

CITY OF DOVER PLANNING COMMISSION
MAY 15, 2023

The Meeting of the City of Dover Planning Commission was held on Monday, May 15, 2023 at 7:00 PM as an In-Person Meeting and also using the phone/videoconferencing system WebEx. The Meeting Session was conducted with Chair Mrs. Maucher presiding. Members present were Mr. Cooper, Mr. Roach (virtual), Mrs. Denney, Mr. Baldwin, Dr. Jones, Mrs. Welsh (virtual), Mrs. Malone (virtual), and Mrs. Maucher. Mr. Hartman was absent.

Staff members present were Mrs. Mary Ellen Gray, Mrs. Dawn Melson-Williams, Mr. Julian Swierczek, Ms. Katherine Oehmke, Mr. Jason Lyon and Mrs. Kristen Mullaney. Also present were Mr. Douglas Barry, and Mr. Jonathan Street.

APPROVAL OF AGENDA

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

APPROVAL OF MEETING MINUTES OF APRIL 17, 2023

Mr. Baldwin moved to approve the Planning Commission Meeting Minutes of April 17, 2023, seconded by Mrs. Welsh and the motion was unanimously carried 8-0 with Mr. Hartman absent.

COMMUNICATIONS & REPORTS

Mrs. Gray provided an update on the regular City Council and various Committee meetings held on April 24 & 25, 2023 and May 8 & 9, 2023.

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Tuesday, June 20, 2023, at 7:00PM in the City Hall Council Chambers. The Monday of that week is the Juneteenth holiday which the City now observes.

Mrs. Melson-Williams stated that the Planning & Inspections Department has a job opening. They are looking for a Code Enforcement Inspector. We have a retirement on our Building Inspections side with Mr. Mike McGregor; and, we have one of our Code Enforcement staff members, Mr. Michael Bailey who is moving into that new role on the building side.

Mrs. Melson-Williams stated that for the Planning Commission, we have a number of education and training opportunities. One was this past Friday on "Creating a Flood Ready Community". Staff member Ms. Katherine Oehmke attended that on behalf of our office. The Commission does have the opportunity to attend the "Intro to Land Use Administration" which is another presentation by the Institute for Public Administration for the University of Delaware. It is scheduled for Wednesday, May 24, 2023 from 9am - noon. It is an in-person event at the Kent County Levy Court facility here in Dover. If you are interested in attending, please reach out to Planning Staff and they will get you registered for that event.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS**Requests for Extensions of Planning Commission Approval:**

C-21-04 Bay Pointe Apartments (One Building Concept) at 1080 and 1106 Bay Road - Request for a One Year Extension of Planning Commission Approval granted on May 17, 2021 for a Conditional Use Site Plan Application and associated Lot Consolidation Plan to permit the construction of one Multiple Dwelling-Unit (Apartment) Building as a three-story 54,105 SF building with 54 apartment units and associated site improvements. The proposed Apartment building requires Conditional Use review in the C-4 zoning district. The three existing lots to be consolidated total 3.302 +/- acres and are zoned C-4 (Highway Commercial Zone). The property is located on the southwest side of Bay Road at the intersection with Lafferty Lane. The owner of record is Patel Hospitality Properties. Property Addresses: 1080 and 1106 Bay Road and an unaddressed parcel. Tax Parcel Numbers: ED-05-086.00-01-18-00-000, ED-05-086.00-01-19.00-000, and ED-05-086.00-01-20.00-000. Council District 2.

