Commercial zoning district was a suitable and appropriate zoning district for the Property, would be wholly arbitrary and capricious, in direct violation of the 2019 Comprehensive Plan’s “force and effect of law”.

<sup>17</sup> Notably, at present, there is *zero* evidence before City Council regarding any conceivable site plan considerations, as there is no specific use proposal before Council, and thus, no studies or other evidence concerning the potential impacts of same. As noted in the *Gibson* case, “vague and unsupported traffic congestion concerns [are] not adequate grounds to deny” an application.



For all of the foregoing reasons, I respectfully request that City Council do what the law compels Council to do – by voting to approve Rezoning Application #Z-21-05.

Respectfully submitted,



John W. Paradise

JWP/lwr

Enclosures

cc: Mr. Allan Davis  
Mr. Eric Good  
Douglas S. Walker, Esquire

**EXHIBIT "A"**



BAIRD  
MANDALAS  
BROCKSTEDT LLC

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August 20, 2018

David S. Hugg  
Planning Director  
City of Dover  
The Plaza  
Dover, Delaware 19901

**RE: City of Dover Comprehensive Plan Recommendation for  
5.0 +/- acre parcel located on Route 8 in Dover, Delaware**

Dear Mr. Hugg:

As you know, I represent Draper Farm Properties, LLC (“DFP”), the owner of a 5.0+/- acre parcel of unimproved real property on the north side of Route 8 in the City of Dover, more particularly identified as Tax Parcel #ED-05-075.00-01-07.00-000 (the “Property”). The Property is located directly across from the new Dover High School, along a major arterial roadway which serves as the western gateway into the City, in close proximity to a number of retail and commercial uses.

The Property is presently zoned R-10, and the City’s existing (2008) Comprehensive Plan recommends that the Property be developed for “Medium Density Residential” uses, which may include C-1 (Neighborhood Commercial) uses. Among the goals of the Comprehensive Plan are the creation of “neighborhood centers” and “urban centers”, which the Plan recommends “be established along major roadways and feature mixed use development.” The Comprehensive Plan also acknowledges that “Route 8, west of the railroad tracks, has become a key commercial corridor for the City”, that “jobs and commerce in the retail, wholesale, and service sectors are an important part of Dover’s economic vitality”, and that “commercial centers and corridors contribute to the City’s overall image and the positive feeling of its residents.” And finally, with regard to the Route 8 corridor in particular, the Comprehensive Plan recommends that the area “continue to develop as either commercial or professional offices.”

It is my understanding that the City is presently in the process of updating its Comprehensive Plan, and thus, now would be an appropriate time for the City to give due consideration to the Plan’s recommendations regarding potential future uses of the Property. It is also my understanding that the City may be desirous of annexing a number of parcels of land located to the west of the Property, as part of the natural growth and expansion of the City’s western boundaries. Given the continuing trend of growth and development along the Route 8 corridor at the western gateway of the City, and the Plan’s recommendations that this growth and development be planned in such a way as to create “neighborhood centers”, it would be logical



and appropriate to upgrade the Comprehensive Plan recommendation for the Property to "Mixed Use" or "Commercial", in order to allow for mixed-use development that will bring more retail and commercial business services closer to the growing number of residential neighborhoods on the west side of the City.

I therefore respectfully request, on behalf of DFP, that the City upgrade the Comprehensive Plan recommendation for the Property to "Mixed Use" or "Commercial", for all of the reasons set forth above.

Thank you for your time and consideration. If you should have any questions whatsoever, please do not hesitate to contact me.

Very truly yours,

John W. Paradee

JWP/lwr

cc: Mr. Allan Davis  
Mr. Eric Good  
Douglas S. Walker, Esquire

# EXHIBIT "B"

**CITY OF DOVER PLANNING COMMISSION**  
**DECEMBER 16, 2019**  
**Excerpt from Meeting Minutes - DRAFT**

The Regular Meeting of the City of Dover Planning Commission was held on Monday, December 16, 2019 at 7:00 PM in the City Hall Council Chambers with Chairperson Dr. Jones presiding. Members present were Ms. Edwards, Mr. Hartman, Mr. Baldwin (*arrived at 6:53pm*), Mr. Tolbert, Mrs. Welsh, Ms. Maucher and Dr. Jones. Mr. Adams and Mr. Roach were absent. Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek and Mrs. Samantha Bulkilvish.

**NEW BUSINESS**

- 1) **2019 Comprehensive Plan** - The *City of Dover 2019 Comprehensive Plan* includes text and a Map series outlining information and policies regarding land use activities in the City of Dover. The FINAL DRAFT *2019 Comprehensive Plan* (12.3.2019) document is on file at the Department of Planning and Inspections, City Hall, 15 Loockerman Plaza, Dover and at the Dover Public Library, 35 Loockerman Plaza, Dover.  
See Project website: <https://www.cityofdover.com/2019-comprehensive-plan>

- a) Project Scope and Process

Mr. Hugg stated that this is an important step in a process that goes back to at least June 2018 or perhaps even further than that to review or refine and ultimately recommend to the Planning Commission and City Council a new *Comprehensive Plan* for the City of Dover. You have probably heard him say many of these things before and he will try to be brief. Dover's current *Comprehensive Plan* was prepared in 2008 and formally adopted in 2009 and it has served the City very well in the decade. Since then, it has had a few modifications but as he has said multiple times, it was a very good Plan to begin with and so the challenge for the Planning Staff was to take an already excellent Plan and make it better. To make it a contemporary Plan that reflects what has happened in Dover over the last decade and where we see the community going in the future. The requirements for preparation of a Plan are set by State Code and they require among other things that every ten years a municipal jurisdiction has to review and adopt a new *Comprehensive Plan*; hence, the fact that they are now doing it in 2019. There is an extensive list of items that must be addressed in the *Comprehensive Plan*: a series of policies and recommendations and implementation steps; ultimately a Land Development Plan showing how land will be used in the community and then an Annexation Plan showing how the community will grow in the future. Where they are in the process is that they are kind of at the next to the last step. They have spent a long time modifying and addressing and preparing this plan and getting public input. It has gone through a couple of reviews internally and externally and reviewed by the State; he will touch on those in a few minutes. It is their intention to have a fully certified and adopted *Comprehensive Plan* in affect by February 2020.

Julian Swierczek stated that the project schedule for the *2019 Comprehensive Plan* was broken down into five main phases. The first one and perhaps the most important one was the Information Gathering. They started, as Mr. Hugg said with the 2008 document, gathered

various other plans and studies and most importantly they engaged with the public as much as possible before they could begin the plan and map development which was the second phase of the 2019 Plan update. From there, they moved to Consideration of the Plan Recommendations which is where they obviously reflected on what they did, and they reached out to confirm that they were sort of in the right direction with this new plan. Currently, they are now in part of the Formal Review and Adoption Process. Finally, they will be moving hopefully by February 2020 into the Plan Implementation Phase.

Mr. Swierczek continued for the Information Gathering activities, they of course started with the website for the *2019 Comprehensive Plan*. This is where they made available to the public, all of the information that they were working on, contact information so that they could leave the door open to the public as much as possible to reach out to them in the process. In Summer 2018, they had done the evaluation of Goals and Recommendations of the 2008 Plan. It was a good plan and it was a good starting point for us. In 2018 and 2019, there was ongoing reporting and project updates to the Planning Commission and City Council; so, thank you again for your valuable input and participation in this project. They did project team meetings of Planning Staff as well as with City Departments and Divisions. They also met with other State Agencies and other groups like the State Planning Office and other relevant departments. In 2019, they were doing intergovernmental coordination meetings with neighboring municipalities and the County. For the engagement activities, they held a series of events because they wanted to reach out to relevant parties and the public as much as possible. June 13, 2018 was their first public event which was the "Dover Economic Development Forum." June and July 2018 were a Survey Questionnaire. Many of the Commissioners remember Mr. Eddie Diaz, he was instrumental as all of us were in trying to formulate what they needed to find out from the public and other relevant agencies trying to get the feedback to begin this process. On July 11, 2018 they attended the "Understanding the Housing Market Trends Forum Event" where they brought together different representatives from the housing sector. On August 23, 2018 was an Open House Event; the first of several. September 27, 2018 was their presentation to a Wesley College class where they got some really good feedback from young adults in the community. June 20, 2019 was the Historic District Workshop. Of course, we are all aware of our City's beautiful historic character. On October 23, 2019 was another Open House Event and the following day, October 24, 2019 was a Visitation Event at City Hall. Throughout their time, they have been working on the process of updating the plan. They formulated several drafts. There was the Preliminary DRAFT of the Land Development Plan Map Series, the Preliminary DRAFT of the Annexation Plan Map Series, DRAFT #2A Goals and Recommendations, and the Preliminary DRAFT of Chapter 15 Implementation Plan. All of these were pulled out as key components of areas that they really needed to focus on to finalize the Plan. On August 24, 2019 they released the Staff Draft, and this was really with all of the other City Agencies that were so instrumental in working with us and coordinating our efforts to get this Plan written. They wanted to share with them and really get their okay that they were satisfied with any parts of the Plan relevant to their field of work. On October 1, 2019 they released a First DRAFT of the Documents and Maps. Then on December 2, 2019 they released the Final DRAFT of the Documents and Maps and that is what they have shared with the Commission for discussion this evening.

b) Preliminary Land Use Services (PLUS) Review by State agencies: Letter of November 8,

Mr. Hugg stated that throughout this whole process the various drafts and various versions have been available on our website and available to the public. They have been made widely available to people to look at, comment on and have input. One of the key steps in the process of putting together a Plan is something called the Preliminary Land Use Services. It is a State process where the Office of State Planning Coordination and various State agencies are provided both an informal and a formal opportunity to comment on various drafts of the Planning document. Although it isn't on the list, very early in the process they went to the State submitted the 2008-2009 Plan to them and essentially said tell us what you think of it so that we have a starting point for any issues that the State might have. Then they had multiple discussions with State Agencies throughout the entire plan development process. In order to meet our approval deadlines, they had an October 1, 2019 filing deadline. This essentially sent the Release Draft to the PLUS Process. They had a meeting with the State Agencies to discuss the document and give them an overview of sort of where we were. On November 8, 2019 they received a comment letter back, a formal response from the State, identifying both technical and grammatical issues as well as potential certification issues that might result in the Plan ultimately not being approved. One of the things that they provided to Planning Commission in their packets is a chart that says PLUS Comments. That is our official response back to the State and what that did was respond to every comment that every State Agency raised during the course of this process. Some are certification issues which mean that they have to be addressed before the State could consider certifying and approving the Plan. Some are comments like you should go back and create a couple of new maps; or some of what you are trying to explain isn't necessarily clear. They were a couple of cases where they pointed out topics that they could elaborate a little bit on and at least in one case a suggestion from DelDOT that they had used some data and text that even they weren't so sure was appropriate; that it was more confusing than it was informative so we actually took some things out of the Plan as a result of the State review. As you look through that section you can see what the comment was, what we did and then importantly where in the document they responded and what our response was.

The FINAL DRAFT Plan is again at the Office of State Planning with this Chart. They are hoping that the revisions that they made, the charting of the changes and the other materials that they supplied allow them to ultimately certify the Plan. He would like to have Mrs. Melson-Williams walk everyone through the key components of the Plan and at least give some background on where we are and then they will certainly address any questions or concerns that you might have. We do have six items/questions that have been brought forward by various property owners that the Commission will need to deal with tonight.

c) Review of FINAL DRAFT 2019 *Comprehensive Plan*

Mrs. Melson-Williams stated that with the review of the FINAL DRAFT of the *Comprehensive Plan*, this is what they would call the formal review and adoption process. That of course starts with the issuance of the FINAL DRAFT and that is the document dated December 3, 2019. It's the text portion as well as the entire Map Series. From a review process standpoint, a public hearing and review must occur with the Planning Commission and then a review and public hearing has

been scheduled with City Council for their January 13, 2020 meeting. Focusing on the introduction to the Plan itself and the key pieces, there is the Plan Document and a series of maps. There are Goals and Recommendations. The Land Development Plan Map focuses really on land use and has a text and map component, likewise with the Annexation Plan Maps and then ultimately the Implementation Plan.

i) Plan and Map Series Format

Mrs. Melson-Williams stated that starting with the Table of Contents, there are a total of fifteen chapters. The beginning is an introduction and then we move into some data rich chapters in Chapters 2 and 3 that talk about things like population and applications over the last few years. Chapter 4 is where we have to present information on how the citizens participated in the process. Chapters 5 through 11 are really the meat of the document focusing on very specific topic areas. Chapter 12 is the Land Development Plan. Growth and Annexation is Chapter 13. In Chapter 14, they have to report on intergovernmental coordination and that's basically with our adjacent neighboring jurisdictions like the County and nearby municipalities as well as their interaction with State Agencies. Chapter 15 is ultimately the Implementation Plan, so moving forward what happens. That is the text side of things and the next side is the list of maps. There are a significant number of maps. Some chapters have multiple maps associated with them and the text references the maps. The beginning is with things like where is Dover with a location map. They move into information on existing land use, natural features and historic resources. Continuing onto the next list of maps, this is where there are a number of maps now included as part of the Transportation Chapter that focus on things like streets and their functional classification as well as things like byways and then concerns where if improvements aren't made, then there are low levels of service issues perhaps. There is also information about our Downtown Area and where in the City there are low- and moderate-income areas. Perhaps the most significant map series in the document is the Land Development Plan Map and then the Annexation Maps as well. For Chapters of 5-11, there were Planning Staff members assigned to each chapter and they kind of became the experts in the topic areas ranging from things like natural resources. The Historic Preservation Chapter actually had some grant assistance in writing that chapter dedicated to Staff time. Other chapters are titled Transportation, Economic Development, Community Services and Facilities which really focuses on other City Services that the City provides, where Utilities has its own chapter as Chapter 7 for Water, Sewer, Stormwater and Electric.

ii) Goals and Recommendations

Mrs. Melson-Williams stated that a number of the chapters have chapter goals so even up front in Chapter 1 as they wrap up the introduction to the Plan, they present the quick summary chart of the chapter goals. So, each chapter is identified and then has series of four or five goals for that specific topic area. For example, at the end of Chapter 5 there is a section that lists the goals. Each goal has a series of recommendations and then the bullet points are the action items to then strive to meet those recommendations and ultimately the goals. This is the format that was utilized for those topic chapters.

iii) Land Development Plan Map

Mrs. Melson-Williams stated that this really has two components and they have to be utilized together. Chapter 12 is considered the Land Development Plan and the key element of the chapter goes through talking about each of the land use categories and then the Land Use Matrix that is at the end of Chapter 12. This takes each of the land use categories that are identified and then lists the corresponding zoning districts that are appropriate for those land use categories. This is key in that this chart is utilized for any future Rezoning and will actually be a key element in dealing with a Comprehensive Rezoning which is one of the Implementation Plan steps. With the Land Development Plan Map and there is also the Map Series, as presented on the screen is the overall city view, it is the really colorful map. Each Land Use Category is identified by color. The range of yellows for example are residential areas; green is open space areas. There are shadings of red that identify our commercial areas and that is actually one of the changes in this *Comprehensive Plan*. In our commercial areas, they've identified a Commercial - Low Intensity, a Commercial - High Intensity, and then a Commercial - Entertainment Land Use Category so that is something new for this 2019 Plan. We have areas that are Mixed Use that are a light purple color. Also, areas of Public Utilities have been separated out in a dark purple color from what are Institutional areas which are blue and then in Industrial areas which are gray. The royal blue color is the Dover Air Force Base. We have the overall City Map and then for better readability we developed what are really quadrant maps which takes this map, chops it up and focuses in on areas across the City so that it is quadrant based. There is one that focuses right in the Downtown because it ended up on the corners of four maps. One of the suggestions that the PLUS Process gave was to show them a map that just focuses on the Downtown area; so, they did that.

#### iv) Annexation Plan Maps

Mrs. Melson-Williams stated that this is Chapter 13 which is the Growth and Annexation Chapter. The text has to describe what the City's approach to Annexation is and for them, they have divided Annexation areas into three categories. Category 1 which is their High Priority Annexation Area is the darkest green. That is basically areas that are pretty much surrounded by the City otherwise known as "enclaves." Category 2 areas are a Priority Annexation Area. These areas are perhaps on the outskirts of the City, but they make sense to round off boundaries and make boundaries a little easier to read and understand in the landscape. Category 3 is kind of the Long Term Annexation Areas. These areas may require ultimately more properties to come into the City before they can even be considered contiguous. They also are areas where it makes sense to create as a boundary for the City. For example, in the south, the Isaacs Branch is kind of a dividing line between us and the Town of Camden. There is a light green color that mean Areas of Concern. They are marked as Areas of Concern because they may be a concern of our jurisdiction as well as another jurisdiction. An example is some of the lands in the area of Wyoming Mill Road where there is concern with the Town of Wyoming and what their expansion may be versus what the City of Dover's future expansion may be. There are also a number of areas to the east of State Route 1 where the City is not looking to expand but we have concerns about what happens on our borders. So, this is a way to make that known.

The second map that is associated with Annexation is a Land Use Map. So using the same land use categories that we used for areas within the City, we have to identify for the Category 1 and Category 2 areas, what the potential land uses would be for those to help with future zoning selections should these areas become part of the City. It was done for Category 1 and Category 2

areas. Those are the areas that are most likely or most potentially available for annexation into the City. They did not identify land use for any locations that were identified as Category 3 or Areas of Concern. If annexation was anticipated or confirmed eligible for one of those areas, they would need to move through a Comprehensive Plan Amendment to focus on what the appropriate land uses should be in those areas before they could be annexed. Those were envisioned as Long Term Annexation Areas and they did not necessarily want to predict what their future activity would be at this point.

v) Implementation Plan

Mrs. Melson-Williams stated that the last key piece of the *Comprehensive Plan* is Implementation Plan Chapter; this is Chapter 15. It does not have an accompanying map, so you have to read the text. It takes the Goals and Recommendations and the series of action items that are part of those Goals and divides them up into a work plan. This is a work plan that is not just for the Planning Office; it is for the City as a whole. That means other departments would likely be involved in some of these items. What it does is first identifies Immediate Actions. Immediate Actions would be adoption of the *Comprehensive Plan* and getting it certified and then they have to move into what would be a Comprehensive Rezoning Project. There are a number of things that they have identified as just Ongoing Activities that are not specifically tied down to one timeframe or another, but the City is probably working on a more constant basis. Then they have divided the other items into what are called Short Term, Intermediate Term, and Long Term Implementation. That focuses on the years up to 2025 and beyond. What it does in each of these areas is identifies things by project, studies, Code amendments, and other activities. It does focus in on chapter by chapter so you can easily go back and reference some more detailed information on those items.

With the Plan as noted, has been out for public review since early October 2019. The differences between the October DRAFT and the FINAL DRAFT are really a lot of housekeeping type things, proofreading, data correction, name correction, and then focusing on the PLUS Review comments. Over the time period that they have been dealing with the *Comprehensive Plan*, there are a number of specific requests that have come in and Staff has tracked those. We have six of them and Mr. Hugg is actually going to take us through those. For the Planning Commissioners, we are going to do a combination of presenting each Request to you and then also conducting the public hearing on that individual Request. Once we have dispensed with those, they will come back to the overall Plan to address it.

d) Review of Comprehensive Plan Requests:

e) Public Hearing on Comprehensive Plan Requests:

Mr. Hugg stated that obviously in an undertaking of this nature with as much detail and all that they have been through, there will be certain situations and certain Requests that come from property owners requesting a particular consideration of their property or a group of properties that will need to ultimately be determined as the Plan is finally adopted. We received six formal Requests that were not otherwise resolved and are before you tonight. As Mrs. Melson-Williams said, we are going to take them individually and conduct a public hearing and then at the end have the Commission make a recommendation regarding each one. We may not have representatives for a couple of them here, but they will at least introduce them. He will give the quick version of

the application and then give Staff's Recommendation and then we can open to a public hearing.

- i) Request #1: 5.0-acre parcel on north side of Route 8/Forrest Avenue

**Representatives:** Mr. John Paradee, Baird Mandalas Brockstedt

Mr. Hugg stated that this Request is to change the land use classification from Residential Medium Density to either Mixed Use or Commercial Use for a 5.0-acre parcel on the north side of Route 8 on Forrest Avenue. This is a Request from Draper Farms, LLC via the attorney John Paradee. The Request dates back to August 20, 2018. In the letter, it asks about the particular piece of property which is on the north side of Route 8 west of Mifflin Road to be shown on the Land Development Plan as a Mixed Use or a potential Commercial use. The DRAFT Plan shows it as a Low Density Residential Use.

From the letter written by Staff back to Mr. Paradee: "In your letter dated August 20, 2018 you had requested that land use classification category for the parcel (identified by number) be changed from Residential Medium Density to Commercial in the Land Development Plan Chapter 12 Map Series 12-1. The FINAL DRAFT will reflect the recommendations of Planning Staff regarding your request in reference to Map 12-1C."

"Planning Staff is not recommending your Request finding that the character and the existing use of the immediate area of the subject parcel is residential and there is an extensive commercial corridor further east on Route 8 to the east of Mifflin Road. The section of Route 8 Corridor is a residential area and with nearby institutional uses (this area is across from the high school and immediately east of two church locations) are a transition from the rural areas west of Dover to the commercial areas and center core of Dover. The land use classification as Residential Medium Density allows for a series of residential zoning districts with a variety of housing types and it also allows consideration of the C-1 Neighborhood Zone where smaller scale commercial activity is permitted. The smaller scale commercial activity is likely a more compatible fit given the traffic concerns along the overall Corridor, the availability of bike and pedestrian facilities and the adjacent residential land uses."