Representative: Mr. Douglas Barry, Pennoni & Associates

Mr. Swierczek stated that this is a Conditional Use Site Plan and an associated Lot Consolidation Plan for three parcels on Bay Road. This originally came before the Planning Commission at their May 2021 meeting. It has been going through the Check Print Review Process with the DAC agencies involved in the process. In their letter requesting the extension of approval dated April 14, 2023, they note as such stating that one of the primary sort of delays in the plan moving forward a little more quickly were some requested edits to the plans per DelDOT. Having said that, he will note that with the Planning Office they are aware at least that they have obtained Fire Marshal and Kent Conservation District approvals and they have submitted a Check Print for review. So, the Planning Staff is at least satisfied that they are moving forward with the project. As a brief reminder, this is for one apartment building on Bay Road with a total of 54 units. They did have an Active Recreation Plan where they were presenting beyond sort of what the required minimum. It was recommended for approval by the Parks and Recreation Committee and approved by the Planning Commission.

Mr. Barry stated that it took a little longer to navigate through the DelDOT process. They had to redesign the intersection to accommodate the fourth leg into the site which meant they are going to be taking down all of the existing tension wires and putting all new mast arms and everything; so, it's going to look great. But it did take longer to do that but they have received DelDOT's approval. They have all of the agency approvals; they are just requesting an extension so that they can finalize the process with the Planning Department.

Mrs. Denney moved to approve C-21-04 Baypoint Apartments One Building Concept at 1080 & 1100 Bay Road for a one year extension as it appears as though they have had some difficulty and delays caused by agencies such as DelDOT and sometimes it's hard to navigate those processes especially with all of the changes that they are going to have to make, seconded by Mr. Cooper and the motion carried 8-0 by roll call vote with Mr. Hartman absent. Mrs. Denney voting yes; as she mentioned in her motion, she thinks it's a reasonable request in light of the

fact that sometimes dealing with some of the agencies takes a little longer and this time specifically DelDOT. DelDOT is asking them to make a lot of changes. Mr. Baldwin voting yes; they are making progress. Dr. Jones voting yes; the applicant is making satisfactory progress. Mrs. Welsh voting yes; for reasons stated in the motion. Mrs. Malone voting yes; for reasons stated in the motion. Mr. Cooper voting yes. Mr. Roach voting yes; for reasons previously stated. Mrs. Maucher voting yes; for reasons stated in the motion.

NEW APPLICATIONS

S-23-10 Parking Lot of Landing Square at 560 and 600 Bay Road: Revised Phase 3A - Public Hearing and Review of a Site Development Plan for development of a 99-space parking lot area and associated site improvements instead of a previously proposed 6,400 SF restaurant for Phase 3A of the Landing Square development. The subject area is 1.02 acres+/- of the Lot 2 parcel consisting of 4.6493 acres +/- fronting on Bay Road in the northern portion of the site. The property is located on the west side of Bay Road north of its intersection with Blue Hen Boulevard and the Bay Court Plaza entrance drive. The property is zoned C-4 (Highway Commercial Zone). The owner of record is BAYROADCAP, LLC. Property Addresses: 560 and 600 Bay Road. Tax Parcel Number: ED-05-077.00-01-09.01-000. Council District 2. *Waiver Requested: Reduction of Arterial Street Buffer. Application C-20-02 Landing Square (Previously Bay Road Commercial): Revised Phase 2 Area approved by the Planning Commission on August 17, 2020 received Final Plan approval on February 25, 2021 for the commercial development of the Lot 2 area. Minor Subdivision Plan SB-22-03 Lands of Bayroadcap, LLC dividing the overall property into three Lots was approved by the Planning Commission on April 18, 2022 and recorded on May 24, 2022.*