*Dr. Jones opened a public hearing.*

Mr. Paradee stated that he wants to commend the Staff for their excellent work on the *Comprehensive Plan*; it is a long and laborious process. He has been working with Staff on a number of different properties along the way for almost two years it seems. You are very fortunate to have an excellent Staff. He works in a lot of jurisdictions and the City of Dover is one of the best and one of his favorites to work in. He wants to talk a little bit about the points that were raised in his letter because what they are asking for here is not as dramatic as it might appear at first blush. He doesn't believe that the difference between the Staff view of the matter and his client's view of the matter is all that great. They would like to modify the request slightly. When they first sent it in back in August 2018, it was a request that the Comp Plan designation be changed from its current designation to either Commercial or Mixed Use. After conferring with his client and speaking with Staff, they believe that Commercial would be asking for too much. All they are really going to be asking for tonight and next month at City Council is for a designation of Mixed

Use not Commercial. Having reviewed the DRAFT of the Comp Plan, he believes that Commercial is in fact too much to ask. As Mr. Hugg indicated, the property is located directly across from the new Dover High School and it is on a major arterial roadway which serves as the western gateway to this City. It is also not very far from a lot of existing commercial uses. It is about 1,700 feet from the intersection of Mifflin Road and Route 8. If you think about this particular area of the City of Dover, it is a lot like Route 10 on the south side of Dover where he happens to live. He lives in the Windswept Subdivision which was built in the early 1990's. When that subdivision was built, there really wasn't a lot on Route 10 other than residences. They ultimately ended up with a shopping center across the street. There are a couple fast-food restaurants as you get closer to the Air Base but there wasn't anything on the north side of Route 10 until Wawa came along. He doesn't know how many of the Commissioners remember that, but it was in the County and still is in the County. Every one of his neighbors opposed it; they thought it would ruin the neighborhood because as in this case, everything on that side of the street for as far as you could see was residential. His neighbors knew that he was a lawyer and they asked if he would get involved and try to help them fight it. Ultimately, the County approved it and now for every single one of his neighbors it's the first place they stop on the way to work in the morning and it's the last place they stop on their way home at night. The point simply is that it provides a very much needed convenience to a residential neighborhood. If you think about the modern concept in Planning as village development or neighborhood villages; that is what we are talking about here. You can't simply build a City that has all of the commercial and retail in one part and all of the residential on the outskirts. You need to have village or neighborhood areas where certain retail conveniences are provided. What that does is it helps reduce vehicle trips and traffic throughout the City because if you only have to travel a quarter of a mile to get milk, bread, gas or cigarettes then that is less traffic that is going all the way across town. The concept of village development is what we are suggesting here. You can look to your very own *Comprehensive Plan* to find the justification for it. The existing *Comprehensive Plan* says that among its goals are the creation of neighborhood centers and urban centers which the Plan recommends be established along major roadways and feature mixed use development. The *Comprehensive Plan* also acknowledges that Route 8 west of the railroad tracks has become a key commercial corridor for the City. That jobs and commerce in the retail, wholesale and service sectors are an important part of Dover's vitality and that commercial centers and corridors contribute to the City's overall image and positive feeling of its residents. Finally, in regard to the Route 8 Corridor in particular, the existing *Comprehensive Plan* recommends that "the area continue to develop as either commercial or professional offices." You are also talking about long term, where is the City of Dover going to grow? There is not a lot of room to the east because that area is environmentally sensitive. There is not a lot of room to the south because you have Camden-Wyoming. There is not a whole lot of room to the north other than on the highway because eventually you run into Smyrna. There is a lot of room on the west and you think what is Dover going to look like 40, 50, 60 or 100 years from now? Chances are that growth is going to be on the west side of town and you already have a lot of residential development that has crept out that way over the years. He would respectfully submit to you that those residents are going to need services. They are going to need groceries, they are going to need gas, they are going to want some retail; the neighborhood conveniences that he was talking about earlier and the village concept. He thinks that it would be unrealistic to simply draw a line at Mifflin Road and say we are not going to allow anything other than residences west of Mifflin Road. It is not good planning and it doesn't make sense in the long term. What they are asking that you consider in this particular instance, is a small 5-acre piece of ground directly across

from the High School that would be proposed for a Mixed Use development, not commercial. That would allow a number of very limited commercial uses but only upon a Rezoning approval by City Council. This body would not be deciding tonight what is going to happen at that property in the future beyond a range of possibilities that the vision of the City can adjudge a later time when it's appropriate. It is not this body's job tonight to say what is going to happen specifically, what type of use specifically is going to happen at that property. You are looking at a broad range, a category. There are specific types of zoning uses that permitted within those categories. What he is respectfully submitting to you is that Mixed Use would be appropriate here. It would give you and City Council the flexibility in the future to say upon application we might consider Rezoning this to C-1, C-2 or C-2A and that is as high as you can go in Mixed Use. The more intensive commercial uses are not the type of neighborhood village uses that you would want to see in an area where there are a lot of residents; however, C-1, C-2 or C-2A are. They have an honest, professional and respectful disagreement with the City about how far you can go here. He and Mr. Hugg have worked together for a long time and he respects his opinion and he hopes that Mr. Hugg respects his. They just think that Mixed Use here is appropriate given what your *Comprehensive Plan* has said. If the City is desirous of growing west in the future, even if it is 30, 40 or 60 years from now as part of that natural growth and expansion of the City's western boundaries, that continuing growth and development on Route 8 at the western gateway is contemplated by the *Comprehensive Plan*. They simply think that it would be a responsible thing to allow a neighborhood center under Mixed Use to occur at this property.

*Dr. Jones closed the public hearing.*

Mr. Hartman questioned that if what Mr. Paradee is proposing is different from what is in Mr. Hugg's letter because what that proposes does not include the C-2 or C-2A zones? Responding to Mr. Hartman, Mr. Hugg stated that was correct. What they are showing on the *Comprehensive Plan* at this moment, that land use designation includes C-1 but not C-2 or C-2A. As Mr. Paradee indicated, it's kind of a matter of scale or intensity that the Planning Staff feels that Mifflin Road is appropriate point for those higher intensity commercial uses to be east of Mifflin Road and if this area were to accommodate commercial development that it be at the lowest intensity. This is one of those challenges in land use where the distinctions between particular uses can get very fine at times. Staff believes that with the neighborhood that is around it and the school across the street, they would prefer that it remain at a lower intensity commercial.

Ms. Edwards questioned what types of commercial entities can be placed in a Mixed Use? What is the worst-case scenario? Responding to Ms. Edwards, Mrs. Melson-Williams stated that she is looking at the Matrix on Page 12-27 which is the Land Use Matrix. It gives the category for Mixed Use and then the second column lists the potential zoning classifications that a property could upon application, which is not what is happening here, seek to go to. It lists C-2 but this project wouldn't be eligible for that given its location. It also lists C-2A, C-1, C-1A and a number of residential zones from R-8 through RG-4. It does allow for the consideration of a C-3 which is a Service Commercial zone and then CPO (Commercial Professional Office Zone) and then IO (Institutional and Office Zone). Most of these commercial zones are going to allow for the mix of typical commercial uses whether that is a restaurant, personal service establishment, other service establishments, or the office use. Depending on the commercial zone that you seek, there are in some cases prohibitions. Some of the commercial zones prohibit things like gas pumps. For

example, in the C-1 there is a size limitation on the establishment. While the Mixed Use category allows for a variety of zoning districts ranging from commercial to more office oriented to residential, the specific zone is where the details of any particular use would be evaluated. That's where a Rezoning application would really delve into. Action tonight would not lock them into any particular zoning classification; it gives a list of opportunity and even with that, they can't lock them into one use or another. Mr. Paradee's request to go to a Mixed Use category does allow for a mix of zoning districts. What the *Comprehensive Plan* FINAL DRAFT is showing is this property as Residential Medium Density which has much more of a residential focus and does allow for C-1 as the only commercial option.

*Ms. Edwards moved to recommend approval to City Council for Request #1 Draper Farms, LLC property as submitted as Mixed Use, seconded by Mrs. Welsh and the motion was carried 5-2 by roll call vote with Mr. Adams and Mr. Roach absent. Ms. Edwards voting yes; she agrees with Mr. Paradee's reasoning in that with the limited amount of commercial businesses that can be placed there it would be a good transition at the gateway of the City. Mr. Hartman voting no; with his limited experience he has to go with the recommendation of the Planning Office to have this remain as Residential Medium Density. Mr. Baldwin voting yes; since the proposal was changed to just Mixed Use and not Commercial. Mr. Tolbert voting yes. Mrs. Welsh voting yes. Ms. Maucher voting no; based on Staff recommendations as well as the location of the property right across from the High School and the large number of students and residential areas around that area. Dr. Jones voting yes; she buys into the concept of the village development.*

ii) Request #2: 1436 New Burton Road

**Representative:** None

Mr. Hugg stated that this is a Request from Mr. G. Michael Glick on behalf of Lighthouse Construction. It relates to the parcel of land at the southern end of the POW-MIA Parkway adjacent to the railroad. The proposed Land Development Plan identifies this piece of property for Industrial Uses. Mr. Glick has requested that the designation be changed to Commercial to provide for development of this tract of land fitting the present future land uses by the government sector, business and professional sector and medical sector and to classify it to Commercial. Staff has reviewed the Request and the Staff recommendation is as follows: "Planning Staff is not recommending your Request finding that the location of the subject parcel between the POW-MIA Parkway and the railroad corridor has transportation advantages for its development. The location is isolated from residential development limiting its potential for targeted retail or service commercial activities. This location is more appropriate for uses that can take advantage of the proximity to major road and/or rail frontage and access. In its current zoning classification of IPM (Industrial Park Manufacturing Zone), the opportunity exists for industrial type activities like manufacturing as well as for office park or other employment center type development needing road and/or rail access to meet the economic development goals of the plan."

*Dr. Jones 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 Request #2 1436 New Burton Road as recommended by Staff to have the property retain the land use category of Industrial, seconded*

*by Mr. Tolbert and the motion was carried 7-0 by roll call vote with Mr. Adams and Mr. Roach absent. Mrs. Welsh voting yes; for reasons stated. Ms. Maucher voting yes; based on Staff recommendations. Ms. Edwards voting yes; based on Staff recommendations. Mr. Hartman voting yes; in order to try to meet the economic development goals in the Comprehensive Plan. Mr. Baldwin voting yes; based on Staff recommendations. Mr. Tolbert voting yes. Dr. Jones voting yes.*

iii) Request #3: 1.81-acre parcel on north side of White Oak Road

**Representative:** Mr. John Paradee, Baird Mandalas Brockstedt; Mr. Bill Harmon, Jr

Mr. Hugg stated that this is a Request to change from the designation on the Land Development Plan of Agricultural to Commercial for a 1.81-acre parcel on the north side of White Oak Road adjacent to State Route 1. The Land Development Plan shows the land use category as Open Space Conservation and Recreation. The Request is from Mr. William Harmon with Harmon Brothers, LLC by a letter dated September 22, 2018. The Request is to change the designation to Commercial. The applicant owns adjacent parcels whose current zoning is C-2A and they wish to have all of their parcels in the same category. The Planning Staff is not recommending that Request finding that the location and environmental and natural features of the subject parcel limit development. Direct access to the parcel is limited by land elevation and the type of the adjacent roadway elevation difference of White Oak Road and State Route 1 as a limited access highway. Environmental sensitivity concerns include existing woodland areas, impacts of a Special Flood Hazard Zone (100-year Flood Plain), and potential for wetlands. The Land Use category classification of Open Space, Conservation and Recreation, they believe is more appropriate to preserve the natural environment that is found here.

*Dr. Jones opened a public hearing.*

Mr. Paradee stated that he is speaking on behalf of Harmon Brothers, LLC and Mr. Harmon, Jr. is passing out a handout that they would like to share with the Commission. This is more of a housekeeping application because at the time that they submitted this Request last September there was a possibility that they may be able to use some of this acreage as part of a development of the balance of the property. They have since found out that that is not likely or possible at all. This property has been approved for a Site Plan which is the second page in the packet that you have. They have preliminary approval for apartment units on the western side of the property immediately adjacent to White Oak Road. The parcel that is in question tonight has been the subject of a Flood Plain Map Amendment and prior to that amendment there was a lot more of the frontage of this parcel that was potentially usable. They have since found out that the Map Amendment makes this property almost entirely in the Flood Plain and there are wetlands on it of course. As a practical matter, they are never going to be able to do anything with this property no matter how you zone it but as a housekeeping matter, they think it makes sense to have all four of these properties zoned the same because it at least eliminates the disagreement or the risk that someone could say you can't have an open space or recreational use on an agricultural piece that serves a Site Plan Development on a commercial piece. There is an inherent conflict in that. Frankly, it probably doesn't matter much but they would just like to have all four pieces zoned the same because it is all part of one Site Plan application. Notwithstanding the fact that they won't be able to do anything with this piece because it is in the Flood Plain. He is going to ask Mr.

Harmon to give a little bit more information.

Mr. Harmon stated that he works for Harmon Brothers, LLC. His family has owned this property since 1990 and you notice the three adjacent parcels are zoned C-2A. They have worked with the Planning Commission and City Council to reach an approved Preliminary Site Plan for residential on those areas. One of the things that they are looking to have is flexibility in terms of open space use and juggling parking. One of the things that they haven't decided yet is what type or form the open space or recreational would take. There is a need in the City for over-55 housing but there is also the need for families to have housing as well. If we have an over-55 development, certainly the type of recreational or open space amenities that they would have would be very different. It would probably be an enclosed building rather than an outdoor playground based on the tenants. They are asking for this to be uniform and they think that there might be some added benefits of being flexible where they can maybe move some parking to different places. The entirety of this parcel is not fully covered by either wetlands or Flood Plain. The wetlands are a little more to the northwest and that is only a small portion. It is more of a Flood Plain issue. They would appreciate any sort of consideration that the Commission can take in regards to keeping these parcels uniform and allowing them some flexibility in the future. Again, they really can't do much in terms of putting a ton of impervious surfaces on the property and they would pledge to use this land responsibly.

*Dr. Jones closed the public hearing.*

*Mr. Tolbert moved to defer a motion on Request #3: 1.81-acre parcel on north side of White Oak Road due to the unsureness of the applicant and he would suggest that they work further with Staff to come up with a more conclusive agreement about what should be done with the property that is being discussed.*

The motion was not seconded so motion failed.

*Ms. Maucher moved to recommend approval to City Council for Request #3: 1.81-acre parcel on north side of White Oak Road to change the zoning from Agricultural to Commercial, seconded by Mrs. Welsh.*

Staff asked what level of Commercial Land Use Classification that the motion maker is seeking, reminding that the Commercial Land Use Categories include: Commercial - Low Intensity, Commercial - High Intensity and Commercial - Entertainment.

Ms. Maucher stated that she would clarify that it would be consistent with the adjacent properties so that would be C-2A. Responding to Ms. Maucher, Mrs. Melson-Williams stated that the land use category for the adjacent properties is the Commercial - Low Intensity.

*The motion was carried 6-1 by roll call vote with Mr. Adams and Mr. Roach absent. Ms. Maucher voting yes; she had some concerns the initial application for the other properties and she thinks that this will allow them to make some benefits and they fully recognize the limitations on the property. Ms. Edwards voting yes; based on the fact that the property is primarily in the Flood Plain and there are some wetlands on the property and there is limited use of the property. Mr.*

*Hartman voting yes. Mr. Baldwin voting yes. Mr. Tolbert voting no; consistent with his thoughts. Mrs. Welsh voting yes; based on the fact that the applicant has clarified their intentions and their understanding of the limitations of the property and she can see why it would be beneficial to have everything categorized in the same classification. Dr. Jones voting yes; for reasons previously stated.*

iv) Request #4: Various properties owned by Mt. Zion AME Church in Downtown Dover

**Representatives:** Mr. John Paradee, Baird Mandalas Brockstedt; Reverend Dr. Erica Crawford, Mt. Zion AME Church

*Dr. Jones recused herself from this application because she is a member of the church.  
Mr. Tolbert recused himself from this application because he is a member of the church.*

Mrs. Melson-Williams stated that Vice-Chair Ms. Maucher would need to be the Acting Chairperson.

Mr. Hugg stated this Request comes to us on behalf of Mt. Zion AME Church in Downtown Dover. It involves thirteen parcels, eleven of which are currently designated and zoned for Residential Medium Density Use and two of which are currently Mixed Use. The Church recognizes the goals of the *Comprehensive Plan* to revitalize Downtown Dover. The Church has indicated that their long term vision for future use and development of their properties is to extend the vision of Mr. Richard Allen to develop their properties for Institutional Uses such as worship space, classroom facilities, parsonage or other uses which basically benefit the neighborhood. This is a somewhat complicated request in part because the Church's properties are not necessarily all in one block there. They are scattered across a couple of individual blocks and as a matter of normal practice, they try to avoid creating situations where non-contiguous or scattered properties are independently zoned different from their neighbor or what looks like kind of a hodgepodge of uses. Staff's recommendation states: "The Request would be for land use classification of the properties to be changed to Institutional in the Land Development Plan. This would be for all thirteen properties so eleven of them would go from Residential and a current Mixed Use classification. Planning Staff is not recommending approval of your Request but instead has made an alternative recommendation; please see Map 12-1F Land Development Plan. While we are sympathetic to the desires that the Church as set forth in your letter, the Planning Staff does not support making changes to scattered parcels within this larger neighborhood. The Land Development Plan reflects the designation of three blocks including these parcels and properties owned by others as Mixed Use. This land use classification allows for institutional and office uses as desired by Mt. Zion AME Church as well as a variety of residential and commercial activities better meeting the opportunities for revitalization, renewal and redevelopment of this portion of the City." He would add that the blocks immediately south of these areas are in fact designated for mixed use and he thinks that Staff's position is that by putting a Mixed Use designation on the area they create many more opportunities for both AME Church and other property owners to request uses of properties in some cases that might not necessarily otherwise meet minimum requirements for a particular zoning classification and then would also allow for some consolidations of properties for a variety of uses.

*Ms. Maucher opened the public hearing.*

Mr. Paradee stated that he commends Mr. Hugg for recognizing what the Church is asking for because it is actually what Mr. Hugg has recommended. He has an opportunity to discuss this with Mr. Hugg and he did not realize it at the time of the request that everything that the Church wants to do can be done in Mixed Use as opposed to Institutional/Office which would potentially have some other bad things. As his letter indicates, this is part of the Downtown Dover Target Area. It is in the same neighborhood as Wesley College and some other institutions of learning and worship. What the Church would like to do is ultimately develop a campus for a sort of comprehensive unified approach to worship which might include additional congregational space, perhaps reception areas, maybe a parsonage or some other residential uses. Mr. Hugg is very wise; he recognized that Mixed Use would do very nicely. They agree 100% with the Staff recommendation and ask that you give it favorable consideration.

**Reverend Dr. Erica Crawford – Mt. Zion AME Church Dover, DE 19901**

Reverend Crawford stated that Mt. Zion AME Church has been a staple in the Dover community for 146 years in the Downtown Dover area. They have been asked by the City repeatedly to do something with our parcels of land to develop it but based on the fact that it has all been residential, it has not been developable for the Church. So, they are seeking your favor that as they try to meet the request of the City to do something other than cut the grass that you will grant our Request.

**Mr. David Anderson – 217 Cecil Street Dover, DE 19901**

Mr. Anderson stated that he has no comments on the issue because it is not his place to make any comments because he has that opportunity at another time. Will the Mixed Use be just for these properties or does that affect other properties in the area? Responding to Mr. Anderson, Mr. Hugg stated that the designation is basically three full blocks. It is the AME Church properties as well as all of the others that fall in that extended area; so, it is a broader designation.

*Ms. Maucher closed the public hearing.*

*Mrs. Welsh moved to recommend to City Council approval of Request #4: Various properties owned by Mt. Zion AME Church in Downtown Dover following Staff recommendations of Items 4A through 4K to change the category to Mixed Use and to retain the current Mixed Use designation for 4L and 4M, seconded by Mr. Baldwin and the motion was carried 5-0 by roll call vote with Mr. Adams and Mr. Roach absent and Dr. Jones and Mr. Tolbert recused. Mrs. Welsh voting yes; for reasons annotated in the Request. Ms. Edwards voting yes; the applicant and the City are in agreement. Mr. Hartman voting yes; because the City and the applicant are in agreement. Mr. Baldwin voting yes; based on Staff's recommendations. Ms. Maucher voting yes; for the reasons previously mentioned.*

*Dr. Jones and Mr. Tolbert returned to the meeting. And Dr. Jones resumed the activities as Chair.*

v) Request #5: Lands of Dover Motorsports, Inc./Dover International Speedway

**Representatives:** None

Mr. Hugg stated that this Request involves a number of parcels. The Request was submitted by Dover Motorsports, Inc under a letter from October 5, 2018 as a request to preserve the Commercial

designation of Dover International Speedway property or properties. The letter is from Mr. Dennis McGlynn, President and CEO of Dover Motorsports, Inc. They feel that it is very important to preserve the Commercial designation of Dover International Speedway's property. Firefly Music Festival and NASCAR provides significant economic impact to the region and they do so by making significant investments in the events themselves and on the property through construction activities. Without the assurance and confidence that Commercial designations will remain intact, it will be difficult for Dover International Speedway and Firefly to make future investments in Firefly like events and activities. For the record, Staff worked closely with Dover Motorsports and Dover International Speedway to create a new ~~zoning~~ (land use) classification which appears on the Land Development Map as a dark red and it's called Commercial - Entertainment. The idea was to more formally recognize the fact that those properties are not just your standard commercial properties that would otherwise be designated in a commercial zoning district. Staff's recommendation states: "Planning Staff has worked diligently to craft a land use classification of Commercial - Entertainment that recognizes the unique nature of the Dover International Speedway properties. This designation focuses on entertainment, indoor and outdoor recreations, supports gaming and similar uses where retail activities are secondary to the primary purpose."

They supplied that language to them and Mr. McGlynn's letter goes on to say that "Staff had requested that they (the speedway) provide language that could be added into the 2019 *Comprehensive Plan* that would identify their unique use. The references that you provided from the current *Comprehensive Plan* seemed more than adequate and is difficult to imagine any enhancements.

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

Ms. Maucher questioned just to verify that Dover Downs is agreeable to the Staff recommendation. Responding to Ms. Maucher, Mr. Hugg stated yes, Dover Downs is agreeable to Staff's alternative recommendation which was to create the Commercial - Entertainment category with its specific focus on those kinds of activities.

*Ms. Maucher moved to recommend approval to City Council for Request #5: Lands of Dover Motorsports, Inc./Dover International Speedway for the alternative recommendation made by Staff to create a Commercial - Entertainment category, seconded by Mr. Tolbert and the motion was carried 7-0 with Mr. Adams and Mr. Roach absent. Ms. Maucher voting yes; based on Staff recommendations and the agreement from Dover Downs. Ms. Edwards voting yes; based on comments previously made. Mr. Hartman voting yes; based on Staff recommendations and their hard work with the Speedway. Mr. Baldwin voting yes. Mr. Tolbert voting yes. Mrs. Welsh voting yes; due to the fact that the City Planners and the applicant both concur with this new classification. Dr. Jones voting yes; for reasons previously stated.*

vi) Request #6: Designation of Employment Center in vicinity of Kent County AeroPark

**Representatives:** None

Mr. Hugg stated that this is a Request relating to the Annexation Plan. It was a Request submitted

by Kent County Levy Court. It is a Request to include lands north and west of the Kent County AeroPark for potential annexation. These lands are identified for a potential employment center development in the *2018 Kent County Comprehensive Plan*. The letter was sent on behalf of Levy Court by Michael Petit de Mange, the County Administrator on January 25, 2019. Staff agrees and recommends the approval of this request. The recently adopted and certified the *2018 Kent County Comprehensive Plan* identifies the land area north and west of the AeroPark for potential employment center development. The County Plan recommends that Master Plans be developed for such employment center in advance of any land use changes.

Staff's response to the applicant states: "They are writing to request that the City consider an amendment to the current Annexation Areas Map. A component of the *Comprehensive Plan* is to identify lands north and west of the AeroPark for potential annexation to accommodate business park expansion." The letter indicates that Planning Staff concurs with their request.

The reason that this is an issue is that this is outside of the normal or expected growth zone on the east side of Route 13 and Route 1. It involves changes to both the County Plan which they made and changes to our initial philosophy. It's probably one of the two or three major changes in the *2019 Comprehensive Plan* versus *2008 Comprehensive Plan*.

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

*Ms. Edwards moved to recommend approval to City Council for Request #6: Designation of Employment Center in vicinity of Kent County AeroPark as submitted, seconded by Mrs. Welsh and the motion was carried 7-0 with Mr. Adams and Mr. Roach absent. Ms. Edwards voting yes; based on the fact that Staff concurs with the Request. Mr. Hartman voting yes; to support the County and the creation of an employment center. Mr. Baldwin voting yes; based on Staff's recommendation. Mr. Tolbert voting yes. Mrs. Welsh voting yes; in concurrence with Staff's recommendations. Ms. Maucher voting yes; based on Staff recommendations. Dr. Jones voting yes; based on Staff's recommendation.*

- f) Public Hearing on Comprehensive Plan
- g) Discussion
- h) Action by Planning Commission

Mr. Hugg stated that it is his privilege to ask the Commission to take action recommending to the City Council the *2019 Comprehensive Plan* for the City of Dover with this amendments and corrections as presented.

*Dr. Jones opened the public hearing.*

**Ms. Kathleen Doyle – 500 North State Street Dover, DE 19901**

Ms. Doyle stated that she hasn't looked at the FINAL DRAFT. The last time that she read the Plan was in October but her two main areas of interest these days are the components that deal with watershed quality as well as improving air quality. She feels like she had to really do a scavenger hunt to try to find the specifics that are in the Plan for both of those items. For example, for air

quality, there is no mention of trees anywhere. Towards the end of the document there is something about ongoing activities. The more trees, the better the air quality. The City has recently taken down forty trees in town and she is not sure what the plan is to replace those trees. She knows that it does say somewhere that there will be ongoing efforts with updating the Tree Planting and Preservation Ordinance. For watersheds, there has been a lot of great things done along the St. Jones River, Silver Lake and Mirror Lake over the last ten or fifteen years with planting a lot of great trees and native plants but then the City allowed those items to not be managed well. About six months ago or less, they just sprayed everything and now everything is kind of dead along the North State Street Bridge, along parts of Silver Lake, and parts of Mirror Lake. The accomplishments that are listed in *Comprehensive Plan* say that we have updated the Tree Planting and Preservation Ordinance and developed a buffer along St. Jones, Silver Lake and completed remediation activities at Mirror Lake. Those are accomplishments and then they are not mentioned again for the next ten years and yet trees have been taken down and vegetation has been destroyed. She is concerned about those things. She is hoping that there are some specific actionable items that are going to happen and that it's not just saying that we have added to these Ordinances.

Mrs. Melson-Williams stated that Chapter 5 is the chapter of the Plan that deals with Natural Resources and Environmental Protection. There are goals there. An overarching goal of protecting the natural environment and there is also an overarching goal of improving air quality. For the Planning Commissioners, she is reading from Pages 5-15 and 5-16. There are a number of Recommendations that focus efforts in those areas. The *Comprehensive Plan* does list some action items, but it may not be as detail specific as what Ms. Doyle is looking for. Yes, in the past there have been amendments to our Tree Planting regulations. They clarified some of the how you calculate it but as you all know ordinance writing is always ongoing and their Tree Planting and Landscape elements of the *Zoning Ordinance* are probably likely items that we would focus on in the future. If you look at some of the Implementation items, they are to continue to identify and help protect those environmentally sensitive areas. One of the things that they do want to focus on is looking at the City's Recommended Tree List. There are certainly efforts in recent years to focus on more native plantings and updating their tree list is certainly one of those tasks. Air quality is a little more elusive on the local level. A lot of the regulations are at the State or Federal level so their partners with DNREC and others have enforcement mechanisms in that realm. Certainly, the City is a caretaker of our park areas such as Silver Lake Park. There have been some changes in the Department of Parks and Rec and with what Public Works also manages. She thinks that there is at least some recognition of those caretaker activities that there needs to be a better focus on those areas perhaps and that long-term management planning has been recognized in those areas as well as other areas of City infrastructure Citywide. She thinks that there are certainly efforts in this Plan to recognize that the caretaker responsibility in addition to the regulatory side of the City as well.

*Dr. Jones closed the public hearing seeing no one else wishing to speak.*

Mr. Hartman stated that he has a quick list of housekeeping items that he saw. Pages 2-5 and 2-6: TND, PND, SCHO are just listed and not spelled out and he had to look them up. Page 2-10 and 2-11: there are two tables labeled Table 10. On Page 3-7 with all of this data that is coming from different organizations, Censuses and labor departments but on Table 3-5, you have Management listed for 2014 as 220 and for 2024 as 150 and on another table, Management is listed with a much

higher numbers. What is the discrepancy there? Responding to Mr. Hartman, Mr. Hugg stated that these tables show Employment by Occupation and Employment Projections. You would think that both coming from the Department of Labor that they would be consistent definitions but unfortunately, they are not. They wrestled with rather or not they even wanted to include them or not because in some cases he couldn't necessarily reconcile them, but they are the best information that's available.

Mr. Hartman stated that on Page 12-1 it references the Comprehensive Zoning Map Amendment Process and it references Article 10, Section 5.3 and it should be Article 10, Section 5.4. In Table 12-1 (they have looked at that table several times tonight), the table identifies the TND but not a PND. Why is that? Responding to Mr. Hartman, Mrs. Melson-Williams stated that TND is actually a zoning district. PND while it sounds like it's a zoning district it is not; it is more an application process. That is why you do not find it listed in the Land Use Category Matrix.

Mr. Hartman stated that the over-pumping in the Columbian Aquaphor was something that he noticed in the Report right away and when he reviewed the PLUS comments he sees that it was the PLUS Process that actually prompted you to put that in the *Comprehensive Plan*. That is at the Long Point Road well. He is not sure where that is because he couldn't find it on the map. Responding to Mr. Hartman, Mrs. Melson-Williams stated that it is not a specific well that is labeled on the map. The well locations are identified in a general sense, but it does not identify which aquifer the specific one pumps from. There are a collection of wells that are in the vicinity of Long Point Road.

Mr. Hartman stated that the *Comprehensive Plan* mentions a Report by the Delaware Geological Survey and in that Survey, it talks about over-pumping of the Columbia through irrigation sources and an electric generating station. In the *Comprehensive Plan*, you don't mention the electric generation station. What generation station are they talking about in the Survey that they are concerned about with over-pumping of the Columbia? Responding to Mr. Hartman, Mr. Lyon stated that the electrical generation station is Calpine which is located at the Garrison Oak Technical Park. Their concern is that they believe that the proximity of that power plant and the proximity of the wells which are on the east side of town directly feed from those wells to the generation plant but is not accurate. It is fed off of the Distribution System which gets its water from various locations and it is all interconnected. We only have one pressure system.

Mr. Hartman stated that he recalls when that plant was first considered by the City, there was a question about over-pumping of the Columbia Aquifer with saltwater intrusion into the aquifer and partial destruction as the over pumping brings down the level of it and it can't really be brought back. As a Planning Commission, shouldn't that be an action item for us to look at when something comes into that location where the electric generation station is? Shouldn't the City look at their water usage and at least the plan for it in some way? It appears to him that it should be an action item in the *Comprehensive Plan*. This Plan is great; he has never looked at it from the point of view as a Planning Commissioner and it's an excellent road map. But he would like you to address the Columbia Aquifer and the industry out there. He knows that this is a sensitive point with the City because it is one of your economic development areas, but if you could address how they are supposed to approve Site Plans and development in that area with this specter of pumping dry the Columbia Aquifer.

Mrs. Melson-Williams stated that the comments about the over-pumping are in the *Comprehensive Plan* in the text on Page 7-9 that talks about a general discussion about planning for utilities. While it is not a specific item in the Goals and Recommendations, there are goals that are specifically targeted. For example, Goal #1 is to proactively maintain existing infrastructure and expand infrastructure when beneficial. So, one of those is relating to Utility plans. As Mr. Lyon indicated, any one entity doesn't exactly get water from just one well because of how our system works. So, she thinks that it is part of the overall charge of really the Department of Public Works in addressing how we have an adequate water system. We are regulated related to our draw of water and from where. Some of it is beyond the expertise of what the Planning Commission is charged with; it's more on the side of how the Utility provider provides the water source under all of the regulations that we are required to meet as a City.

Mr. Hartman stated that it is certainly something that the City should look at. Responding to Mr. Hartman, Mr. Lyon stated that they do. There was a 1.5-million-gallon tank built for that specific energy center as well as the interconnection at three different points to our distribution system. They did water modeling and they modeled it as best as they could based on the information given to us from that developer. Just to reiterate, we have requirements from DNREC at each one of our well locations. We do not go beyond our Allocation Permits. The DGS Report says that there is going to be over pumping but that is not just the City of Dover; that is all of the other people on that side of Route 9.

Mr. Hartman questioned who in the City looks at the water allocation? Is it 60 million gallons a year or something like that? Responding to Mr. Hartman, Mr. Lyon stated that Public Works looks at the allocation and they have 11.59 million gallons per day divided by three different aquifers: Columbia, Cheswold and Piney Point. They keep an eye on that and they have reports daily, monthly and yearly that they have to give to DNREC.

Mr. Hartman questioned what the process is within the City if someone comes into that industrial park and wants to use a lot of water? Will you just go to your water allocation of 600 million gallons a year or will you look at other things like the Report from the Geological Survey about over-pumping the aquifer? Responding to Mr. Hartman, Mr. Lyon stated that they look at the demand that the client will be providing and then will calculate based on their water model. The water doesn't come directly from each aquifer; it is kind of a melting pot from each one. They run the model and if it works without diminishing our reserves and our fire protection then they approve it. That is done through the DAC process. When the project comes through that is when they review it before the Commission sees it and that's what they write in the Reports that go to the Commission.

Mr. Hartman stated that in the Delaware Geological Survey Report it says the potential for over-pumping will become more significant when an electric generating station served by the Long Point Road well is expected to increase capacity and requires more water. Is that accurate? Responding to Mr. Hartman, Mr. Lyon stated that he has not read that Report in a long time, but the original intent of that energy station was to have two phases. The first phase was 2.3 million gallons a day peak demand and the second phase was twice that. Throughout the amount of time that it has been open, it has gone through various cycles of high demand and they haven't come

close to that number. His guess is that DGS is looking at the worst-case scenario based on those projections and running it through their modeling software and assuming that all of water is coming from Columbia which is not accurate.

*Mrs. Welsh moved to recommend approval to City Council for the 2019 Comprehensive Plan FINAL DRAFT dated December 3, 2019: Planning for a Bigger Better Dover as presented in the document and map series dated December 3, 2019 along with recommendations on the Comprehensive Plan Requests #1-6, seconded by Ms. Maucher and the motion was carried 7-0 with Mr. Adams and Mr. Roach absent. Mrs. Welsh voting yes. Ms. Maucher voting yes; she thinks that it is a wonderful work product and she appreciates all of the hard work that went into it by Planning Staff. Ms. Edwards voting yes; she does want to commend the Staff as she knows there was a tremendous amount of time and energy invested in the Comprehensive Plan, so thank you. Mr. Hartman voting yes; it is impressive work. Mr. Baldwin voting yes; it's a job well done. Mr. Tolbert voting yes; the job was well done in a most professional manner. Dr. Jones voting yes; for the reasons previously stated.*

Note: A Public Hearing before the City of Dover City Council on the 2019 Comprehensive Plan has been scheduled for January 13, 2020 at 7:30 P.M., in the City Council Chambers of City Hall. (Ordinance #2019-21)

EXHIBIT "C"

# Regular City Council Meeting Agenda



January 13, 2020 - 7:30 p.m.

City Hall Council Chambers, 15 Loockerman Plaza, Dover, Delaware

## **Open Forum - 15 Minutes Prior to Official Meeting (7:15 p.m.)**

The "Open Forum" segment is provided to extend the opportunity to the general public to share their questions, thoughts, comments, concerns, and complaints. Discussion of any item appearing on the agenda as a public hearing is prohibited during the Open Forum as an opportunity will be provided during consideration of that item. Citizen comments are limited to three (3) minutes. Council is prohibited from taking action since they are not in official session; however, they may schedule such items as regular agenda items and act upon them in the future.

**Invocation by Bishop Thomas L. Holsey**

**Pledge of Allegiance Led by Councilman Cole**

**Adoption of Agenda**

### **\* Consent Agenda**

Those items on the Council Agenda which are considered routine and non-controversial shall be marked with an asterisk (\*) and will be acted upon by a single roll call vote of the Council. There will be no separate discussion of these items unless a member of Council so requests, in which event the matter shall be removed from the Consent Agenda and considered a separate item.

### **\* 1. Adoption of Minutes - Regular Council Meeting of December 9, 2019**

**2. Certificate of Congratulations - Dr. Wilma Mishoe**

**3. Selection of the Chief of Police**

### **4. Public Hearing/Final Reading of Proposed Ordinance #2019-21**

The First Reading of the Proposed Ordinance was accomplished during the Council meeting of December 9, 2019. The ordinance is available at the entrance of the Council Chambers and on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government."

**A. Adoption of the 2019 City of Dover Comprehensive Plan**

**5. Resolution #2020-01 - Requesting the 150th General Assembly of the State of Delaware to Continue Investment and Support of Wesley College as Intended by the Higher Education Economic Development Fund**

- \* **6. Monthly Reports - November 2019**
- A. City Assessor's Report
  - B. City Council's Community Enhancement Fund Report
  - C. City Manager's Report
  - D. City Planner's Report
  - E. Controller/Treasurer's Budget Report
  - F. Fire Chief's Report
  - G. Police Chief's Report
- \* **7. Quarterly Review - Capital Investment Plan (CIP) (July, August, and September)**
- 8. Contract Services for Library Management**  
(Staff Recommendation: Authorize the City Manager and her designees to enter into an agreement for library management services with Library Systems & Services, LLC for an amount not to exceed \$200,000. The agreement will be for one year. Any extension of the contract would require a full Request for Proposal process.)
- 9. Discharge of Bicycle and Pedestrian Subcommittee (Lindell)**
- 10. Final Reading - Proposed Ordinance #2019-20**  
The First Reading of the Proposed Ordinance was accomplished during the Council Meeting of December 9, 2019. The ordinance is available at the entrance of the Council Chambers and on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government."
- A. **Amending Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications**
- 11. City Manager's Announcements**
- 12. Council Members' Announcements**
- 13. Adjournment**

/tm

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Executive Session Pursuant to:

- 29 Del. C. §10004(b)(2) - Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property;
- 29 Del. C. §10004(b)(4) - Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body;
- 29 Del. C. §10004(b)(6) - Discussion of the content of documents, excluded from the definition of "public record" in §10002 of this title where such discussion may disclose the contents of such documents;
- 29 Del. C. §10004(b)(9) - Personnel matters in which the names, competency and abilities of individual employees are discussed, unless the employee requests that such a meeting be open

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING.

# City of Dover

## 2019 COMPREHENSIVE PLAN

The *City of Dover 2019 Comprehensive Plan* includes text and a Map series outlining information and policies regarding land use activities in the City of Dover. The FINAL DRAFT *2019 Comprehensive Plan* (12.3.2019) document is on file at the Department of Planning and Inspections, City Hall, 15 Loockerman Plaza, Dover and at the Dover Public Library, 35 Loockerman Plaza, Dover.

See Project website:

<https://www.cityofdover.com/2019-comprehensive-plan>

The following packet of information is provided to the Dover City Council for review of the *2019 Comprehensive Plan*. This information includes the Recommendations of the Planning Commission from their Public Hearing and Review of the Plan on December 16, 2019. The Public Hearing/Final Reading of Proposed Ordinance #2019-21 for the Adoption of the 2019 City of Dover Comprehensive Plan is scheduled for the City Council Meeting of January 23, 2020.

- FINAL DRAFT *2019 Comprehensive Plan* (12.3.2019): A copy of the FINAL DRAFT (paper hard copy) was provided on December 9, 2019 to City Council Members for your review. The document and map series can also be found on the Project website and at the locations noted above.
- Additional Exhibit Items:
  - Exhibit 1: Project Summary Report
  - Exhibit 2: Preliminary Land Use Services (PLUS) Review Letter of November 8, 2019
  - Exhibit 3: Staff Response Chart of 12.10.2019 to PLUS Review
  - Exhibit 4: PLUS Follow-up Letter (Final Review – Revisions Accepted)
    - Exhibit 4A: OSPC Final Review Letter of December 19, 2019
    - Exhibit 4B: PLUS Follow-up/ Final Review Email of December 19, 2019 from Office of State Planning Coordination
    - Exhibit 4C: Follow-up Emails from OSPC and DNREC dated

December 19, 2019 with Information Update on Watersheds  
(associated with Request D)

- Exhibit 5: Information on the Requests
  - Chart of Comprehensive Plan Amendments Requests #1-6 and A-D (Updated 1.2.2020 to included Planning Commission Recommendations)
- Exhibit 6: Package of Requests: Cover Sheet Summary of Request, Request Letters, Response Letters, Attachments, and associated Final Draft Map(s)
- Exhibit 7: Map 12-1: Land Development Plan - Planning Commission Recommendations on Requests #1-6
- Exhibit 8: Excerpt of Planning Commission Meeting Minutes of December 16, 2019
- Proposed Ordinance #2019-21 to Adopt 2019 Comprehensive Plan

**2019 Comprehensive Plan Amendment Requests Submitted During the Public Comment Period  
through January 2, 2020**

Request #	PARCELID	Application	Notes	Requested By	Staff Recommendation*	PC ACTION	CC ACTION
1	ED-05-075.00-01-07.00-000	Land Development Plan	Request change from Residential Medium Density to Mixed Use or Commercial for 5.0 acre parcel on north side of Route 8/Forrest Avenue	Draper Farm Properties, LLC via John Paradee Letter of 8-20-2018	Not Recommended	Change designation to Mixed Use. Vote 5-2 in favor.	
2	ED-05-085.00-01-07.00-000	Land Development Plan	Request change from Industrial to Commercial for parcel between POW/MIA Parkway and Railroad Corridor/New Burton Road	G. Michael Glick via Letter of 8-28-2018	Not Recommended	Follow Staff Recommendation to remain as Industrial. Vote 7-0 in favor.	
3	ED-05-068.11-01-02.00-000	Land Development Plan	Request change from Agricultural (zoning) to Commercial for 1.81 acre parcel on north side of White Oak Road adjacent to State Route 1. Note: LDP shows Land Use Category for parcel as Open Space, Conservation, Recreation.	Harman Brothers, LLC via William Harman Letter of 9-22-2018	Not Recommended	Change designation to Commercial-Low Intensity. Vote 6-1 in favor.	
4A	ED-05-076.08-03-31.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 120 N. Queen Street.	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4B	ED-05-076.08-03-32.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 110 N. Queen Street.	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4C	ED-05-076.08-03-33.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 108 N. Queen Street.	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4D	ED-05-076.08-03-34.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 106 N. Queen Street.	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4E	ED-05-076.08-03-35.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 104 N. Queen Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4F	ED-05-076.08-03-37.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 101 N. Queen Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4G	ED-05-076.08-03-38.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 107 N. Queen Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4H	ED-05-076.08-03-48.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 118 N. New Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4I	ED-05-076.08-03-49.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 118 N. New Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4J	ED-05-076.08-03-53.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 106 N. New Street.	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4K	ED-05-076.08-03-55.00-000	Land Development Plan	Request change from Residential Medium Density to Institutional/Office for 102 N. New Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Alternative Recommendation	Follow Staff Recommendation to be Mixed Use. Vote 5-0 in favor (2 recused).	
4L	ED-05-076.08-05-10.00-000	Land Development Plan	Request change from Mixed Use to Institutional/Office for 35 N. Queen Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Not Recommended	Follow Staff Recommendation to remain as Mixed Use. Vote 5-0 in favor (2 recused).	
4M	ED-05-076.08-05-11.00-000	Land Development Plan	Request change from Mixed Use to Institutional/Office for 37 N. Queen Street	Mt. Zion AME Church via John Paradee Letter of 10-3-2018	Not Recommended	Follow Staff Recommendation to remain as Mixed Use. Vote 5-0 in favor (2 recused).	
5	Multiple parcels	Land Development Plan & Plan Text	Request to preserve Commercial designation of Dover International Speedway's property(ies).	Dover Motorsports Inc. via Letter of 10-5-2018	Alternative Recommendation	Approval of Staff Recommendation for creation and designation as Land Use Category of Commercial-Entertainment. Vote 7-0 in favor.	
6	Multiple parcels	Annexation Plan	Request to include lands north and west of the Kent County AeroPark for potential annexation. Identified for potential Employment Center development in the 2018 Kent County Comprehensive Plan.	Kent County Levy Court via Michael Petit de Mange (County Administrator) Letter of 1-25-2019	Recommended	Approval as submitted per Staff Recommendation for Annexation designation. Vote 7-0.	
* Notes: Requests with affirmative Staff Recommendations have been incorporated into the FINAL DRAFT (12.3.2019) Comprehensive Plan and its map series. Requests with negative Staff Recommendations have not been included in the FINAL DRAFT Plan.							

# Request for Changes to City of Dover 2019 Comprehensive Plan

Request #1	1
Parcel ID:	ED-05-075.00-01-07.00-000
Application Type:	Land Development Plan
Notes:	Request change from Residential Medium Density to Mixed Use or Commercial for 5.0-acre parcel on north side of Route 8/Forrest Avenue
Requested By:	Draper Farm Properties, LLC via John Paradee Letter of 8-20-2018
Staff Recommendation:	Not Recommended
<b>Planning Commission Action – Request #1:</b>	<b>Motion to change Land Development Plan Map designation to Mixed Use for property. Vote 5-2 in favor.</b>



BAIRD  
MANDALAS  
BROCKSTEDT LLC

#1

RECEIVED  
AUG 27 2018  
CITY OF DOVER  
PLANNING DEPARTMENT

John W. Paradee, Esq.  
302-677-0061  
[www.bmbde.com](http://www.bmbde.com)  
[john@bmbde.com](mailto:john@bmbde.com)

**COPY**

August 20, 2018

David S. Hugg  
Planning Director  
City of Dover  
The Plaza  
Dover, Delaware 19901

**RE: City of Dover Comprehensive Plan Recommendation for  
5.0 +/- acre parcel located on Route 8 in Dover, Delaware**

Dear Mr. Hugg:

As you know, I represent Draper Farm Properties, LLC ("DFP"), the owner of a 5.0+/- acre parcel of unimproved real property on the north side of Route 8 in the City of Dover, more particularly identified as Tax Parcel #ED-05-075.00-01-07.00-000 (the "Property"). The Property is located directly across from the new Dover High School, along a major arterial roadway which serves as the western gateway into the City, in close proximity to a number of retail and commercial uses.

The Property is presently zoned R-10, and the City's existing (2008) Comprehensive Plan recommends that the Property be developed for "Medium Density Residential" uses, which may include C-1 (Neighborhood Commercial) uses. Among the goals of the Comprehensive Plan are the creation of "neighborhood centers" and "urban centers", which the Plan recommends "be established along major roadways and feature mixed use development." The Comprehensive Plan also acknowledges that "Route 8, west of the railroad tracks, has become a key commercial corridor for the City", that "jobs and commerce in the retail, wholesale, and service sectors are an important part of Dover's economic vitality", and that "commercial centers and corridors contribute to the City's overall image and the positive feeling of its residents." And finally, with regard to the Route 8 corridor in particular, the Comprehensive Plan recommends that the area "continue to develop as either commercial or professional offices."

It is my understanding that the City is presently in the process of updating its Comprehensive Plan, and thus, now would be an appropriate time for the City to give due consideration to the Plan's recommendations regarding potential future uses of the Property. It is also my understanding that the City may be desirous of annexing a number of parcels of land located to the west of the Property, as part of the natural growth and expansion of the City's western boundaries. Given the continuing trend of growth and development along the Route 8 corridor at the western gateway of the City, and the Plan's recommendations that this growth and development be planned in such a way as to create "neighborhood centers", it would be logical



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MANDALAS  
BROCKSTEDT LLC

August 19, 2018

Page 2

and appropriate to upgrade the Comprehensive Plan recommendation for the Property to "Mixed Use" or "Commercial", in order to allow for mixed-use development that will bring more retail and commercial business services closer to the growing number of residential neighborhoods on the west side of the City.

I therefore respectfully request, on behalf of DFP, that the City upgrade the Comprehensive Plan recommendation for the Property to "Mixed Use" or "Commercial", for all of the reasons set forth above.

Thank you for your time and consideration. If you should have any questions whatsoever, please do not hesitate to contact me.

Very truly yours,

John W. Paradee

JWP/lwr

cc: Mr. Allan Davis  
Mr. Eric Good  
Douglas S. Walker, Esquire

**CITY OF DOVER PROPOSED ORDINANCE #2019-21**

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**  
2 **COUNCIL MET:**

3 WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 701  
4 - Establishment; Membership, of the Delaware Code, the City of Dover established a Planning  
5 Commission; and

6 WHEREAS, Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 -  
7 Comprehensive Development Plan, Paragraph (e) of the Delaware Code requires that at least every  
8 ten years, a municipality's adopted comprehensive plan shall be "revised, updated, and amended as  
9 necessary, and readopted"; and

10 WHEREAS, at a special meeting on December 2, 2008, the Dover Planning Commission reviewed  
11 and approved the 2008 Dover Comprehensive Plan (Final Draft dated October 31, 2008), and  
12 forwarded it, with revisions, to the City Council for adoption; and

13 WHEREAS, the City Council held a public hearing on the 2008 Comprehensive Plan on January 5,  
14 2009 and then on February 9, 2009 approved Ordinance #2008-44 to adopt the Planning  
15 Commission's recommended Comprehensive Plan; and

16 WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702  
17 - Comprehensive Development Plan, of the Delaware Code, the City of Dover adopted a  
18 comprehensive plan update known as the 2008 Comprehensive Plan on February 9, 2009; and

19 WHEREAS, having adopted a comprehensive plan in 2009, the City desires to comply with the  
20 provisions of Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 -  
21 Comprehensive Development Plan, Paragraph (e), of the Delaware Code by reviewing and updating  
22 the 2008 Comprehensive Plan; and

23 WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702  
24 - Comprehensive Development Plan, of the Delaware Code, the Planning Commission will conduct  
25 a public hearing on December 16, 2019 to consider the approval of the 2019 Comprehensive Plan  
26 (Final DRAFT dated December 3, 2019) and forward it along with any recommendations to the City  
27 Council for adoption; and

28 WHEREAS, the City Council is scheduled to hold a public hearing on the 2019 Comprehensive Plan  
29 on January 13, 2020 and then act on Ordinance #2019-21 to adopt the Planning Commission's  
30 recommended Comprehensive Plan; and

31 NOW, THEREFORE, BE IT ORDAINED THAT the Mayor and Council of the City of Dover adopt  
32 The Dover Plan: 2019 Comprehensive Plan - "Planning for a Bigger Better Dover", as amended, and  
33 submit the Plan to the Governor for Certification.