Representative: Mr. Jonathan Street, Becker Morgan Group

Mrs. Melson-Williams stated that this is a Site Development Plan Application that is before the Commission this evening. It may look somewhat familiar to you as our report highlights that there have been a number of applications; both Site Plans and Subdivision projects over the years involving this property now called the Landing Square Complex. It is located on the west side of Bay Road. It is on the right hand side of the image of the plan and it shares an entrance drive with the Bay Court Plaza. The entrance drive is along the bottom edge of the plan image. The property is zoned C-4 (Highway Commercial Zone) and is previously developed with an Office Building along its western portion of the property which is now part of Lot 1. Lot 2 consists of a northern Office Building and part of the central parking area. Then Lot 3 is kind of the southeast corner which would be where there is a proposed restaurant location. What they are dealing with this evening is a redesign to what they are identifying as Phase 3A. It is actually part of the Lot 2 parcel and it is the northeast corner of the tract of the land directly adjacent to Bay Road. As mentioned, the project for Landing Square started with a Site Development Plan back in 2017 and then later plans in both 2019 and 2020 developed those first two office buildings on the site. Then most recently, a couple of Minor Subdivision Plans created multiple lots for the complex. Tonight, the Phase 3A is a focus on converting what was originally proposed as a restaurant location to a 99-space parking lot to meet some of the parking needs of the current occupants on the site. This does adjoin the main circulation pattern that exists on the property that's on the edge of this image that is shown. The parking lot does have landscaping around it to meet some

of the tree planting requirements. The Phase 3A does satisfy those requirements for the plan. With this parking facility, they will be looking to confirm that the impervious surface coverage continues to be met. There are limitations for this tract overall. The parking likewise triggers us to look at whether they have adequate bicycle parking and if those are already installed on the campus. We will confirm the number of spaces with this increase of vehicle parking spaces. There are lighting that is proposed for the parking lot.

This evening, the Planning Commission has one Waiver Request to consider and that is a reduction of the Arterial Street Buffer. That is a requirement along the Bay Road frontage of the property. Previous applications on the site have sought that Waiver Request and have been successful. The Waiver seeks to reduce that Arterial Street Buffer from 30 feet to 20 feet. That's what's shown here. The row of parking that's closest to Bay Road is in the same location as the row of parking for the proposed restaurant that was at a portion of this site. The Development Advisory Committee Report has been provided to Commission members. The Planning Staff is recommending approval of the reduction of that Arterial Street Buffer. They are also recommending that the construction of the sidewalk that is in the form of a multi-use path directly adjacent to this Phase 3 area, go ahead and be constructed as activity is happening in this area of the site. As always, they are encouraging the installation of electric vehicle charging infrastructure. It is a lot easier to put in at least the infrastructure ahead of time even if you are not ready to install the charging stations specifically. Our Code does not have a requirement but it is something that they have been encouraging with most applications. The rest of the DAC Report includes comments from the other regulatory agencies that they will also have to seek approval from with this change to the Phase 3 area.

Mr. Street stated that he thinks this is a great project and a great example of a project that won't die. This has been revitalized and revamped a couple of times here as Mrs. Melson-Williams mentioned. The application in front of you looks to expand the parking area for one of the current occupants of the north building. It is Government Services right now and Government Services currently is parking a lot of their fleet vehicles out there and additional parking is what they require which is why the owner has basically take that north restaurant pad and converted it into a parking lot. He wants to go over a few things and he will try and keep this brief. This is pretty simple from a plan perspective. They are looking to just build a parking lot where they had previously planned a restaurant and a parking lot. They are just really converting building space into parking lot space. The overall footprint of the area that we are looking at right now on the screen is actually slightly smaller than what was designed before; so, the impervious coverage limits that Mrs. Melson-Williams was mentioning, they are not too concerned about. They had calculated that initially because obviously they have a set limit that they can't encroach on. A couple items of note, there are at least two cross access easements that are located on the property now. They are not impacted by anything that they are proposing on changing. The landscaping for the area was roughly 52,000-53,000 SF for just this little corner of the property which requires somewhere in the neighborhood of seventeen trees. He stopped counting at 38-40 trees that are planned for this corner. They fully intend on executing the Landscape Plan as it was approved previously. For the 20-foot Arterial Street Buffer, they are not looking to reduce the plantings in the buffer, just the buffer width itself to what was originally approved. He doesn't want to take that for granted but they are requesting that it remain at the 20-foot limit. Additionally, they have met with both DelDOT and Kent Conservation District with at least