34 EFFECTIVE DATE: The *2019 Comprehensive Plan* shall become effective upon the receipt of the  
35 certification by the Governor.

36 **ADOPTED: \***

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**SYNOPSIS**

The proposed ordinance would adopt the 2019 Comprehensive Plan as approved and recommended by the Dover Planning Commission and amended by motion of the Dover City Council.

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45

Actions History

01/13/2020 - Scheduled for Public Hearing/Final Reading - City Council

12/09/2019 - First Reading - City Council



Map 12-1C: Land Development Plan

Date Updated: 12/01/2019

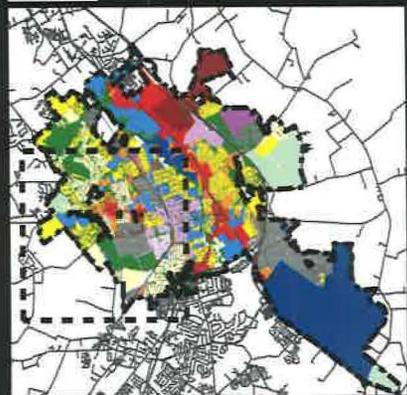
0 1,500 3,000 Feet

LEGEND

Land Use

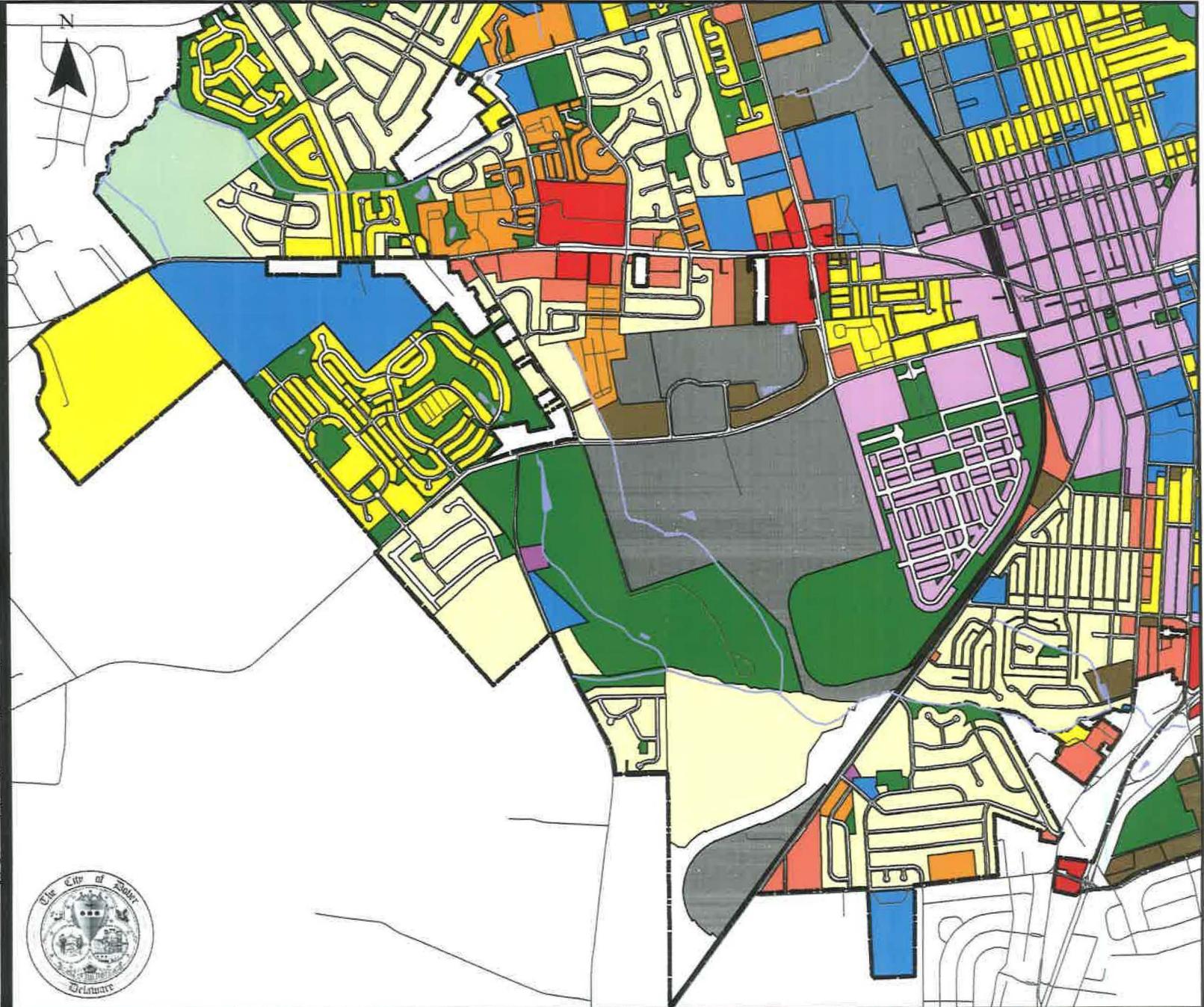
-  Active Agriculture
-  Commercial Entertainment
-  Commercial High Intensity
-  Commercial Low Intensity
-  DoverAFB
-  Industrial
-  Institutional
-  Mixed Use
-  Office
-  Open Space, Conservation, Recreation
-  Public and Private Utilities
-  Residential High Density
-  Residential Medium Density
-  Residential Low Density
-  Train Track
-  Dover Boundary
-  Roads
-  Hydrology
-  Water Bodies

0 10,000 Feet Inset Map



**PAPER MAP DISCLAIMER:**

By acceptance of this map material you agree to the following: This map material is made available by the City of Dover, Delaware as a public service. The material is for reference purposes only, and the City makes no warranty, representation, or guaranty as to the accuracy of the material, including its accuracy, availability, use, and reuse. In no event shall the City be liable for any direct or indirect damages suffered by the recipient or others arising from any inadequacies of the digital data or the recipient's use of this data. The material is in the public domain and may be copied without permission. Citation to the source would be appreciated. Any errors or omissions in the material should be reported to the City of Dover, Delaware's Public Works GIS Division.



## REGULAR CITY COUNCIL MEETING

The Regular Council Meeting was held on January 13, 2020 at 7:30 p.m. with Council President Hare presiding. Council members present were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Slavin, Mr. Cole, Mr. Polce, Mr. Taylor, and Mr. Lindell.

Staff members present were Major Stump, Ms. Peddicord, Mrs. Mitchell, Mr. Hugg, Fire Chief Rhodes, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Christiansen was also present.

### **OPEN FORUM**

The Open Forum was held at 7:15 p.m., prior to commencement of the Official Council Meeting. Council President Hare declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Mrs. Claudia Johnson, owner of 32 Wyoming Avenue and 391 Beechwood Avenue, spoke about the hardship that the Clean Hands Act places on the residents and the need for a review of the vacant property ordinance to prevent the hardship.

The invocation was given by Bishop Thomas L. Holsey, followed by a moment of silence for Deputy City Solicitor William Pepper and his family and the Pledge of Allegiance.

### **ADOPTION OF AGENDA**

Mr. Slavin requested that item #3, Selection of the Chief of Police, be renumbered as item #7.

**Mr. Neil moved for adoption of the agenda, as amended, seconded by Mr. Sudler and unanimously carried.**

**Mr. Neil moved for adoption of the consent agenda, seconded by Mr. Sudler and carried by a unanimous roll call vote.**

### **ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF DECEMBER 9, 2019**

**The Minutes of the Regular Council Meeting of December 9, 2019 were unanimously approved by motion of Mr. Neil, seconded by Mr. Sudler and bore the written approval of Mayor Christiansen.**

### **CERTIFICATE OF CONGRATULATIONS - DR. WILMA MISHOE**

The City Clerk read the following Certificate into the record:

#### CERTIFICATE OF APPRECIATION

Presented to Dr. Wilma Mishoe

It is with sincere appreciation and admiration that we honor your momentous 40-year career in higher education. We recognize the historic event of having served as the first female Chief Executive at Delaware State University, continuing your father's legacy. We recognize the outstanding leadership and immeasurable contributions made to the students, faculty, and administration.

Congratulations on your retirement and best wishes on your future endeavors!

On behalf of the Mayor and Council, Mayor Christiansen and Councilman Sudler presented the Certificate to Dr. Wilma Mishoe.

Dr. Mishoe stated that it had been an honor to serve not just Delaware State University, but to represent the City of Dover and the state of Delaware all around the world and she thanked the City for the recognition and her family and church for being there with her.

**PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2019-21**

A public hearing was duly advertised for this time and place to consider adoption of the 2019 City of Dover Comprehensive Plan. Council President Hare reminded members of the public that copies of the proposed ordinance were available at the entrance of the Council Chambers or on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government."

**Mr. Sudler moved that the Final Reading of Proposed Ordinance #2019-21 be acknowledged by title only, seconded by Mr. Neil and unanimously carried.** (The First Reading of the ordinance was accomplished during the Council Meeting of December 9, 2019.)

Mr. Dave Hugg, Director of Planning and Community Development, reviewed the 2019 City of Dover Comprehensive Plan and the review process that was undertaken by Planning Staff. He noted that the Planning Commission unanimously recommended adoption of the ordinance.

Mrs. Dawn Melson-Williams, Principal Planner, reviewed the comments and requests received during the public comment period and the Planning Commission's recommendations related to those requests.

Responding to Mr. Polce, Mr. Hugg stated that the requests with affirmative Staff recommendations have been incorporated into the final draft of the Comprehensive Plan and its map series and the requests with negative Staff recommendations were not included in the final draft plan. He noted that they would not be making those changes unless Council members concurred. Mr. Hugg advised that the Planning Commission recommendations would be incorporated into the final document as corrections once Council acts favorably upon them.

Mr. Anderson requested Mr. Hugg to explain mixed use, which would affect a lot of areas. Responding, Mr. Hugg stated that mixed use is a zoning classification that recognizes both the historic pattern of development in the City and the fact that in some neighborhoods the way property is used is not necessarily the majority of the activity. He noted that the residential zoning classification is pretty straightforward; however, the downtown area has been impacted by 200 to 300 years of land use decisions so mixed use is a category that is intended to be broader with more flexibility. Mr. Hugg advised that there was a matrix on page 1226/1227 of the document in Chapter 12 that shows how the land use and the land development categories match up against the zoning.

Mr. Neil reviewed the changes that he had recommended, as follows:

- Include a note that the City does not provide for healthcare, social services or education;
- Include a note in either Chapter eight or nine that the City Council has approved a lodging tax dedicated to the infrastructure of the City;
- Update the housing figures to reflect NCALL's home ownership work; and
- Change the language in Chapter 15 on page 15/6 to urge access to Route 1 from Garrison Park Center, noting that it is already listed in Chapter nine on page 9/16.

Mr. Taylor asked if mass transit, such as a railway system or civil air terminal, was a consideration in the Plan. Responding, Mr. Hugg advised that there were formal processes for amending and implementing the Plan. He also noted that the document weighs heavily in the work of the Metropolitan Planning agency and influences the City's relationships with DelDOT in terms of long range transportation planning. Mr. Hugg advised that they were looking at an air cargo terminal and motor freight transportation.

Council President Hare declared the public hearing open.

Mr. John Pardee, Baird Mandalas Brockstedt LLC, stated that he was in favor of the plan, generally. With regard to Request #1, Draper Farm Properties, he advised that they agree that a commercial zone would be too intensive and that a mixed use zone would be appropriate.

Responding to Mr. Neil, Mr. Hugg advised that the designation of the land use category does not preclude or authorize any particular design or development decision and the property would be required to go through the zoning and site plan processes, which would include a review by DelDOT.

Responding to Mr. Anderson, Mr. Pardee stated that there were currently no particular plans for the properties belonging to Mt. Zion AME Church (requests #4A - #4M). He noted that the church owns a number of disparate properties with different zonings and setbacks in a three-block area within the City. Mr. Pardee advised that the church is looking for, in its vision to deliver its message to the community, the ability to have some flexibility for growth such as an expanded fellowship hall and a residence for employees or the Reverend on-site, thereby creating a small campus that is integrated and makes sense for the future vision of the church. Mr. Pardee advised that they agree with Staff's recommendation for a mixed use zone.

Referring to request #3, Harman Brothers LLC - White Oak Road, Mr. Pardee advised that this was a composite of three or four parcels, all but one of which is already zoned C-2 commercial. He stated that they were asking for the last parcel to be changed from open space to commercial to match the rest of the properties.

Responding to Mr. Lindell, Mrs. Melson-Williams stated that the Institutional and Office (IO) zoning classification is typically used for professional offices, schools, colleges, universities, and other public institutions such as civic buildings. She noted that most of the large school sites and large campus-like establishments throughout the City now have an IO zoning classification. The uses of churches and schools can occur in some of our other zoning districts, but the IO zoning, that is the primary focus for at least large campus-like establishments for those types of uses.

Mrs. Melson-Williams advised that Chapter 12 discusses institutional land uses and the land use matrix, which focuses primarily on the IO zoning district but notes that uses can be conditionally approved through a special review process. She stated that all properties in the City of Dover have a zoning classification with a list of uses that are permitted without any specialized review process and conditional uses with a very specific review process. Mrs. Melson-Williams advised that if the use is not in one of those two lists, then the Code is considered silent and it would not be permitted in that zone.

Responding to Mr. Sudler, Mrs. Melson-Williams stated that Staff could do map comparisons to provide the locations and zoning designations of the emergency shelters located in Dover.

Ms. Ann Smith, NAACP Central Branch president, asked if, in the process of developing the Plan, the 43% black and the 47% white population had input into the Plan. Responding, Mr. Hugg stated that the Plan was posted on the website, there were a number of workshops and public hearings, they met with a number of interest groups, and they did a survey citywide that was both on the website and in hard copy throughout the City library and other places to offer the public as many opportunities as they wanted to avail themselves of an opportunity to not only talk to them about what was going on in the city and what they liked or did not like about the existing Comprehensive Plan, but what they would like the new Comprehensive Plan to address. Ms. Smith expressed concern that the make up of the City Committees should reflect the population that is served.

There being no one else present wishing to speak, Council President Hare declared the public hearing closed.

**Mr. Polce moved for adoption of Ordinance #2019-21 as amended by the Planning Commission's recommendations for requests numbered one, three, four, five, and six, and that the 2019 City of Dover Comprehensive Plan be submitted to the Governor for certification. The motion was seconded by Mr. Slavin and by a unanimous roll call vote, Council adopted Ordinance #2019-21, as follows:**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:**

WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 701 - Establishment; Membership, of the Delaware Code, the City of Dover established a Planning Commission; and

WHEREAS, Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 - Comprehensive Development Plan, Paragraph (e) of the Delaware Code requires that at least every ten years, a municipality's adopted comprehensive plan shall be "revised, updated, and amended as necessary, and readopted"; and

WHEREAS, at a special meeting on December 2, 2008, the Dover Planning Commission reviewed and approved the 2008 Dover Comprehensive Plan (Final Draft dated October 31, 2008), and forwarded it, with revisions, to the City Council for adoption; and

WHEREAS, the City Council held a public hearing on the 2008 Comprehensive Plan on January 5, 2009 and then on February 9, 2009 approved Ordinance #2008-44 to adopt the Planning Commission's recommended Comprehensive Plan; and

WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 - Comprehensive Development Plan, of the Delaware Code, the City of Dover adopted a comprehensive plan update known as the 2008 Comprehensive Plan on February 9, 2009; and

WHEREAS, having adopted a comprehensive plan in 2009, the City desires to comply with the provisions of Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 - Comprehensive Development Plan, Paragraph (e), of the Delaware Code by reviewing and updating the 2008 Comprehensive Plan; and

WHEREAS, pursuant to Title 22 - Municipalities, Chapter 7 - Planning Commission, Section 702 - Comprehensive Development Plan, of the Delaware Code, the Planning Commission will conduct a public hearing on December 16, 2019 to consider the approval of the 2019 Comprehensive Plan (Final DRAFT dated December 3, 2019) and forward it along with any recommendations to the City Council for adoption; and

WHEREAS, the City Council is scheduled to hold a public hearing on the 2019 Comprehensive Plan on January 13, 2020 and then act on Ordinance #2019-21 to adopt the Planning Commission's recommended Comprehensive Plan; and

NOW, THEREFORE, BE IT ORDAINED THAT the Mayor and Council of the City of Dover adopt The Dover Plan: 2019 Comprehensive Plan - "Planning for a Bigger Better Dover", as amended, and submit the Plan to the Governor for Certification.

EFFECTIVE DATE: The *2019 Comprehensive Plan* shall become effective upon the receipt of the certification by the Governor.

ADOPTED: JANUARY 13, 2020

**RESOLUTION NO. 2020-01 - REQUESTING THE 150TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE TO CONTINUE INVESTMENT AND SUPPORT OF WESLEY COLLEGE AS INTENDED BY THE HIGHER EDUCATION ECONOMIC DEVELOPMENT FUND**

**Mr. Sudler moved to read Resolution No. 2020-01 by title only, seconded by Mr. Neil and unanimously carried.**

Mr. Slavin advised that he had a perceived conflict of interest on this issue in that his wife is an employee of Wesley college and would remove himself from the chamber during the discussion.

**By unanimous consent, Resolution No. 2020-01 was unanimously adopted (Slavin abstaining) as follows:**

**A RESOLUTION REQUESTING THE 150TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE TO CONTINUE INVESTMENT AND SUPPORT OF WESLEY COLLEGE AS INTENDED BY THE HIGHER EDUCATION ECONOMIC DEVELOPMENT FUND**

WHEREAS, Wesley College was founded on September 1, 1873; and

WHEREAS, Wesley College has been a treasured resource for The City of Dover and The State of Delaware throughout its almost 150-year history; and

WHEREAS, Wesley College's main campus occupies fifty (50) acres of land and occupies nineteen (19) buildings in the heart of the City of Dover; and

WHEREAS, Greater than 50% of Wesley College's student body are Delawareans; and

WHEREAS, Over 80% of Wesley College graduates remain in Delaware following graduation; and

WHEREAS, Wesley College has of over 300 employees, and is one of the largest employers in Kent County; and

WHEREAS, Wesley College is the only institution in the state besides Delaware State University that is a designated Title III eligible school: and

WHEREAS, Wesley College is one of the State's major healthcare providers, with one of the top Nursing (Undergraduate and Graduate) programs, and the only Masters of Occupational Therapy program, in the State; and,

WHEREAS, Wesley College contributes nearly Eighty Million Dollars (\$80,000,000.00) to the local Kent County Economy; and

WHEREAS, Wesley College exists to liberate and empower its students with the knowledge, skills, ethical attitudes and capacity for critical thinking needed to achieve personal and professional goals and to contribute to the local and global society; and

WHEREAS, the 150th General Assembly allowed Wesley College the privilege of being awarded Higher Education Economic Development Investment Funds to be expended to supplement investments that Delaware's institutes of higher education are making to improve job growth, job retention and economic development in the State.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council respectfully request the 150th General Assembly of the State of Delaware continue investment and support of Wesley College as intended by the Higher Education Economic Development Fund.

BE IT FURTHER RESOLVED that the Mayor and Council commend Wesley College on their efforts to date in improving their fiscal efficiency and increased educational opportunities, as well as economic growth for our region, state, and community.

AND FINALLY, BE IT FURTHER RESOLVED that the Mayor and Council direct the City Clerk to make this resolution a part of the permanent records of the City of Dover as a lasting symbol of appreciation and gratitude to the 150th General Assembly of the State of Delaware for recognizing the vital importance of Wesley College to the City of Dover and Kent County.

ADOPTED: JANUARY 13, 2020

**MONTHLY REPORTS - NOVEMBER 2019**

**By motion of Mr. Neil, seconded by Mr. Sudler, the following monthly reports were accepted by consent agenda:**

City Assessor's Report  
City Council's Community Enhancement Fund Report  
City Manager's Report  
City Planner's Report  
Controller/Treasurer's Budget Report  
Fire Chief's Report  
Police Chief's Report

**QUARTERLY REVIEW - CAPITAL INVESTMENT PLAN (CIP)**

Members were provided the Quarterly Report for the Capital Investment Plan (CIP) as of December 31, 2019.

**By consent agenda, Mr. Neil moved for acceptance of the Quarterly Report for the Capital Investment Plan (CIP) as of December 31, 2019. The motion was seconded by Mr. Sudler and carried by a unanimous roll call vote.**

**SELECTION OF THE CHIEF OF POLICE**

**Mr. Sudler moved to recess into Executive Session pursuant to 29 Del. C. §10004 (b)(9) - Personnel matters in which the names, competency and abilities of individual employees are discussed, unless the employee requests that such a meeting be open. The motion was seconded by Mr. Slavin and unanimously carried.**

The Regular Council Meeting recessed into Executive Session at 8:36 p.m. and reconvened at 9:31 p.m.

Mayor Christiansen read the following into the record:

“Good evening members of the Council, staff, general public,

I'd like take this opportunity to publicly thank the Chief of Police Selection Committee for their efforts in filling this most vital position in the City of Dover. I'd like to recognize City Manager Donna Mitchell, HR Director Kim Hawkins, Council President Bill Hare and Councilman Ralph Taylor. With due diligence they waded through 22 applications which were very diverse and were from across the country. In numerous meetings, we whittled those down to six candidates who were

chosen to be spoken to as moving through the process and finally we ended with three down to two to the final one which I will make as part of the presentation.

It is important that the public understand that they fulfill that responsibility to the members of this Council who asked us to take that responsibility on, but more over we fulfilled our responsibility to the citizens of the City of Dover. With due diligence, integrity, fidelity, and professionalism along with the best openness that we were allowed in accordance with the processes of hiring individuals. We were advised by a labor lawyer, Mike Stafford, who provided us with information as we moved along through the process.

At this point in time before I move on further into this presentation, I would once again also like to publicly thank Deputy Chief Tim Stump for his outstanding job as he did as acting chief of the department. He is truly a dedicated public servant to our citizens and to our City and I value his service greatly, but I also value his friendship. Thanks again, chief.

As advised by the committee's attorney, I will now give the members of Council an overview of the qualifications of the candidate which led to the recommendation of the name that we will mention. I have been given advice and information and the permission from that candidate to use his name. So I will recommend the name of Thomas Johnson for the position of Chief of the Dover Police Department. I'll give the members of Council an overview of his qualifications.

Thomas Johnson is a 24 year veteran of the Upper Darby Police Department in Delaware County, Pennsylvania. He's a graduate of the Northwestern University School of Police Staff and Command. He is an adjunct professor for the University of Pennsylvania. His current position is captain of training and professional standards reporting directly to the superintendent of police. His current responsibilities include continuing education for the members of his department operational training. He is deep in the hiring process of new officers, credentialing policy procedure, and internal affairs. He has served six years as captain of the administration with responsibilities including the uniform crime report, police records, station security, cellblock security, budget management, community affairs, community policing, support functions and specialty units such as SORT and other teams. He has served on the command staff for the last eight years and has over 14 years of leadership experience in the Upper Darby Police Department. His current special projects include directing a comprehensive update of the policy manual for his department, release supervised training program developed in collaboration with Penn State University and chairing the committee responsible for acquisition of a custom crime scene response vehicle.

Other duties throughout his career, he has worked in community affairs policing, directing a NARCAN program, and the addiction recovery of referral system, the administration of the budget, police records, the uniform crime report, fixed assets, facilities, and the civilian staff, responsibility for the operation of the DUI task force of the highway patrol unit, which is their motorcycle unit and the accident investigation unit. He is a veteran paramedic, nationally certified. He is a volunteer firefighter. His current agency is the largest municipal agency in Delaware County and is one of the most populous in the Commonwealth of Pennsylvania. He and his department serve diverse neighborhoods representing an estimated 100 separate cultures, student body at a number of institutions of higher learning within the confines of the Upper Darby Police Department which they have folks that speak over 70 different languages. He is well versed in diversity.

His interview demonstrated his knowledge of today's police trends and needs as well as his understanding of the administrative side of the police agency. He also portrayed his patience and active listening and learning skills. At this time Mr. President, I would take the opportunity to ask yourself or Councilman Taylor to build upon the report that I have given and I once again offer to you the name of Thomas Johnson to be the next police chief of the Dover Police Department and I yield the floor to you Mr. President.”

Mr. Taylor stated that as a retired Dover police officer and a member of the search committee he was looking for certain abilities within the new chief. The abilities to guide, train, direct, motivate, inspire and unite, unite, unite our community. To guide you got to have vision. To train you must understand your community. To direct you must be a leader of leaders. To motivate you have to make every officer want to do better each and every day that they are here serving our community. To inspire, again you make people better. To unite you must collaborate. Chief Johnson has exceeded those criteria. Chief Johnson fully understands he is new only at this position, but not at life, not at being a police officer.

Mr. Taylor advised that Chief Johnson has implemented numerous diversity programs and is aware that we cannot arrest our way out of the opioid epidemic that we face, the gang violence, the homelessness, a progressive downtown that's on the verge of exploding into something positive. Chief Johnson understands that he has a role here and his role is more than just the chief who was telling people that you're under arrest, it is the chief that is building a community. He understands these things and I wholeheartedly support him. Chief Johnson understands that when he succeeds, we all succeed. If I had to do it all over again, I would select chief Johnson again, thank you very much.

Council President Hare stated that he remembers Mr. Johnson saying that if he was to get the position, it would not be about him. It would be about the officers that work for him, making sure they have what they need and the community, making sure the community has what it needs and that one of his roles is to ensure that he is a leader in getting that for his officers and the community. He wants to reach out to the community and have meetings within the neighborhoods, within the communities, and find out what the issues are and if they are being addressed.

Council President Hare noted that Mr. Johnson wants to expand hiring opportunities and to reach out to different areas so we have a diverse group of candidates applying and not just one or two people. He wants to have a bigger pool to choose from so he can make his force diverse. Mr. Hare noted that Mr. Johnson is also experienced in budgeting and is very qualified.

Mr. Sudler thanked Mayor Christiansen and the Committee for their due diligence and for looking at the diversity and the diversity initiative that will be moving forward. He stated that he had the utmost confidence that the right person was selected.

Responding to Mr. Neil, Mayor Christiansen stated that Mr. Johnson would be available in the early part of February.

Mayor Christiansen reaffirmed that he was submitting for the approval of Council the name of Thomas Johnson to be the next Police Chief of the Dover Police Department.

Mr. Sudler moved to consent to Mayor Christiansen's appointment of Thomas Johnson as the Chief of Police. The motion was seconded by Mr. Lindell.

Mr. Anderson stated that he had concerns earlier regarding an unintentional hiccup in the process; however, it appears that the candidate is very qualified and is going to bring a strong plan to address issues of crime in this community and to keep building upon the foundation of diversity and inclusion that has been started in our Police Department. Someone who has strong experience in budgeting and I think he should definitely be given a chance. Mr. Anderson encouraged everyone to look at what he brings to the table and not be distracted by other issues but remember that we have a City that is in need of long term leadership and a crime strategy and so they need to act and he supports this action.

Mr. Taylor stated that it was mandated by the Committee that this new Chief of Police live within the City limits. He stated that he believes that living outside the City, taking City resources elsewhere is not doing them any favors. Mr. Taylor said that he believes that the new Police Chief needs to live amongst them and be a part of this community.

**The motion to consent to Mayor Christiansen's appointment of Thomas Johnson as the Chief of Police was carried by a unanimous roll call vote.**

Mayor Christiansen once again thanked the solicitor for some of his sage advice during this process.

**CONTRACT SERVICES FOR LIBRARY MANAGEMENT**

Mr. Matt Harline, Assistant City Manager, reviewed the background and analysis Regarding Contract Services for Library Management.

Staff recommended authorizing the City Manager and her designees to enter into an agreement for library management services with Library Systems & Services, LLC for an amount not to exceed \$200,000. The agreement will be for one year. Any extension of the contract would require a full Request for Proposal process.

Mr. Neil, noting that he was a big fan of the Library, stated that he hopes that they uphold the standard of programming, which is truly outstanding.

Mr. Anderson stated that, according to section 2-82, this item should have been brought to the Parks, Recreation, and Community Enhancement Committee because there are a number of policy implications and questions associated with this, some of which have to do with long term problems. He asked if LS&S has a database and if they are just going to look at their database with no regard for the hard work they are trying to do with diversity and inclusion or if they are encouraging local applicants. Mr. Anderson also asked what the hiring standards were and if their hiring process had been investigated.

Mr. Harline stated that this is a difficult position and in this market apparently it is a very difficult hire to find. He noted that they went through a process and had a couple of candidates, one of which took another position before the City did the hiring. Mr. Harline stated that the other candidate was not what they were looking for.

Mr. Anderson expressed concern with LS&S's involvement in the hiring of a long-term library director. Responding, Mr. Harline advised that he would also participate in that hiring process.

Responding to Mr. Polce, Mr. Harline advised that a "pay for success" modeling was not included in the contract.

**Mr. Neil moved for approval of Staff's recommendation to authorize the City Manager and her designees to enter into an agreement for library management services with Library Systems & Services, LLC for an amount not to exceed \$200,000. The agreement will be for one year. Any extension of the contract would require a full Request for Proposal process. The motion was seconded by Mr. Sudler and carried by a unanimous roll call vote.**

**DISCHARGE OF BICYCLE AND PEDESTRIAN SUBCOMMITTEE (LINDELL)**

Mr. Lindell advised members that, due to concern over the recent resignations of subcommittee members, he relayed to Mayor Christiansen and members of City Council that he thought a discussion about the discharge of the Bicycle and Pedestrian Subcommittee was warranted, given the mass turnover as well as some other issues. He stated that he requested that this item be placed on the Safety Advisory and Transportation Committee agenda; however, the Committee Chair, Councilman Taylor, disagreed and the item was placed on the Council agenda for discussion.

Members discussed at length their concerns with the subcommittee, the benefit of having the subcommittee and its accomplishments, and other issues needing attention.

**Mr. Neil called the question, which was unanimously carried.**

**Mr. Slavin moved to refer this item to the Safety Advisory and Transportation Committee. The motion was seconded by Mr. Polce and unanimously carried.**

**FINAL READING - PROPOSED ORDINANCE #2019-20**

Council President Hare reminded members of the public that copies of the proposed ordinance were available at the entrance of the Council Chambers or on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government."

**Mr. Sudler moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Neil and unanimously carried. (The First Reading of the proposed ordinance was accomplished during the Council Meeting of December 9, 2019.)**

**By motion of Mr. Neil, seconded by Mr. Polce, Council, by a unanimous roll call vote, adopted Ordinance #2019-20, as follows:**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:**

That Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications, Paragraph (d) of the Dover Code be amended to read as follows:

Sec. 102-113. - Qualifications.

- (d) Any persons purchasing residential real property in which they will reside within the downtown redevelopment high priority target area defined in Appendix C shall be given tax relief from the payment of real estate taxes in the following manner: first year of ownership, total tax abatement; second year of ownership, 75 percent tax abatement; third year of ownership, 50 percent tax abatement; fourth year of ownership, 25 percent tax abatement; fifth year of ownership, no tax abatement. Provided however that the homeowner is required to occupy the home as their principal place of residence during the entire time that the taxes are abated and if the property ceases to be their principal place of residence at any time during the four-year period of abatement, then they shall lose their right of abatement and shall be required to pay immediately all taxes abated up to the time that the home ceases to be their principal residence. In order to obtain the tax abatement, the homeowner must make application by affidavit submitted to the city assessor showing qualification for the abatement and each year thereafter, submit a similar affidavit showing their continued right to the abatement. If qualification for the abatement ceases within the four-year period of abatement the homeowner is required to notify the city assessor of the lack of qualification for the abatement and within 90 days from the date the qualification ceases, pay all taxes abated in the past.

ADOPTED: JANUARY 13, 2020

**CITY MANAGER'S ANNOUNCEMENTS**

None.

**COUNCIL MEMBERS' ANNOUNCEMENTS**

Mr. Sudler congratulated the new Police Chief.

Mr. Anderson announced that there would be a free public event at noon on Martin Luther King Day, Monday, January 20, 2020 at Delaware State University. He stated that it was going to be a tremendous event and encouraged everyone to attend and to remember this important event.

**Mr. Anderson moved for adjournment, seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 10:40 p.m.

TRACI A. McDOWELL  
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Regular Meeting of January 13, 2020 are hereby approved.

ROBIN R. CHRISTIANSEN  
MAYOR

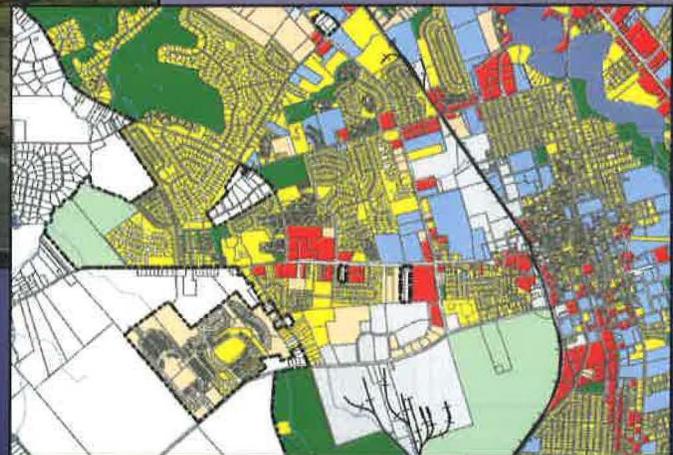
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# EXHIBIT "D"

# Delaware 8 Concept Plan and Operations Study

May, 2008



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## **Executive Summary**

### **Introduction**

Route 8 is an important local and regional corridor for Delaware. Within the City of Dover limits it serves as the primary western gateway into the City. In 1992, the City adopted a Corridor Overlay Zone on Del. 8 to address both aesthetic and functional aspects of the roadway. In 2000, the Strategic Development Plan for the West Side report was prepared which identified strategies to improve the corridor.

The purpose of this project is to conduct a planning level study of Route 8 that will develop a concept of the corridor as an aesthetic gateway to the west side of Dover and address the need to provide a safe and efficient traffic flow, accommodate multiple modes of travel and provide access to the adjacent land uses. In addition, the concept plan will evaluate land use issues in order to develop strategies to guide future transportation and land use decisions.

The process followed to develop the concept plan included data collection, analysis, development of alternatives and the identification of a preferred alternative. A comprehensive public involvement process was used throughout the project to help identify issues, develop alternatives and to gain consensus among the stakeholders.

### **Data Collection**

An initial step in the project was to perform data collection. Base mapping was gathered from 2002 aerial photography. In addition, high resolution digital ortho-imagery was collected along the corridor. Existing environmental and cultural resources were identified using research of existing records and mapping and field verification. Proposed land developments were also reviewed and incorporated into the study. Crash records throughout the corridor covering a three year period were gathered and reviewed. Turning movement counts were conducted at each signalized intersection within the corridor and Automatic Traffic Recorders were placed for two full weekdays. From this information, existing 2006 peak hour, average daily traffic volumes, and truck percentages were developed. Utilizing DelDOT's traffic model, 2030 traffic volumes were developed. Finally, pedestrian, bicycle and transit facilities were inventoried and reviewed for compatibility with current standards.

### **Analysis**

The analysis of the existing conditions focused on safety issues, capacity deficiencies, multi-modal needs, and land use trends.

**Safety** – There were 132 reported crashes from January 2003 to December 2005. Clash clusters were identified at Mifflin Road, Kenton Road, Independence Boulevard, and Saulsbury Road. It was noted that the majority of crashes (55%) involved injuries. This can be attributed to the fact that 57% of the incidents were either left turn or angle crashes. This type of crash is related to the protected/permissive phasing of the signals. Through field observation and the

public input, it was observed that many drivers violate existing right turn only access points. While the crash reports did not identify this as statistically significant problem, it does create an operational problem within the corridor.

**Capacity/Level of Service** – Capacity and level of service (LOS) analysis is used to estimate the traffic-carrying ability and quality of service provided by the roadway facility. A SYNCHRO traffic model was developed for existing and future (2030) traffic volumes. A LOS analysis was performed to identify existing capacity deficiencies and future problems under a no-build scenario.

The analysis determined that all signalized intersections have acceptable levels of service for the existing and future conditions with the exception of Saulsbury Road and Kenton Road. Saulsbury Road will have a LOS F in the future AM and PM peak hours and Kenton Road will operate at a borderline LOS E in the future PM peak hour. In addition, the unsignalized intersection of Forest Street and Route 8 has an LOS F in both the existing and future conditions.

**Multi-modal** – The Route 8 corridor serves a diverse land use that includes retail, apartments, townhomes and single family residential and institutional uses. Multiple modes of travel need to be accommodated along the roadway. Currently, transit service is provided from the downtown area to west of Kenton Road. Sidewalks exist from Mifflin Road to the east end of the study area. A bicycle path exists on the north side of Route 8 from Kenton Road to Saulsbury Road.

The study identified several areas where improvements are needed. Transit facilities should be enhanced to include bus pads at all stops and shelters at key points, such as in front of the Modern Maturity center. Sidewalk ramps need to meet ADA standards and crosswalks and pedestrian signals should be installed at all signalized intersections. Route 8 is identified in the Statewide Bicycle Plan as a bike route. However, there are limited facilities. Improvements along Route 8 should include both on road bike lanes and signage and an off road facility from Artis Drive to Saulsbury Road.

**Land Use** – Land use along the corridor is characterized by historic commercial development patterns, recent commercial redevelopment of former commercial or residential parcels between Mifflin Road and Saulsbury Road, institutional uses including public schools and residential subdivisions. The trend of redevelopment of older residential development and lower class commercial space is anticipated to continue for properties fronting along the corridor between Saulsbury Road and Kenton Road. Additional lands are planned for development as well as lands are available for redevelopment.

In 1992, the City of Dover adopted a Corridor Overlay Zone. The COZ is intended to create a superior urban development. The goals of the COZ are to foster linkages between the corridor properties and adjacent land; to preserve

mobility for traffic movement; and to achieve a visually balanced streetscape environment.

As expected, there are numerous ongoing development proposals within the corridor. Most significantly, the Capital School District has proposed constructing a new high school on the Carey Farm east of Artis Drive. The high school will serve approximately 1800 students. In addition, a cluster of new developments is occurring at the northwest corner of Saulsbury Road and Route 8. These developments include Doveview, an assisted living facility, Walgreens drug store and Commerce Bank.

### **Alternatives**

Alternatives were developed based on the analysis of existing and future no-build conditions and public input. For the future condition, the analysis assumed that the new high school was open and that the West Dover Connector had been constructed. The alternatives include:

### **Common Improvements**

Many improvements are proposed for both Alternatives 1 and 2. These are listed below:

- a) Realign Artis Drive to eliminate the skewed angle of the intersection.
- b) Add two points of access for the new high school. The western access is proposed to be unsignalized. The entrance opposite Stoney Drive would be signalized.
- c) Create a new road connection from Route 8 to Artis Drive and Hazletville Road. This would function as a local roadway that would serve as the high school's western entrance and inter-connect with the new residential development south of the high school.
- d) Create a new road connection from Route 8 to Chestnut Grove Road. This road would serve to improve the north south grid within the study area. Ultimately it would help relieve traffic from Kenton Road. Currently, the roadway would impact land preserved under the agricultural preservation program and would extend outside both the City and County growth boundary.
- e) Change the east-west left turns at Mifflin Road, Kenton Road, Independence Road and Saulsbury Road intersections to protected only movement.
- f) Add an eastbound right turn storage lane @ Mifflin Road intersection.
- g) Provide an on-road bike lane through all intersections along Route 8.
- h) Install crosswalks and handicap ramps and pedestrian signals at all signalized intersections.
- i) Improve existing shared use path on north side of Route 8 and extend path from Kenton Road to Mifflin Road.
- j) Create two-way connection between McDonalds and Kenton Road Shopping Center.
- k) Add outside shoulders on Route 8 from Mifflin Road to Saulsbury Road.
- l) Incorporate landscaping and streetscaping elements into plan.

- m) Create interconnections between properties along Route 8 including from Wawa to Independence Blvd. and Independence Blvd to Bennington Street.
- n) Update transit stops with concrete pads and benches.

### **Alternative 1**

- a) Construct a shared use path from Artis Drive to Mifflin Road.
- b) Construct landscaped median from west of Mifflin Road to Saulsbury Road
- c) Add 2<sup>nd</sup> eastbound left turn lane at Kenton Road
- d) Construct a connector road behind the Gateway West Shopping Center connecting Saulsbury Road with Modern Maturity intersection. The purpose of this road is to shift the SB left turns from Kenton Road to Independence Road, where more capacity exists.
- e) **Alternative 1a (in addition to Alternative 1 improvements)**
  - o Install additional through lane in both directions on Saulsbury Road
  - o Reduce the length of the northbound left turn lane to 250'
  - o Change left turn phasing on Saulsbury Road to Protected/Prohibited
- f) **Alternative 1b (in addition to Alternative 1 improvements)**
  - o Maintain geometry as in Alternate 1 and Protected/Permissive phasing on Route 8
- g) Create connection with Commerce Way and Mifflin Road
- h) Install a signal at Forest Street.

### **Alternative 2**

- a) Construct sidewalk from Artis Drive to Mifflin Road
- b) Construct connector Road between Kenton Road and Independence Blvd
- c) Maintain center turn lane from west of Mifflin Road to Saulsbury Road; widen to create outside shoulder
- d) Construct an additional through lane in both directions on Saulsbury and double left turn bays on both northbound and southbound Saulsbury Road in lieu of new interconnection to Modern Maturity Center.
- e) Construct a roundabout at Forest Street/Route 8 split.

### **Alternative 3 – No Build**

#### **Preferred Alternative**

The Preferred Alternative was developed based on the results of the technical analysis, public input and direction from the Project Advisory Committee. Improvements included in the Preferred Alternative are as follows:

**Artis Drive Realignment** - This option would re-align the intersection of Artis Drive and Route 8 to eliminate the skewed intersection.

**High School Access at Stoney Drive** - The signalization of the Stoney Drive in conjunction with the new high school construction and would serve as access to the new school.

**North-South Connector Roads** – A connector road from Route 8 to Chestnut Grove Road is planned and a connection from Route 8 to Artis Drive and Hazletville Road.

**Left-Turn Phasing at signalized intersections** - This improvement would alter the existing protected/permissive left-turn phasing to protected/prohibited phasing at the intersections of Mifflin Road, Kenton Road, Independence Boulevard and Saulsbury Road.

**Eastbound Right-Turn Lane at Mifflin Road** - An eastbound right-turn lane at this location, while not required from a capacity standpoint, was included to remove turning vehicles from the through travel lanes, improve intersection safety, and reduce overall delay.

**Bike Lanes Through all Intersections** - Route 8 is identified as a regional Kent County bike route by DelDOT; therefore on-road bicycle facilities should be provided throughout the corridor.

**Shoulders along Route 8** - Shoulders will be added to Route 8 throughout the corridor.

**Pedestrian Accommodations at Signals** - Pedestrian accommodations at signals should include, at minimum, high-visibility crosswalks, possibly textured crosswalks at selected locations, pedestrian push buttons, and pedestrian signal heads.

**Existing Shared-Use Path Improvement**- The existing shared-use path that extends from Mifflin Road to just east of Saulsbury Road will be improved.

**Interconnections between properties along Route 8** - The longer-term improvement option that should be explored would be a continuous service road connection between Mifflin Road all the way through to Independence Boulevard. This would allow local trips to use this service road to access businesses without the need to use Route 8. As redevelopment occurs the following connections should be made:

- A 2-way connection between McDonald's and the signal to Kenton Road.
- An interconnecting street from Independence Boulevard to Mifflin Road. The street would be a City street and designed to city street standards.
- An interconnection between Independence Blvd and Bennington Street.
- An interconnection between Dove View and Modern Maturity Center
- Interconnection between Heatherfield Way and Stoney Drive; and Heatherfield and Cranberry Run

**Landscaping and Streetscaping elements** - Landscaping and urban design elements should be included with roadway improvements to encourage multi-modal activity and improve the aesthetics of the corridor.

**Transit Stops** - Updating transit stops along the corridor include, at minimum, concrete pads and shelters at all existing bus stops within the study area.

**New Entrance to Brandywine Apartments** - This improvement would create a new access point for the Brandywine Apartment complex at Mifflin Road.

**Pedestrian Crossing at Forest Street** - An unsignalized crossing of Forest Street in the area of the Route 8 split is proposed to provide a safe crossing for pedestrians and to allow bicyclists a viable way to continue on eastbound Route 8 through the split at Forest Street.

**Shared Use Path** - This improvement includes constructing a 10 foot wide shared use path from Artis Drive to Mifflin Road.

**Landscaped Median** – This improvement includes the installation of a 16’ wide landscaped median along DE Route 8 from just west of Mifflin Road to just east of Saulsbury Road.

**Kenton Road** – In the area of Kenton Road a combination of improvements are included in the Preferred Alternative. First, a connector road from Kenton Road to Independence Boulevard is needed to help divert southbound left turns and westbound right turns from the Kenton Road/Route 8 intersection. Because the diversion of traffic to the connector road is uncertain; it is recommended that the intersection should be widened to accommodate a future 2<sup>nd</sup> eastbound left turn lane.

**Connector Road behind Gateway West Shopping Center and Additional through lane on Saulsbury Road** - These improvements are related to one another as they both are intended primarily to improve operations at the intersection of Route 8 & Saulsbury Road. By allowing northbound left-turning vehicles along Saulsbury and eastbound right-turning vehicles along Route 8 to use a roadway connection behind the Gateway West Shopping Center, they could avoid this congested intersection.

**Signalization of Forest Street/Weston Drive & Route 8** - A signal at the intersection of Route 8 & Weston Drive would provide better operations and shorter queues for left-turning vehicles along the Weston/Forest Street approach to the intersection.

**Public Involvement**

The development of the concept plan has been a collaborative effort of residents, public agencies and business owners. A Project Advisory Committee was established at the outset of the project. The committee consists of representatives from the City of Dover, Dover Planning Commission, DeIDOT, the D/KC MPO, Kent County, Office of State Planning, Capital School District, local residents, and business owners. The Advisory Committee provided guidance, input and feedback on the project scope, the data collection, analysis, and alternatives.

In addition, the public involvement has involved public workshops where the results of the data collection and analysis were presented. At this workshop, which was held on February 19, 2007, the public was presented with the analysis which helped define the needs for the corridor. Potential alternatives were presented for consideration. In addition, the public was encouraged to describe additional issues or concerns as well as potential alternatives for consideration.

Based on this workshop and subsequent input from the Project Advisory Committee, alternatives were developed and analyzed for their effectiveness. The alternatives were presented at a Public Workshop on August 1, 2007. The final Preferred Alternative is a combination of improvements from both alternatives. It was developed based on the input from the public workshop and the Project Advisory Committee.

### **2.2.3 Multi-Modal Facilities**

In the area from Artis Drive to Mifflin Road, sidewalk does not exist. The exception is a short segment along the frontage of Cranberry Run. Bicycle traffic utilizes the shoulder.

From Mifflin Road to the east of the study area sidewalk exists on both side of the road. In most of the areas there is no on-road bike facility. Bicycles are only accommodated on the shared use path that exists on the north side of the road from west of Mifflin Road to the east of Saulsbury Road.

Transit is provided along the corridor by DART and several bus stops are located within the study area. All bus service is provided during weekdays only. A more detailed review and performance analysis of the existing facilities is discussed later in this report.