informal conversations with KCD and they are aware of what's going on. Stormwater for these parking lots has already been accounted for the existing stormwater infrastructure. He believes that KCD's comments were "Really? Again? You are coming back?" So, yes they are and it's already accounted for so it should be relatively straight forward. They have already met with DelDOT on the secondary access, shared use path, and all of the infrastructure improvements along Bay Road. DelDOT is interested in getting the second entrance built and all of the improvements done out on Bay Road with the construction of the parking lot. Timing of that is yet to be hammered out. We have had preliminary conversations and meetings with them. They have to go back and get the entrance plans reapproved. With that re-approval, they (DelDOT) are going to require them to build those entrances. The exact timing of that will be set by DelDOT but he just wanted to bring that up to Staff and to the Planning Commission. Other than that, he went through the Report and he doesn't really have any comments on Staff Report and/or the other departments. It is pretty straight forward. Most of the Staff's reporting is based on identifying what is already built and what is to be built. With that, he doesn't know that he has any other further comments, but he is happy to take questions from the Commission or Staff.

Mrs. Maucher asked if they were intending on putting in any EV infrastructure. Responding to Mrs. Maucher, Mr. Street stated that the State actually has a requirement. Just off the screen at the top there are 4 or 5 spaces that are up at the top that the State actually wants there to be EV parking places. The infrastructure is put in already as part of the GSS Building, that top 20,000 SF building. So, there are places that are either active or they have the infrastructure for it. It is ongoing and he doesn't know if they want more spaces than what is already out there; that will really be dictated by the State.

Mrs. Maucher opened the public hearing and after seeing no one wishing to speak, closed the public hearing.

Mrs. Welsh moved to approve S-23-10 Parking Lot of Landing Square at 560 & 600 Bay Road Revised Phase 3A revision as indicated inclusive of the previous Waiver Request for the reduction of the Arterial Street Buffer on application C-20-02, seconded by Mrs. Malone and the motion was carried 8-0 by roll call vote with Mr. Hartman absent. Mrs. Welsh voting yes; apparently the change and the revision to the phases of the project require additional parking to accommodate existing clients and that sounds like a great solution to the problem. Mrs. Malone voting yes; for the same reasons stated. Mr. Cooper voting yes. Mr. Roach voting yes. Mrs. Denney voting yes; she thinks that extra parking spaces in lieu of a restaurant are always a good idea and the waiver reduction of the street buffer as previously stated this evening had three successful prior grants so she thinks that kind of goes with what's happening out there. She thinks it would be helpful to help move this along and let it come to fruition completely. Mr. Baldwin voting yes; based on Staff recommendations and the progress that is being made. Dr. Jones voting yes. Mrs. Maucher voting yes; for reasons stated.

NEW BUSINESS

Mrs. Denney stated that she would like to make a comment in regard to the letter that the Commissioners have yet again received. Obviously, this is our constant companion and she is addressing it just for housekeeping with the record. The letter that they have been receiving

periodically from Mr. John Paradee with regard to an issue with water in the Woodcrest Subdivision is actually stormwater drainage issues. It says every member of Council is receiving it but she really would just like to suggest to them that someone at least address it in some way. We are powerless other than to say please move this forward or suggest that you move it forward. She just wants to say that she had (an issue) in May 2021. She lives in an old house in the Historic District and the same piping that is running around our streets was running through her basement. It happened due to reverberation from work other where in the City. But it burst, leaving her basement more than ankle deep in sewage. \$19,000 later, all of the walls removed and it took from May to October for the cleanup because of the type of waste. Although her insurance paid for it, she thinks that it just gives an example of what is going on in Dover. And it's not just Dover; it's everywhere. We have antiquated infrastructure and we are very fortunate because the City of Dover has been working on it hard over the years. So, this may seem like it's a stormwater drainage issue but she would like to remind everybody that water is very powerful. One good example would be that it dug this big thing out west called the Grand Canyon. She just hopes someone will take a look and please help this resident.

Meeting adjourned at 7:40 PM.

Sincerely,

Kristen Mullaney
Secretary