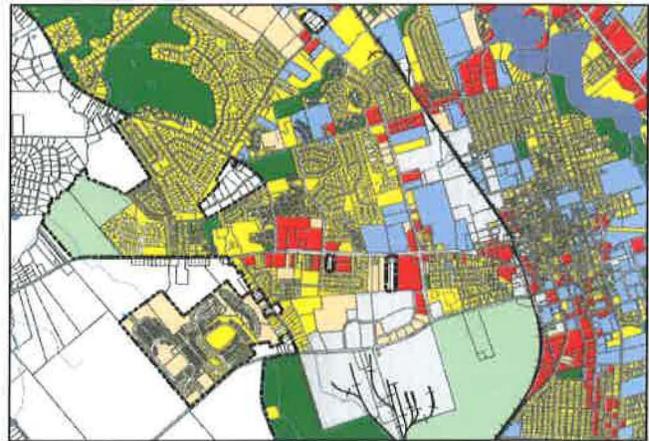
## **2.3 STUDY AREA CHARACTERISTICS**

### **2.3.1 Land Use**

Land use along the corridor is a mix of residential, commercial and institutional uses. As growth on the western side of Dover has occurred, development along the highway has evolved from individual residential homes; to a conversion of these homes to small business; to the current practice of assembling multiple smaller parcels and redeveloping them with larger commercial establishments.

#### **Existing Land Use Patterns**

Lands within the incorporated area of the city are outlined in the black dashed line shown in Exhibit 2-5. Please note that small pockets outlined in the black dashed line depict areas that have not been annexed and are subject to land use regulation by Kent County. The existing farmland located between Artis Drive and Mifflin Road on the south side of DE 8 was recently annexed by the City of Dover.



*Exhibit 2-5: Existing Land Use*

The corridor is characterized by historic commercial development patterns, recent commercial redevelopment of former commercial or residential parcels between Mifflin Road and Saulsbury Road, institutional uses including public schools and residential subdivisions. The trend of redevelopment of older residential development and lower class commercial space is anticipated to continue for properties fronting along the corridor between Saulsbury Road and Kenton Road. Additional lands are planned for development as well as lands are available for redevelopment.

**Corridor Overlay Zone (COZ)**

Land use and transportation recommendations from this study have considered land use and design regulations for the Corridor Overlay Zone (COZ) for the following purpose:

- to promote superior urban corridor development and the highest quality built environment;
- to foster coordination and linkages among corridor properties and with adjacent lands;
- to preserve the functionality and efficiency of the roadway for traffic movement; and,
- to achieve a visually balanced streetscape environment which is friendly to the pedestrian and motorist alike.

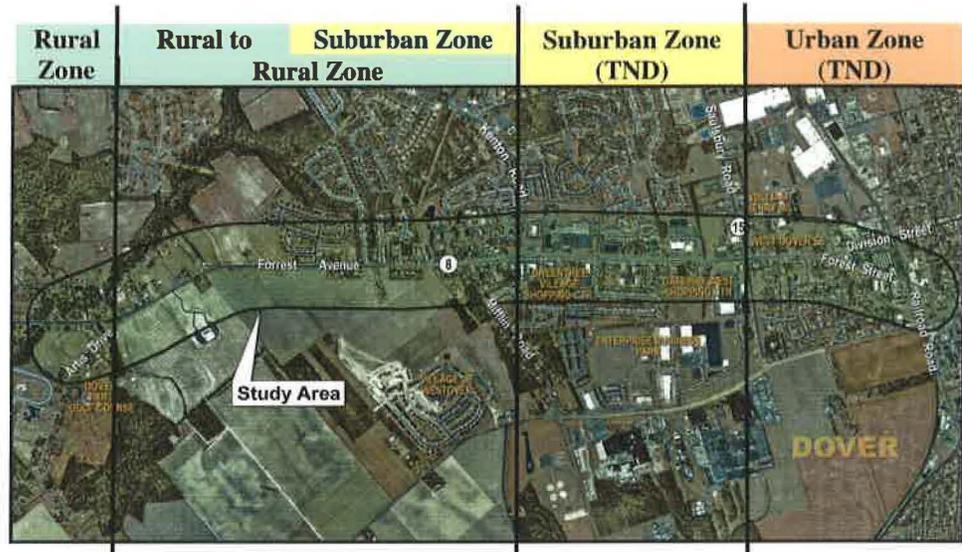
The following design standards from the COZ are important in the context of transportation improvements to support all modes of travel as well as to create a balanced streetscape environment consistent with land use patterns and characteristics.

- Front yard setbacks that vary based upon locations along the corridor.
- Building placement to maximize use of building fronts along the corridor.
- Location of Parking (*primarily to the rear of buildings with some exceptions*).
- Shared access, cross access and standards for placement of entrances.
- Landscaped area 25 feet from back of curb in front yard.
- Corridor elevation standards through an architectural review.

The above design standards have been considered when identifying various transportation improvements.

**Transect Concept**

The following depicts a transect concept to support transportation planning and design of context sensitive solutions consistent with the concepts and standards outlined in the City’s COZ. For example, the COZ identifies areas along the corridor consistent with the identified Study Area Transects with development guidelines that impact public space for various transportation improvements, as well as creates a multi-modal corridor with opportunities to create a walkable community. Exhibit 2-6 identifies the various transects consistent with areas identified in the COZ.



**Exhibit 2-6: Study Area Transects**  
(TND – Traditional Neighborhood Development)

The above identified zones provide the basis for support of further development/redevelopment of the study area applying transportation principles, roadway classifications and land uses, design guidelines for roadways and pedestrian and bicycle facilities, design measures to support ordinance/code development (*to correctly locate and design to the appropriate level of intensity land uses and transportation systems*), and measurement of secondary and cumulative affects as well as development of a study process to support corridor planning. This model utilizes the concept of developing Traditional Neighborhood Development (TND) as defined by both the transect category and City/County planning documentation. The concept of zones can be utilized in modular fashion to define various rural, suburban and urban environments and the appropriate level development/redevelopment and supported by context sensitive transportation solutions. As development and redevelopment occurs along the corridor the characteristics of transects identified above may change (*e.g. it is anticipated that the rural and rural to suburban transects will become more suburban in character*). Table 2-4 on the following page further describes this concept by zone including land use characteristics and existing transportation improvements for various modes along the Route 8 Corridor within the study area. Each area is described by general land use categories as well as by transect with respective COZ Standards. The identified zones will be utilized with analysis conducted through this study to identify transportation and land use recommendations.

**Table 2-4: Existing General Transportation and Land Use Characteristics**

Corridor Section	Speed Limit	Traffic Volume	Roadway Cross Section	Pedestrian Facilities	Land Use Category	COZ Standards	Transect
Artis Dr. to Mifflin Rd	50 mph	11,100 aadt	1 - WB shoulder 1 - WB travel lane 1 - EB travel lane 1 - EB shoulder	No sidewalk	Farmland/ Residential	Setbacks: 60-80' Curb cuts: 275' apart	Rural to Suburban Zone
Mifflin Rd to Kenton Rd	40 mph	11,600 aadt	1 - WB shoulder 1 - WB travel lane 2 - EB travel lanes	No sidewalk	Residential	Setbacks: 40-60' Curb cuts: 275' apart	Suburban Zone
Kenton Road to Del. 15 (S. Saulsbury Road)	35 - 40 mph	15,500 aadt	2 - WB travel lanes 1 - Center turn lane 2 - EB travel lanes	S/W on both sides (one hot mix; one concrete)	Commercial	Setbacks: 40-60' Curb cuts: 105' apart	
Del 15 (S. Saulsbury Road) to Gibbs Dr.	25 mph	20,234 aadt	2 - WB travel lanes 1 - Center turn lane 2 - EB travel lanes	S/W on both sides	Commercial/ Residential	Setbacks: 20-30' Curb cuts: 105' apart	Urban Zone
Gibbs Dr. to Delmarva RR line	25 mph	11,200 aadt	Transitions from 4 lane section to 2 lane section with shoulders	S/W on both sides	Commercial/ Residential/ Institutional (school)	Setbacks: 20-30' Curb cuts: 105' apart	

**Opportunities for Development/Redevelopment**

The Future Land Development Opportunities shown in Exhibit 2-7 identify preserved, undeveloped or underutilized lands and proposed or planned development within and adjacent to the study area that should be considered when analyzing future land use and transportation needs as well as determining accessibility, mobility and safety for all modes of transportation along the corridor. For purpose of this study, opportunity sites are defined as sites that are undeveloped/vacant, contain dilapidated or deteriorated structures, assessed at some level of historic significance (historic or potentially historic), and/or underutilized. Opportunity sites for redevelopment and development will result in transportation impacts on the Corridor and intersecting streets. Table 2-5 identifies acreages of tracts identified based upon restrictions and development/redevelopment opportunities.

**Table 2-5: Development/Redevelopment Opportunities and Restrictions**

Summary of Development/Redevelopment Opportunities and Restrictions	
Type of Opportunity/Restriction	Acres
Permanent Agricultural Preservation	88.8
<b>TOTAL RESTRICTED LANDS</b>	<b>88.8</b>
Undeveloped Lands	45.6
Underutilized Lands	75.5
Proposed Land Developments	247.6
Potential Land Developments	10.7
<b>TOTAL OPPORTUNITIES FOR DEVELOPMENT/REDEVELOPMENT</b>	<b>384.5</b>

# Delaware Route 8

## Exhibit 2-7 Future Land Development Opportunities



Not to Scale

Planned developments are shown on Exhibit 2-8. This exhibit depicts the location of planned developments and the location of proposed ingress and egress to the sites that must be considered when exploring transportation solutions along the corridor and solutions such as interconnectivity between developments.

### **Opportunities for Shared and Cross Access**

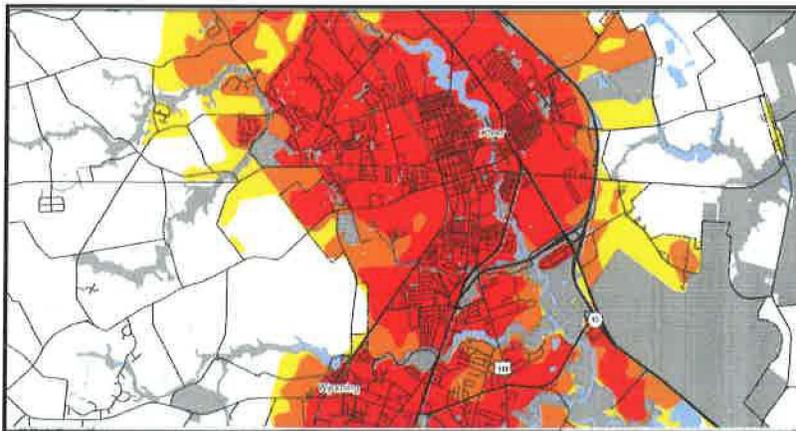
The following are key areas for further evaluation of shared access and cross access improvements as part of the transportation solutions.

- Modern Maturity and Dove View interconnect
- Wawa east to Independence Boulevard
- Kenton east to Independence Boulevard behind Greentree Plaza
- From Saulsbury Road to signal at Modern Maturity

### ***State, County and City Land Use and Transportation Policies and Projects***

According to the State Strategies for Policies and Spending Map, the eastern part of the study area from Mifflin Road to West Street is located in Investment Level 1. From Artis Drive to Mifflin Road, the study area transitions from Investment Level 3 to Investment Level 2. There is one property that has been permanently preserved for agricultural use.

Investment Level 1 areas (shown in red on Exhibit 2-9) are often municipalities or urbanized places in the state. In these areas state investments and policies are targeted to accommodate existing development and orderly growth through redevelopment and reinvestment. Significant new development in the study area, however, is not anticipated. Transportation



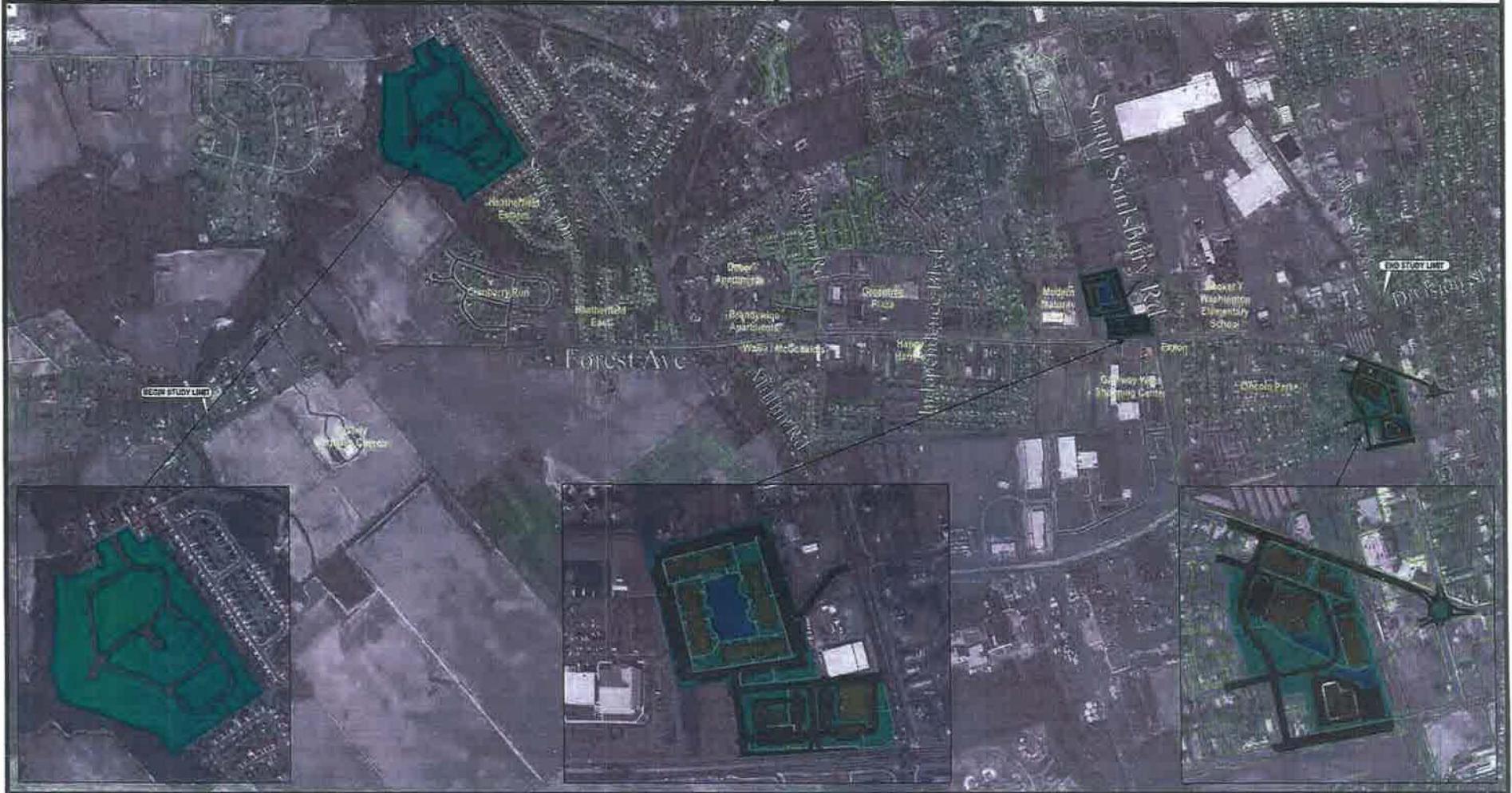
**Exhibit 2-9: State Investment Levels**

improvements in these areas should provide or enhance multiple modes of travel, as well as improve safety and reduce congestion.

Investment Level 2 areas (shown in orange on Exhibit 2-9) are less developed area within municipalities or rapidly growing areas within counties that do, or will have public water and wastewater services and utilities. This type of areas incorporate a mix of housing types and limited commercial uses as well as interconnecting roads and bikeways between developments. Significant new developments are happening in these areas. Transportation project should expand to provide roadways, public transportation and multi modal facilities.

# Delaware Route 8

## Exhibit 2-8 Proposed Land Development Patterns



Investment Level 3 (shown as yellow on Exhibit 2-9) is defined by areas with existing but disconnected developments which is not contiguous with existing infrastructure. This area may also contain high priority agricultural lands directly adjacent to natural areas. The development of these areas should reflect an orderly, phased and guided policy of infrastructure investment agreed by both local and state government. Presently any roadway improvement that is necessary to support new development activities will not be encouraged in investment Level 3 areas.

The City of Dover's Corridor Overlay Zone (COZ) is a significant planning policy affecting this corridor. As described above, the COZ is intended to help shape Route 8 into a superior urban corridor.

There have been numerous transportation studies and projects within the corridor. Various sections of the corridor have been identified as needing improvements through DelDOT's Highway Safety Improvement Program (HSIP). Safety related improvements include the installation of a median barrier west of the Kenton Road intersection to restrict left turns at the McDonald's entrance. Currently, median barriers and crosswalks are proposed at the Saulsbury Road intersection. In addition, Kenton Road is being studied for pedestrian improvements. The study area includes the intersection with Route 8.

### ***Recommendations***

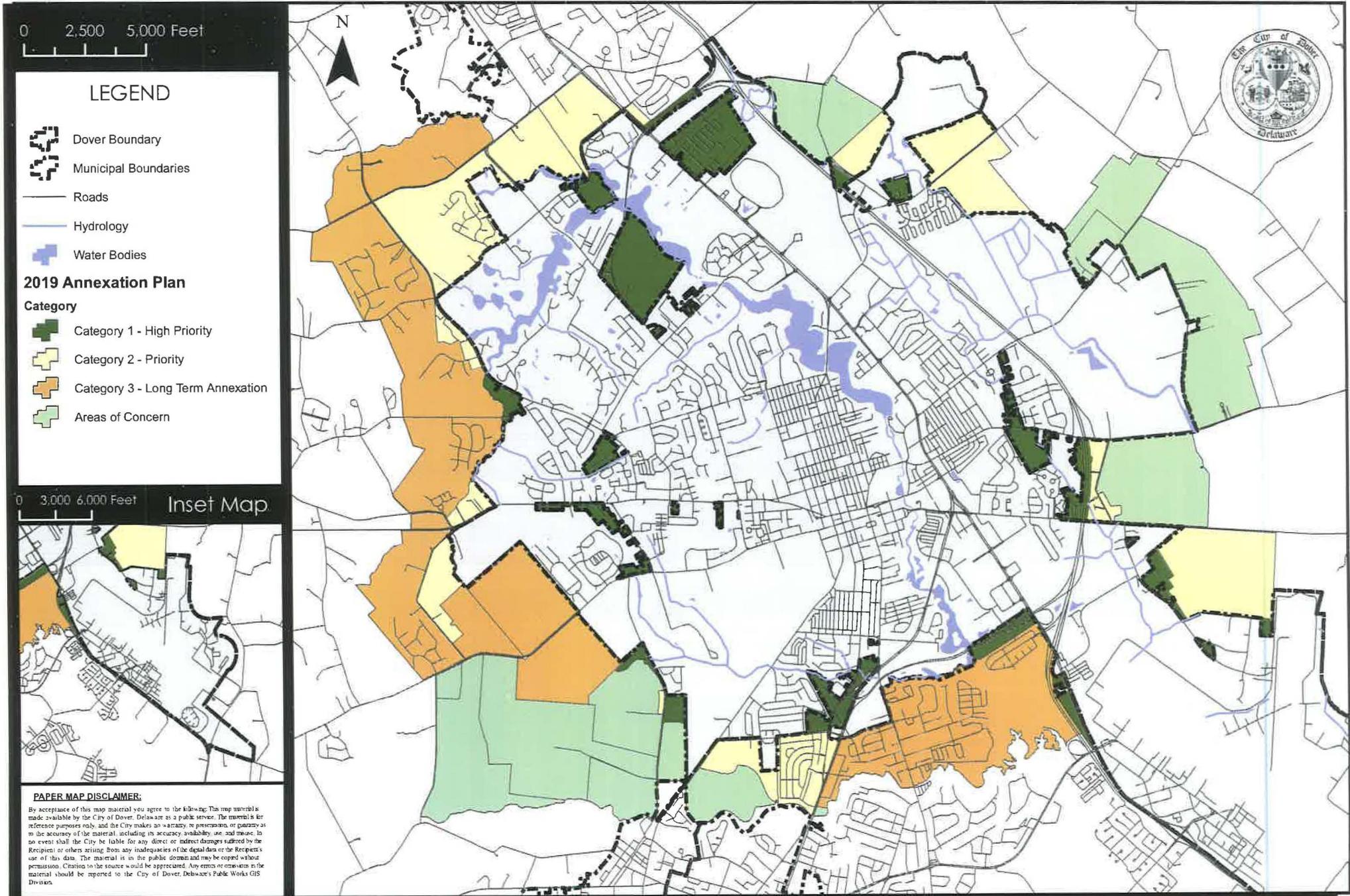
Based upon the information and analysis of land use along this corridor, the following recommendations are provided:

- Development/redevelopment opportunities should target undeveloped and underutilized sites with an emphasis on assemblage of smaller tracts.
- Building setbacks, scale, use and access should promote pedestrian activity through establishment of destinations.
- All modes of transportation should be accommodated for all users including special needs groups and children.
- Development/redevelopment should include design elements that achieve interconnectivity such as connector roads or drives, continuous streets within residential subdivisions and shared access for uses with frontage along the corridor. Cul-de-sacs should be used sparingly in unique situations.
- Streetscapes should provide appropriate pedestrian amenities such as bus shelters, benches, trash receptacles, street trees, pedestrian scale lighting and wayfinding signage.
- Crosswalks should be designed with features that address safety needs of special needs groups and children.
- Intersection improvements must balance pedestrian needs with vehicular needs.

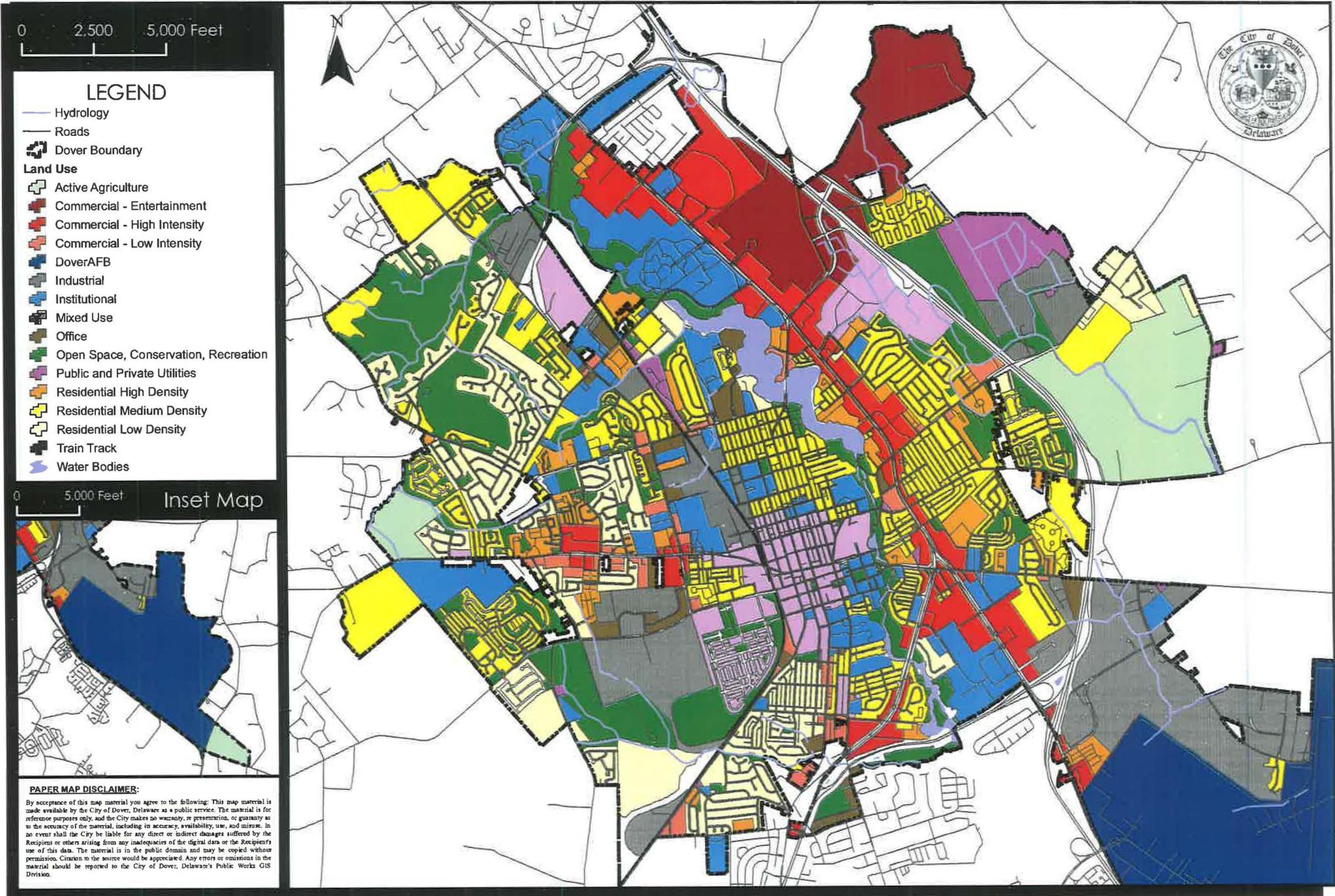
# EXHIBIT "E"

## Map 13-1: Potential Annexation Areas

As Adopted on January 13, 2020

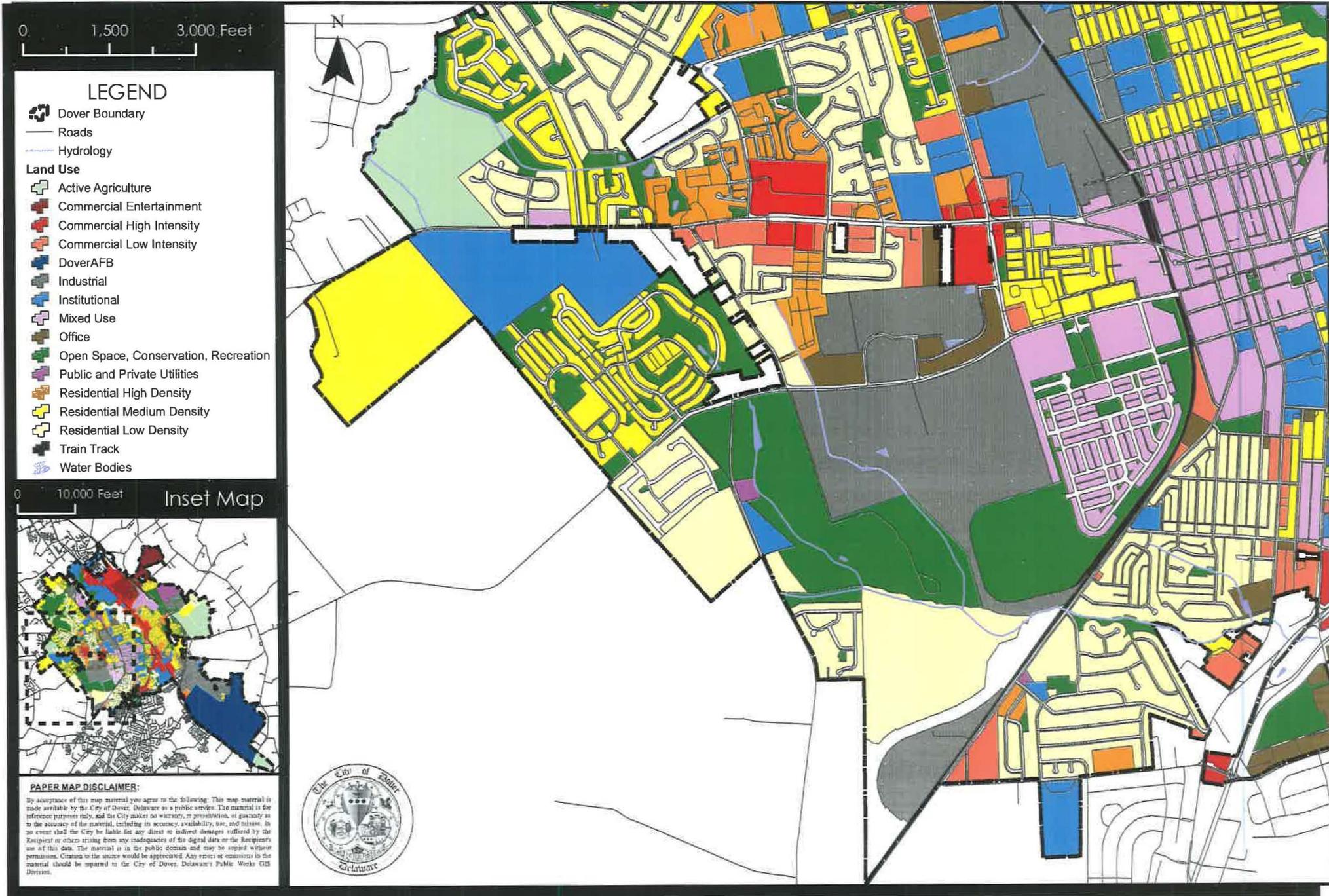


**EXHIBIT “F”**



## Map 12-1C: Land Development Plan

As Revised on March 8, 2021



**EXHIBIT "G"**

<b>Commercial – Entertainment</b>	RC (Recreational and Commercial) IO (Institutional and Office)
<b>Mixed-Use</b>	C-2 (Central Commercial) (Downtown Redevelopment Target Area Only) C-2A (Limited Central Commercial) TND (Traditional Neighborhood Design) C-1 (Neighborhood Commercial) C-1A (Limited Commercial) RGO (General Residence and Office) (Downtown Redevelopment Target Area Only) R-8 (One Family Residence) R-10 (One Family Residence) RG-1 (General Residence) RG-2 (General Residence) RG-4 (General Resident - Multi-Story Apartments) C-3 (Service Commercial) CPO (Commercial and Professional Office) IO (Institutional and Office)
<b>Industrial</b>	M (Manufacturing) IPM (Industrial Park Manufacturing) IPM-2 (Industrial Park Manufacturing – Business and Technology Center) IPM-3 (Industrial Park Manufacturing - Industrial Aviation & Aeronautics) C-3 (Service Commercial)
<b>Public and Private Utilities</b>	IPM (Industrial Park Manufacturing) IPM-2 (Industrial Park Manufacturing – Business and Technology Center) IPM-3 (Industrial Park Manufacturing - Industrial Aviation & Aeronautics) Any zone subject to conditions
<b>Right-of-Way</b>	Street, Road and Alley Rights-of-way
<b>Institutional</b>	IO (Institutional and Office) Institutional uses may be conditionally permitted in residential zones
<b>Office and Office Parks</b>	CPO (Commercial and Professional Office) IO (Institutional and Office) IPM (Industrial Park Manufacturing) RGO (General Residence and Office)
<b>Active Agriculture</b>	A (Agricultural) Agricultural uses may also exist in other zones
<b>Open Space</b>	ROS (Recreational and Open Space) RC (Recreational and Commercial)

Source: Department of Planning and Inspections

EXHIBIT "H"



PETITION TO AMEND ZONING DISTRICT  
 Public Hearing Before Planning Commission  
 On June 21, 2021

Owner: Draper Farm Properties, LLC

Address: 1617 Forrest Avenue

Location: North side of Forrest Avenue, east of Cranberry Run Drive

Tax Parcel: ED-05-075.00-01-07.00-000

Size: 5 acres (217,800 SF)

Present Use: Vacant (Previous residence demolished and with associated agricultural outbuildings and land in cultivation)

Proposed Use: Retail Store & Accessory Use (Convenience Store with Fuel Pumps)

2019 Comprehensive Plan Designation – Land Use Category: Mixed Use

Present Zoning: R-10 (One-Family Residence Zone) and COZ-1 (Corridor Overlay Zone)

Proposed Zoning: C-2A (Limited Central Commercial Zone) and COZ-1 (Corridor Overlay Zone)

Reason for Request: To amend the zoning of the 5.04+/- acre parcel at 1617 Forrest Avenue, Dover DE 19904 from R-10 to C-2A (while retaining COZ-1 Overlay).

File Number: Z-21-05

Ordinance Number: 2021-14

### I. APPLICATION SUMMARY

This Rezoning Application is for a parcel of land consisting of 5.04 acres. The property is zoned R-10 (One Family Residence Zone) subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is C-2A (Limited Central Commercial Zone) subject to the COZ-1 (Corridor Overlay Zone). The property is located on the north side of Forrest Avenue and adjacent to Cranberry Run Drive. The owner of record is Draper Farm Properties LLC. Property Address: 1617 Forrest Avenue. Tax Parcel: ED-05-075.00-01-07.00-000. Council District 1. Ordinance #2021-14.

#### Existing Property:

The property consisted of 5.04 acres is located at the northeast corner of Forrest Avenue and Cranberry Run Drive. The property has frontage of over 750 feet along Forrest Avenue/Route 8 and frontage of over 300 feet on Cranberry Run Drive. The property has a farmstead location (previous dwelling now demolished) and a series of accessory structures that appeared to have served as agricultural buildings. A majority of the property has been in agricultural cultivation. Both street frontages have existing sidewalks and existing curb cuts for the former dwelling location (from Forrest Avenue) and to the field/ accessory structures (from Cranberry Run Drive).

This application only seeks rezoning of the property from R-10 to C-2A; the COZ-1 (Corridor Overlay Zone) designation will remain. The applicant is seeking rezoning to allow for future development of the property. They identified a potential use as a Convenience Store with Fuel Pump. Under the *Zoning Ordinance*, the Convenience Store would be considered a permitted use a retail store and the fuel pumps would be an accessory use requiring Conditional Use approval. The redevelopment of the site will be subject to a separate application submission.

#### Previous Application:

This property was subject to a Request during the review process for the adoption of the *2019 Comprehensive Plan*. As Request for Changes to DRAFT 2019 Comprehensive Plan - Request #1, the property owner requested a change in the Land Use Classification (on Land Development Plan Map 12-1) from the proposed Residential Medium Density Land Use Classification to Mixed Use or Commercial Land Use Classification. On December 16, 2019, the Planning Commission recommended (by a vote of 5-2) a Land Use Classification of Mixed Use. Then, the Land Use Classification Category of Mixed Use for this property was approved by City Council on January 13, 2020 as part of the review and adoption of the *2019 Comprehensive Plan* document and maps.

#### Surrounding Land Uses

The surrounding parcels are zoned residential. The properties immediately adjacent on the north and to the west of the property are zoned R-10 (One Family Residence Zone). This is a residential subdivision of single family detached dwellings known as Cranberry Run. Adjacent to the east are properties zoned RM-1 (Residential Medium Density Zone) as another residential subdivision of Heatherfield consisting of single family detached dwellings and duplexes along Stoney Drive. There are more residential developments along Forrest Avenue as you move east until to each the extensive commercial corridor which starts about Mifflin Road and continues east. Across Forrest Avenue/Route 8 to the south are a series of nine (9) parcels with eight (8) single family detached dwellings located under Kent County's jurisdiction. Also, to the south (and surrounding these residences) is the campus of the Dover High School. Access to the Dover

High School, is via Dover High Drive with its signalized intersection with Forrest Avenue (0.36 miles west of the subject site) and at the campus entrance with HAWK Signal at the intersection of Heatherfield Way and Forrest Avenue.

## II. COMPREHENSIVE PLAN COMPLIANCE REVIEW

In the *2019 Comprehensive Plan*, the Land Development Plan (Map 12-1) recommends that this property be used for Mixed Use. Regarding Mixed Use Areas and the Land Use Classification of Mixed Use, this is discussed in Chapter 12 – Land Development Plan beginning on page 12-7. The goals and for Mixed Use Areas Land Use are listed in the *2019 Comprehensive Plan* excerpts presented below:

### **Goals: Mixed Land Use**

The overall goals for Mixed Use areas are:

1. Encourage creation of neighborhood centers.
2. Within the close-knit neighborhood fabric there are opportunities for the creation of urban centers. These centers should be established along major roadways and feature mixed use development, pedestrian-friendly public environments and opportunities for connection to future transit.
3. In order to encourage non-automobile access to the center, the activities should be clustered within a one-half mile radius (or 10-minute walk) and be located so as to draw upon residents from a number of surrounding neighborhoods.
4. Develop strategies that will encourage the creation of well-defined public street spaces and pedestrian-friendly village areas that encourage walking and bicycle use. This may include on-street and behind building parking, and the creation of build-to lines for new development.
5. Improve access that limits public access to open spaces areas such as pedestrian, bicycle, and transit networks to parks and natural areas.
6. Encourage the Mixed Use of residential and commercial uses in the Downtown area.

The *Comprehensive Plan* notes that Mixed Use Areas “can be an area where a new development should foster walkability and close interactions among activities and uses in a traditional neighborhood setting.” Chapter 9 – Transportation Plan from the *Comprehensive Plan* identifies Forrest Avenue/Route 8 as a Minor Arterial Street and the need to focus efforts on improvements along the Route 8 corridor “that would improve safety, better manage access, reduce congestions, and provide improved traffic flow.” The development and implementation of strategies for addressing East/West Traffic in the City is Recommendation 7 from that Chapter.

The Rezoning Request to C-2A (Limited Central Commercial Zone) is consistent with the Land Use Classification of Mixed Use. Table 12-1: Land Use and Zoning Matrix (from the *2019 Comprehensive Plan*) specifies that the following zones are compatible with this land use classification. See the excerpt from Table 12-1 given below. It is noted that Table 12-1 for the Mixed Use Land Use Category identifies other zoning districts that allow for a mixed of commercial and residential uses but may be more limiting in the specific types of uses permitted.

<b>Mixed-Use</b>	C-2 (Central Commercial) (Downtown Redevelopment Target Area Only) C-2A (Limited Central Commercial) TND (Traditional Neighborhood Design) C-1 (Neighborhood Commercial) C-1A (Limited Commercial) RGO (General Residence and Office) (Downtown Redevelopment Target Area Only) R-8 (One Family Residence) R-10 (One Family Residence) RG-1 (General Residence) RG-2 (General Residence) RG-4 (General Resident - Multi-Story Apartments) C-3 (Service Commercial) CPO (Commercial and Professional Office) IO (Institutional and Office)
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### III. ZONING REVIEW

#### Request for C-2A (Limited Central Commercial Zone) Zoning

The types of permitted uses and conditional uses in the C-2A zone are given Article 3 §14 of the *Zoning Ordinance*. See the following code excerpt.

#### **Article 3 Section 14. – Limited Central Commercial Zone (C-2A).**

14.1 *Uses permitted.* No building or premises shall be used and no building or part of a building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following:

- (a) Retail Stores
- (b) Business, professional or government offices
- (c) Personal service establishments.
- (d) Restaurants.
- (e) Service establishments.
- (f) Hotels.
- (g) Places of public assembly.
- (h) Drive-throughs.
- (i) One family residences, including attached and semi-detached dwellings, complying with the bulk standards of the RG-1 (General Residence) zone.
- (j) Apartments and multi-family dwellings

14.2 *Conditional Uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

- (a) Parking lots and parking structures as a principal use on suitably landscaped lots.
- (b) Fuel pumps accessory to a permitted use.

14.3 *Enclosed buildings.* All permitted uses and all storage accessory thereto, other than off street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

14.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

14.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or

enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

COZ-1 (Corridor Overlay Zone)

The provisions of the COZ-1 (Corridor Overlay Zone) are established to “promote superior urban corridor development and the highest quality-built environment.” There are a series architectural, parking, and landscaping guidelines that would be required by the COZ-1 zoning district, if development of the property is proposed. The purpose and requirements of the COZ-1 (Corridor Overlay Zone) are given in Article 3 §27 of the *Zoning Ordinance*. See the following code excerpt.

**Article 3 Section 27. – Corridor Overlay Zone 1 (COZ-1)**

27.1 *Purpose*. The corridor overlay zone (COZ) is established for the following reasons:

- (a) To promote superior urban corridor development and the highest quality built environment;
- (b) To foster coordination and linkage among corridor properties and with adjacent lands;
- (c) To preserve the functionality and efficiency of the roadway for traffic movement; and
- (d) To achieve a visually balanced streetscape environment which is friendly to the pedestrian and motorist alike.

27.2 *Superior urban design*. For the purposes of this ordinance the term "superior urban design" shall meet the following criteria:

(a) Superior urban design places a strict and primary importance on the pedestrian. The concept should lend itself to interconnectivity while presenting building structures as aspects of the street, not simply islands existing in the "sea of roads". The design should encourage fewer car-trips, as well as promote automobile trips on an interconnected local street system rather than trips that utilize the arterials. In demonstrating superior urban design, an applicant must show that the plan presented exceeds the requirements of the zoning ordinance in at least two of the following areas:

- (i) Transportation amenities for bicycles, pedestrians and transit that exceed those required by the zoning ordinance;
- (ii) Architectural features including, but not limited to: LEED-certified buildings; unique architecture not replicated in other locations; use of architectural elements such as entry porticos, porte-cocheres, colonnades, cornices, porch columns and balusters, band courses, coins, water tables and other trim that enhances visual quality and function of the structure; and use of the highest-quality construction materials.
- (iii) Landscaping that exceeds the requirements of this section, including robust use of trees, shrubbery, and flowering plants to screen parked cars; water gardens and ponds; arboretums; tree preservation measures;
- (iv) Public spaces and art including, but not limited to, sculpture, memorials, murals, public court yards and pocket parks, and fountains;

- (v) Green technologies for stormwater management, as well as green energy technologies such as geothermal heating and cooling and solar energy supplies.
- (b) The city planner shall develop policy guidance on how the concept of superior urban design will be evaluated.

27.3 *Zone boundaries.* The COZ encompasses the lands adjacent to the following roadways as outlined on the City of Dover Zoning Map as set forth in article 2, section 2 of this ordinance:

- (a) Delaware Route 8 (Forrest and Division Streets) from the railroad tracks in a westerly direction to the city limit line.
- (b) McKee/Saulsbury Road (County Road 156) from the intersection at Dennys Road (County Road 100) in a southerly direction to the terminal intersection with West North Street (County Road 73).

27.4 *Permitted uses.* Land use shall be governed by those provisions of this ordinance related to the specific zoning district designations of each property as depicted on the zoning map.

27.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change in use. When the zoning district regulations specify that a particular use requires conditional use approval in accordance with article 10, section 1, the provisions of that article shall apply. Site development plans and conditional use site plans for properties within the COZ shall reflect compliance with the development guidelines of this article, in addition to all other applicable codes and regulations.

27.6 *Development guidelines.*

- 27.61 *Setbacks:*
  - a. *Front yards.*

	Residential		Nonresidential	
	Min.	Max.	Min.	Max.
McKee/Saulsbury	60' to 80'		40' to 50' *	
Route 8—Artis Drive to Mifflin Road	60' to 80'		None	
Route 8—Mifflin Road to Saulsbury Road	40' to 60'		40' to 60' *	
Route 8—Saulsbury Road to R.R. line	20' to 30'		20' to 30'	
Subdivision streets	(Setback provisions of <u>article 4</u> shall apply)			

\* When the applicant can demonstrate to the satisfaction of the planning commission through the site plan review process that the proposal involves a superior urban design, the maximum setback may be increased to no more than 90 feet from the property line on Route 8 from Mifflin Road to Saulsbury Road and on McKee and Saulsbury Roads.

27.62 *Building placement.* Buildings shall be situated on the property so as to maximize the use of the frontage along the roadway and shall have the longest side of the building arranged parallel and square to the roadway. When the applicant can demonstrate to the satisfaction of the planning commission that, due to specific constraints related to lot configuration, alternative building placements may be permitted.

27.63 *Parking.*

(a) *Location.* Parking shall not be permitted to be situated within the front yard, nor between the right-of-way line and the building, except in the following instances:

- (i) Automobile service stations;
- (ii) Properties in a shopping center (SC) zoning district, in which case, parking may be permitted between the building and the roadway, provided that such parking [shall] be limited to five rows of single parking spaces between the road and the storefront;
- (iii) When the applicant can demonstrate to the satisfaction of the planning commission through the site plan review process that the design presented involves a superior urban design, parking may be permitted between the building and the street, provided that such parking within this area shall be adequately landscaped and screened from the roadway.

(b) *Required number of spaces.* See specific district requirements in article 4.

(c) *Layout.*

(i) Parking lots shall be arranged in such a manner so that not more than 20 parking spaces in a row shall be permitted without a landscaped island. No more than six rows of 20 spaces shall be provided without provision for a landscaped median. Parking islands shall be a minimum of ten feet wide and planting medians shall be no less than eight feet wide.

(ii) There shall be a landscaped buffer area of at least 12 feet in width between the building and parking lot and drive areas. The buffer area shall include provisions for a sidewalk of at least six feet and no greater than eight feet in width. The buffer area and sidewalk shall be grade separated from the parking lot by concrete curbing of at least six inches in height.

(d) *Landscaping.* Design shall be simple and easy to maintain and shall consist of a combination of hardy canopy trees, low evergreen shrubs and turf grass, and shall be designed in accordance with landscape guidelines set forth in article 5, section 15 of this ordinance and as follows:

(i) *Interior landscaping.* A minimum of five percent of the interior area of a parking lot shall be reserved for landscape purposes. This provision shall include the landscaping of all required parking islands and medians. Shade trees shall be incorporated within the landscaped islands whenever and wherever practicable.

(ii) *Parking lot screening adjacent to public right-of-way.* Low profile screening shall be required when parking spaces would result in vehicles facing onto the roadway. Screening may consist of a low wall, evergreen hedge with a minimum height of two feet at the time of planting, planted three feet apart on center, and a maximum height of three feet at maturity, or earth berm. Should a low wall be used, such wall shall be accompanied by evergreen shrub plantings on the roadway side of the wall and spaced ten feet apart on center.

(iii) *Reserved.*

27.64 *Site access.*

(a) *Entrance width and radii.* Site entrances shall have a minimum width of 24 feet. Entrances involving a median divider shall be at least 35 feet in width. Entrance radii shall be a minimum of 15 feet and a maximum of 25 feet.

(b) *Number of entrances and curb cut spacing.* One curb cut shall be permitted for each street which abuts a site. For sites with street frontage in excess of 300 linear feet, one

additional curb cut may be permitted. For sites with street frontage in excess of 600 linear feet, two additional curb cuts may be permitted.

Multiple curb cuts on a property shall have a minimum spacing distance in accordance with the following schedule:

Speed Limit	Maximum Spacing (Ft.)
25	105
30	125
35	150
40	185
45	230
50	275

(c) [*Shared access.*] Shared access shall be provided, whenever possible, for entrances to adjoining uses, including residential driveways.

(d) [*Cross access.*] Cross access shall be provided among abutting uses of similar use categories, whenever possible, to provide linkage between properties as an alternative to re-entering the corridor to access both existing and future neighboring properties.

(e) [*Entrance locations for adjoining properties.*] Commercial site entrances shall be no closer than 25 feet to an adjoining property which is zoned residential and no closer than ten feet to an adjoining property which is in a nonresidential zoning category.

27.65 [*Signs.*] Signs shall meet the regulations found in article 5, section 4, supplementary sign regulations.

27.66 *Building height.*

(a) Buildings shall be limited in overall height to 35 feet and shall not exceed two stories.

27.67 *Open space and landscaping.*

(a) [*Lot coverage.*] Each lot shall have a minimum of 25 percent of the lot area dedicated to be landscaped open space. A lesser amount of landscaped open space may be permitted when it can be demonstrated to the satisfaction of the planning commission, through the site plan review process, that, due to lot configuration and existing built conditions, the required minimum is impractical.

(b) [*Frontage.*] Each lot shall have a landscaped open space of at least 25 feet in width, measured from the back of curb along the entire frontage of the lot, except at points of site access. Trees shall be provided along the frontage perimeter at a minimum rate of one tree for each 50 linear feet of frontage.

(c) [*Side and rear yards.*] A minimum of 15 feet of landscaped open space shall be provided along all side and rear lot lines when abutting a residential use and a minimum of five feet when abutting a nonresidential use. Tree plantings shall be provided along all nonfrontage perimeters at a minimum rate of one tree for each 75 linear feet.

(d) [*Stormwater detention ponds.*] Detention ponds may be counted toward the minimum 25 percent open space area, provided that such ponds are designed to emulate natural

features by incorporating irregular outline, gradual slopes (no greater than 1:4), and appropriate landscape plantings.

(e) *Landscaping*. Landscaped open spaces shall be designed in accordance with the provisions of this section, as well as the landscaping guidelines as set forth in article 5, section 9 of this ordinance.

(f) *Screening*. The following items shall be located so as to minimize visibility from the roadway, adjacent properties and other public areas, and shall be screened from public view:

- (1) Service bays;
- (2) Loading docks and platforms;
- (3) Rooftop utilities;
- (4) Satellite dishes;
- (5) Dumpsters;
- (6) Storage areas.

(g) *Standard for tree plantings*. Trees shall be of a high canopy variety and shall be limbed to a minimum height of 12 feet above grade at maturity.

(h) *Standards for shrubbery*. Shrubby shall be of a low evergreen variety and shall be limited to use as foundation plantings and for screening purposes.

(i) *Standards for ground cover*. Ground cover shall be limited to turf and ornamental grasses and ornamental evergreen ground cover plantings within required landscape areas.

27.68 *Lot configuration*. All lots within the corridor overlay district created after the enactment of this section shall conform to the following:

- (a) Minimum lot area [shall be] 10,000 square feet. Service stations [shall have a minimum lot area of] 20,000 square feet.
- (b) Minimum lot depth shall be 100 feet. In the C-3 (service commercial) district, the minimum lot depth shall be 150 feet.
- (c) Minimum road frontage shall be at least 100 feet. In the C-3 (service commercial) district, the minimum road frontage shall be 150 feet.

27.69 *Architectural review*. The side of any building which faces the corridor (or corridors) shall be referred to as the "corridor elevation." Buildings in the COZ-1 shall be designed to front on the corridor, and the corridor elevation shall contain architectural elements traditionally associated with the front of a building. Blank walls without functioning windows are prohibited along the corridor. Windows must be incorporated into the overall design concept of the corridor elevation. Providing one or several small windows on a large corridor elevation shall not constitute compliance with this ordinance.

A "functioning window" shall be defined as a window which lets light into the interior of the structure, and is integrated and related to the interior layout of the space. In addition to functioning windows, the corridor elevation shall have the following elements:

- (a) A primary entrance door or doors (except for loading doors).
- (b) A primary entrance feature, such as a porch, portico, awning, entrance walk, or other similar feature.

In addition, the corridor elevation shall have one of the following elements:

- (a) Landscaping integrated into the building design concept.
- (b) Architectural or urban design elements which link adjacent structures together, such as plazas, walkways, colonnades, or similar features.

(c) Architectural relief, such as vertical and horizontal offsets in exterior wall elevations, band courses, lintels and sill courses, cornices, and the like, to create shadow lines.

The applicant shall submit 12 copies of the corridor elevation at the time of application. The city planner or his/her designee shall determine whether compliance with the provisions of this ordinance has been achieved.

*27.7 Properties located on a corner lot with two frontages within the Corridor Overlay Zone.* When a property is located on the corner of two corridors within the Corridor Overlay Zone, only one of the two corridors shall be subject to the requirements of Section 27.61 Setbacks and Section 27.63 Parking, Subsection (a) Location. The frontage of the property on which the identifiable front of the building is located shall be the frontage that is subject to the requirements of Section 27.61 And Section 27.63, Subsection (a). In designing the site, in order to qualify for the relief under this subsection, the applicant must demonstrate to the satisfaction of the planning commission that the design incorporates the principles of superior urban design as defined in Section 27.2.

#### IV. RECOMMENDATION OF THE PLANNING STAFF:

This Request is to rezone lands from R-10 (One Family Residence Zone) to C-2A (Limited Central Commercial Zone). The property would remain subject to the COZ-1 (Corridor Overlay Zone). The permitted uses allowed in the current zoning district of R-10 focus on residential uses as one-family detached residences and also provides the ability for consideration of conditional uses for places of worship, schools, and certain other institutional types uses. The proposed Rezoning to C-2A zone is a zoning district offering a mix of uses. For the C-2A zone, the range of permitted uses that are commercial uses include retail, office, personal service & service establishments, restaurants, and places of public assembly. The C-2A zone also includes permitted uses that are residential in nature including one-family residences (detached dwellings and duplex units), apartments and multi-family dwellings (more than 2 dwelling units in same building). The C-2A zone also includes conditional uses (uses subject to specific review for approval) for parking lots/structures and for fuel pumps as accessory to a permitted use.

Staff recommends that the rezoning for C-2A (Limited Central Commercial Zone) while retaining the COZ-1 (Corridor Overlay Zone) be granted as requested, as the proposed zoning is consistent with the *2019 Comprehensive Plan* (as amended) for the Mixed Use Land Use Classification Category. Staff also recommends that the property remain subject to the COZ-1 (Corridor Overlay Zone) due to its frontage on Forest Street. The purposes of the COZ-1 are to promote superior urban corridor development; to foster coordination and linkage among corridor properties; to preserve functionality and efficiency of the roadway for traffic movement; and to achieve a visually balanced streetscape environment friendly to the pedestrian and motorist. (*Zoning Ordinance*, Article 3 §27). The COZ-1 includes a number of additional buffers/setbacks, landscaping enhancements, and site layout design requirements. This area is part of the gateway leading into the City of Dover and is also along a key west-east corridor in the transportation system. The area is a transition from the rural areas west of Dover as the corridor becomes residential and then a more heavily commercial area as it moves towards the central core of the City. However, given the residential character surrounding this subject property, a different zoning district allowable by the Land Use and Zoning Matrix could also be considered that would allow for smaller scale community activity in this portion of the corridor to serve the local residential area.

This Rezoning Request does not grant approval of a specific use for the property but makes its land use subject to a listing of uses permitted and potential conditional uses as allowed in the C-2A zoning district. Staff again notes that any potential development for the site would have to be in line with the zoning classifications and would similarly have to follow all development design guidelines of the *Zoning Ordinance*. Were the application for Rezoning to be recommended by the Planning Commission and subsequently approved by the City Council, the applicant would still have to submit Site Development Plans for review for any use of the site to be established.

Staff notes that the parcel proposed for Rezoning meets the 100-foot lot depth requirement of the C-2A zone. Any non-conformity of the existing buildings' uses and placement regarding the bulk standards of the C-2A and COZ-1 would be subject to the provisions of the *Zoning Ordinance*, Article 7 – Nonconforming Buildings and Uses. Any development of the property once zoned C-2A with the COZ-1 would be subject to the bulk standards and provisions and the review processes for site development.

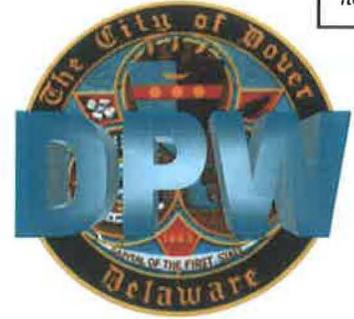
This recommendation is being made without that benefit of hearing the comments of surrounding landowners and residents. A public hearing is required on this matter and the Planning Commission should give those comments consideration.

V. ADVISORY COMMENTS TO THE APPLICANT:

- 1) The applicant shall be aware that approval of any rezoning application does not represent Site Development Plan or Record Plan approval. Following any decision made by City Council in regard to this rezoning, then an application for a Site Plan, Subdivision Plan, and/or appropriate Building Permits must be submitted to the Planning Department prior to the establishment of a use, development activity, or any construction activity on the site. The applicant should contact the Planning Staff to determine the appropriate review process for any proposed projects.
- 2) The property is subject to the requirements of the COZ-1 (Corridor Overlay Zone) related to development.
- 3) The applicant shall be aware that approval of any rezoning application does not represent a Building Permit, Sign Permit or other construction activity permit approval. A separate application submission is required before issuance of permits by the City of Dover.
- 4) The applicant shall be aware that any future use of the existing structures may be subject to a separate permitting or licensing process through the City of Dover Licensing and Permitting Division. All businesses operating in the City of Dover are required to obtain a City of Dover Business Licenses. Certain types of uses also require a Public Occupancy Permit or Rental Dwelling Permits.

**If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Office as soon as possible.**

CITY OF DOVER  
DEVELOPMENT ADVISORY COMMITTEE  
APPLICATION REVIEW COMMENTARY  
STAFF D.A.C. MEETING DATE: JUNE 2, 2021



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**APPLICATION:** Lands of Draper Farm Properties at 1617 Forrest Avenue  
**FILE #:** Z-21-05  
**REVIEWING AGENCY:** City of Dover Department of Public Works  
**CONTACT PERSON:** Sharon J. Duca, P.E.  
**CONTACT PHONE #:** 302-736-7025

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THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE. THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

**CITY AND STATE CODE REQUIREMENTS:**

***STORMWATER / STREETS / SANITATION***

1. None.

***GENERAL***

1. Our office has no objection to the rezoning of tax parcel ED-05-075.00-01-07.00.00-000.

**RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:**

***STORMWATER / STREETS / SANITATION / GENERAL***

1. None.

**ADVISORY COMMENTS TO THE APPLICANT:**

***STORMWATER / STREETS / SANITATION / GENERAL***

1. None.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

**CITY OF DOVER**  
**DEVELOPMENT ADVISORY COMMITTEE**  
**APPLICATION REVIEW COMMENTARY**  
**STAFF D.A.C. MEETING DATE: JUNE 2, 2021**



**APPLICATION:** Lands of Draper Farm Properties at 1617 Forrest Avenue  
**FILE #:** Z-21-05  
**REVIEWING AGENCY:** City of Dover Department of Water & Wastewater  
**CONTACT PERSON:** Jason A. Lyon, P.E., Director of Water & Wastewater  
**CONTACT PHONE #:** 302-736-7025  
**CONTACT PHONE #:** jlyon@dover.de.us

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

**CITY AND STATE CODE REQUIREMENTS**

**WATER / WASTEWATER**

1. Our office has no objection to the rezoning of tax parcels: ED-05-075.00-01-07.00-000.

**RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES**

**WATER / WASTEWATER / GENERAL**

1. Should this site be redeveloped, which includes modifications to the use, the applicant / developer will be responsible for all costs associated with providing the appropriate meter / service / main to this site based upon the use including any necessary system upgrades or extensions. The appropriateness and adequacy of water and sewer services and meters will be assessed at that time. (Please note that each water meter registered with the City of Dover must have a separate service line.) Should the existing water and sanitary sewer services no longer be required based upon the proposed use, they must be properly abandoned at the mains in accordance with all City of Dover Water / Wastewater Handbook.
2. Any redevelopment shall adhere to the City of Dover Water / Wastewater Handbook.
3. Please note that renovations and or change of use projects must ensure that the water and wastewater service is brought up to current requirements. This may include relocating the water meter outside or changing service line sizes. Please ensure you schedule a meeting with the Department of Water & Wastewater during the planning phase for this site. Additional impact fees may apply for future development.

**ADVISORY COMMENTS TO THE APPLICANT**

**WATER / WASTEWATER / GENERAL**

1. None

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

**CITY OF DOVER**  
**DEVELOPMENT ADVISORY COMMITTEE**  
**APPLICATION REVIEW COMMENTARY**  
**STAFF D.A.C. MEETING DATE: JUNE 2, 2021**

**APPLICATION:** Lands of Draper Farm Properties at 1617 Forrest Avenue  
**FILE #:** Z-21-05  
**REVIEWING AGENCY:** City of Dover Electric Department  
**CONTACT PERSON:** Paul Waddell, Electric Director  
**CONTACT PHONE #:** 302-736-7072  
**CONTACT EMAIL #:** pwaddell@dover.de.us

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

**CITY AND STATE CODE REQUIREMENTS**

**ELECTRIC**

Our office has no objection to the rezoning of: ED-05-075.00-01-07.00.00-000.

**RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES**

**ELECTRIC**

1. Should this site be redeveloped, which includes modifications to the use, the applicant / developer will be responsible for all costs associated with providing the appropriate meter / service to this site based upon the use including any necessary system upgrades or extensions. The appropriateness and adequacy of electric and meters will be assessed at that time.
2. Any redevelopment shall adhere to the City of Dover's Electric Service Handbook.  
<https://evogov.s3.amazonaws.com/media/27/media/13108.pdf>.

**ADVISORY COMMENTS TO THE APPLICANT**

**ELECTRIC**

1. None.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 06/02/21

APPLICATION: Lands of Draper Farm Properties at 1617 Forrest Avenue

FILE #: Z-21-05      REVIEWING AGENCY: City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Fire Marshal      PHONE #: (302) 736-4457

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESS BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

1. This is a rezoning request. This office has no objections.
2. Every house, building or structure used or intended for use as living quarters or as a place for conducting business, and having any wall facing or abutting any public or private street or alley, shall have displayed on that wall, in legible, easily read characters which are of contrasting color to the background, the proper street number for such house, building, or structure in accordance with the following:

*One-family and two-family residential structures, height, the number shall measure a minimum of four inches in height, location, the number shall be placed on the house above or to the left or right of the front entrance, color, the number shall be contrasting to the background color, Arabic numerals, all numbers shall be Arabic numerals.*

*Multiple-family dwellings, measurements, the number shall measure a minimum of six inches when identifying individual apartments with exterior doors, and 12 inches when identifying buildings with apartment complexes where there are two or more buildings not assigned street addresses. Individual buildings with street addresses shall have numbers measuring six inches, location, numbers shall be placed either in the center of the building or on the street end of the building so as to be visible from either the public or private street or from the parking lot, color, numbers shall be contrasting to the background color, Arabic numerals, all numbers used shall be Arabic numerals.*

*Commercial, industrial and office buildings, height, the numbers shall measure a minimum of 12 inches in height, location generally, numbers shall be placed either in the center of the building or on the*

street end of the building so as to be visible from either the public or private street or from the parking lot,

*property line or driveway*, should the building be located far enough from a public or private road so that the numbers are not clearly visible from the street, then the street address shall also be posted on the property at or near the property line or driveway to said building,

*color; each building*, numbers shall be contrasting to the background color and shall be placed on each building in the complex,

*Arabic numerals*, all numbers used shall be Arabic numerals,

*Shopping centers*. Shopping centers consisting of two or more stores shall have a tenant or suite number affixed to the front of the tenant space and on the outside of the rear door which corresponds with that tenant space. Numbers shall measure six inches in height.  
(City of Dover Code of Ordinances, 98-344)

APPLICABLE CODES LISTED BELOW (NOT LIMITED TO):

2015 NFPA 1 Fire Code (NFPA; National Fire Protection Association)

2015 NFPA 101 Life Safety Code (NFPA; National Fire Protection Association)

2013 NFPA 72 National Fire Alarm and Signaling Code (NFPA; National Fire Protection Association)

2013 NFPA 13 Installation of Sprinkler Systems (NFPA; National Fire Protection Association)

2009 IBC (International Building Code)

Latest editions of all other NFPA Codes as defined by the Delaware State Fire Prevention Regulations

2015 Delaware State Fire Prevention Regulations

City of Dover Code of Ordinances

**\*If you have any questions or need to discuss any of the above comments, please call the above contact person listed.**

CITY OF DOVER  
DEVELOPMENT ADVISORY COMMITTEE  
APPLICATION REVIEW COMMENTARY

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APPLICATION: Draper Farm (1617 Forest Avenue)

FILE#: Z-21-05

REVIEWING AGENCY: DelDOT

CONTACT PERSON: Joshua Schwartz

PHONE#: 302-760-2768

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

No person, firm, corporation or the like shall construct, open, reconstruct, maintain, modify or use any crossing or entrance onto a state-maintained highway, street or road, including any drainage modifications leading into or carried by the highway drainage system, without first having complied with standards and regulations adopted by the Department and having obtained a permit issued by the Department. Please contact the Delaware Department of Transportation - Development Coordination section to begin permit process.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

1. No comments to the rezoning.
2. At such time the property develops it shall be submitted to DelDOT. At that time schedule a pre-submittal meeting to begin the process.



# KENT CONSERVATION DISTRICT

Item 6.

1679 SOUTH DUPONT HIGHWAY • DOVER, DELAWARE 19901 • (302) 608-5370 • WWW.KENTCD.ORG

**CITY OF DOVER  
DEVELOPMENT ADVISORY COMMITTEE  
APPLICATION REVIEW COMMENTARY  
June 2021**

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**APPLICATION:** Lands of Draper Farm Properties at 1617 Forrest Avenue

**FILE #:** Z-21-05

**REVIEWING AGENCY:** Kent Conservation District

**CONTACT PERSON:** Kate Owens

**PHONE #:** 302-608-5370

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THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE. THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

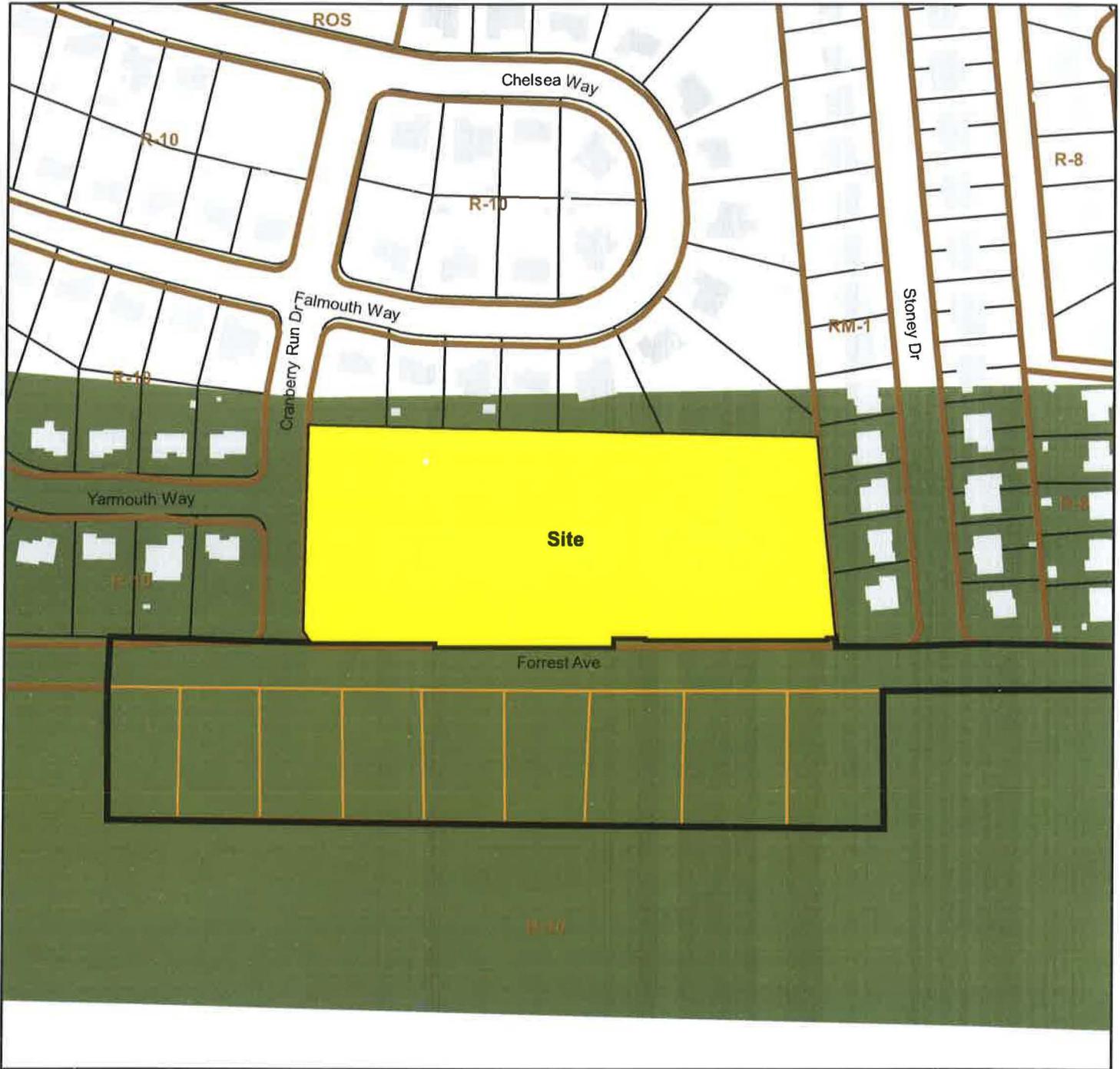
Source: 2019 Delaware Sediment and Stormwater Regulations

CITY AND STATE CODE REQUIREMENTS:

Kent Conservation District has no objection to the proposed rezoning of the above referenced site.

ADVISORY COMMENTS TO THE APPLICANT:

Soil disturbance (e.g. clearing, grading, excavations, tree clearing, or stoning) equal to or greater than 5,000 square feet requires a Sediment and Stormwater Management Plan to be submitted and approved by the Kent Conservation District prior to the commencement of disturbance.

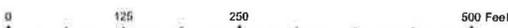


Title: Lands of Draper Farm Properties LLC  
 Ordinance #: 2021-14  
 Addresses: 1617 Forrest Avenue  
 Parcel ID: ED-05-075.00-01-07.00-000  
 Existing Zoning: R-10 One-Family Residence Zone  
 COZ-1 Corridor Overlay Zone  
 Proposed Zoning: C-2A Limited Central Commercial Zone  
 COZ-1 Corridor Overlay Zone  
 Owner: Draper Farm Properties LLC  
 Date: 05/13/2021



**Legend**

-  Subject Property
-  2012 Buildings
-  Zoning
-  Dover Parcels
-  Corridor Overlay Zone



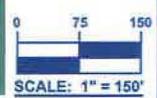


**SITE DATA**

1. OWNER OF RECORD:	DRAPER FARM PROPERTIES, LLC 23 ZION ROAD SMYRNA, DE 19977
2. ENGINEER:	BECKER MORGAN GROUP INC. 309 SOUTH GOVERNORS AVENUE DOVER, DE 19904 (302) 743 - 7950
3. PROPERTY MAP NUMBER:	2-05-07500-01-0700-00001
4. ZONING CLASSIFICATION:	EXISTING: R-10 - ONE FAMILY RESIDENCE ZONE PROPOSED: C-2A - LIMITED CENTRAL COMMERCIAL ZONE
5. DEED SUMMARY:	9233 - 0253 & 7548 - 0312
6. PRESENT USE:	VACANT RESIDENTIAL HOME
7. PROPOSED USE:	CONVENIENCE STORE WITH GAS PUMPS
8. TOTAL SITE AREA:	5.00 ACRES ±
9. SOURCE OF WATER:	CITY OF DOVER
SOURCE OF SEWER:	CITY OF DOVER

**SITE**

LANDS IN:  
DRAPER FARM PROPERTIES, LLC.  
T.P. 2-05-07500-01-0700-00001  
ZONING - R - 10 - ONE FAMILY RESIDENCE ZONE  
3.86 ACRES ±



**FORREST AVENUE  
REZONING EXHIBIT**

CITY OF DOVER  
KENT COUNTY, DELAWARE



ARCHITECTURE  
ENGINEERING  
**Dover, DE**  
309 S. Governors Ave.  
Dover, DE 19904  
Ph. 302.734.7950  
Fax 302.734.7965

BMG: 2021070.00  
SCALE: 1" = 150'  
DATE: 05/06/2021  
DRAWN BY: A.C.F.

# TAB 2

**REZONING APPLICATION #Z-21-05  
IS AN ENTIRELY DIFFERENT ANIMAL THAN  
REZONING APPLICATION #Z-21-03**

**Rezoning Application #Z-21-03**

**Rezoning Application #Z-21-05**

***-The actual end user/use was known***

***-The actual end user/use is unknown***

Dover Interfaith Mission for Housing  
Apartment Shelter for the Homeless<sup>1</sup>

?????????  
?????????<sup>2</sup>

***-The proposed use was not compatible  
with surrounding uses***

***-The proposed zoning(C-2A) is  
compatible with surrounding uses***

Ample Evidence of  
Conflicts with Neighboring Properties

Zero Evidence of  
Conflicts with Neighboring Properties

Proposed Use Did Not Serve  
Purposes of the Downtown Development  
District

Limited Central Commercial  
Uses Suitable and Appropriate  
Along Route 8 Corridor

***-The location of the proposed use  
would have violated state law***

***-The location of the proposed use  
does not violate any state law***

Sex Offenders Not Permitted  
Within 500 Feet of a School  
11 Del. C. § 1112(a)(1)

No Unlawful Use

***-The proposed use was inconsistent  
with the Comprehensive Plan***

***-The proposed use is consistent  
with the Comprehensive Plan***

Proposed Use Conflicted With  
Downtown District Revitalization  
See page 12-8 of the Plan

See Table 12-1 of the Plan

<sup>1</sup> No additional conditional use approval required.

<sup>2</sup> If pursued, a convenience store with fuel pumps would require additional conditional use approval.