

CITY OF DOVER PLANNING COMMISSION
MARCH 18, 2024

The Meeting of the City of Dover Planning Commission was held on Monday, March 18, 2024 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. Witham, Mrs. Denney, Mr. Baldwin, Dr. Jones, Mr. Reaves, Mrs. Welsh (virtual), and Mrs. Maucher. Mr. Cooper and Mr. Roach were absent.

Staff members present were Mrs. Dawn Melson-Williams, Ms. Katherine Oehmke, Mr. Jason Lyon (virtual), and Mrs. Kristen Mullaney.

APPROVAL OF AGENDA

Mr. Witham moved to approve the Agenda as submitted, seconded by Mrs. Denney and the motion was carried 7-0 with Mr. Cooper and Mr. Roach absent.

APPROVAL OF MEETING MINUTES OF FEBRUARY 20, 2024

Mr. Witham moved to approve the Planning Commission Meeting Minutes of February 20, 2024, seconded by Mr. Baldwin and the motion was carried 7-0 with Mr. Cooper and Mr. Roach absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, April 15, 2024, at 7:00PM in the City Hall Council Chambers.

Mrs. Melson-Williams provided an update on the regular City Council and various Committee meetings held on February 26 & 27, 2024 and March 11 & 12, 2024.

Mrs. Melson-Williams stated that we do continue to have open positions and there are many throughout the City; so, if you know of anyone, have them check out the City's website for opportunities to become part of Team Dover. She wanted to pass along from Code Enforcement that it is inching closer to spring which means grass is going to start to grow and the City has regulations relating to the height of grass. Maximum height of grass is 8 inches, so please cut it before it reaches that height and you won't become a Code Enforcement violation that we have to deal with.

Mrs. Melson-Williams stated that included in the packet was information on projects and studies. The first one is the Dover Downtown Development District Public Workshop. It is scheduled for tomorrow, March 19, 2024 from 4:00PM to 6:00PM with presentations at 4:30PM and 5:30PM at the Dover Public Library. The Downtown Development District was put in place in 2015. The program is good for ten years and we are at the point of needing to renew our application and this Workshop is part of that process. The City has consultant help from the Rossi Group assisting us in the preparation of that renewal application. So, tomorrow is an opportunity to find out about how that program has worked over the last ten years and also to look at some of the proposals to expand the territory that is involved in our Downtown Development District Area.

Mrs. Melson-Williams stated that the other announcement is related to education and training opportunities for Planning Commissioners. They provided information about the next upcoming presentation by the Institute for Public Administration. It is an event on the “Freedom of Information Act (FOIA) and Ethics for Local Officials.” She will note that the meeting date of the training has changed. It is not March 20, 2024 as they had initially reported to the Commission. When they went to register, they found out that they had revised the meeting date for that training has been rescheduled to March 28, 2024. If you are interested, please let them know. They do believe that there is a limited availability of spots to attend that training. If you had previously signed up for this training and it no longer works for you, let Staff know that as well.

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:

S-22-03 Restaurant at 801 North State Street – Review of Request for a One-Year Extension of the Planning Commission conditional approval granted on March 21, 2022 of a Site Development Plan Application for the construction of a 7,681 SF Restaurant with outdoor patio dining and associated site improvements. The property is zoned C-2A (Limited Central Commercial Zone). The property consists of 1.943 acres (84,637.08 SF) and is located on the east side of North State Street, southwest of Lepore Drive. The property is bordered by Silver Lake to the south. The owner of record is Lopez Kent County, LLC. Property Address: 801 South State Street. Tax Parcel Number: ED-05-068.09-01-13.00-000. Council District 3.

Representative: Mr. Mike Glick, Lighthouse Construction

Mrs. Melson-Williams stated that this is a Request for a One-Year Extension that comes to us for application S-22-03 the El Azteca Restaurant that was proposed at 801 North State Street. This was reviewed by the Planning Commission in March 2022. They are given a two-year time frame to finalize their plan, pull permits, and commence construction activity. With this project, they did achieve Final Site Plan approval in December 2022 which included approvals from DelDOT on their Entrance Plan and their Stormwater Management Plan with the Kent Conservation District. At this point, their next step is to seek Building Permits in order to commence construction. They made the Request for a One-Year Extension via email, and they indicate that the applicant is continuing to plan for this project. It appears that it is a little more involved in some aspects than what they expected. They are seeking a One-Year Extension of the Planning Commission approval.

Mr. Glick stated that Mrs. Melson-Williams pretty well covered it. They are still working through the planning. There was more to the project than initially anticipated; so, they are asking for a One-Year Extension.

Mrs. Denney moved to approve S-22-03 Restaurant at 801 North State Street for a One-Year Extension, seconded by Dr. Jones and the motion was carried 7-0 by voice vote with Mr. Cooper and Mr. Roach absent.

S-22-04 Raymond Street and Railroad Avenue Street Improvements – Review of Request for a One-Year Extension of Planning Commission conditional approval granted on March 21, 2022 of a Site Development Plan Application for the proposed construction of street improvements in the Rights-of-Way of Raymond Street and Railroad Avenue. Improvements consist of paved roadways, curbing, sidewalks, and utility infrastructure (water, sewer, and stormwater drainage). Raymond Street is proposed to be extended west as a 24 ft. paved width roadway to intersect with Railroad Avenue. Railroad Avenue is proposed to be constructed as a 24 ft. paved width roadway extending to the north ending in a cul-de-sac. Portions of the surrounding property totaling 0.61 acres and owned by Patel College Properties LLC and Patel Excess College Road LLC are being dedicated to the City of Dover for the expansion of Right-of-Way. The area is located north of College Road and east of the Lands of the Delaware Railroad. Public Right-of-Way to be dedicated to City of Dover. Property Address: Rights-of-way in the vicinity of Tax Parcels: ED-05-067.00-02-53.00-000 and ED-05-067.00-02-56.00-000. Council District 4.

Representative: Mr. Brian Riggin, Parkway Law

Mrs. Melson-Williams stated that this is a Request for Extension for S-22-04 Raymond Street and Railroad Avenue Street Improvements. It was focused on the right-of-ways in that area specifically. This was likewise considered by the Planning Commission in March 2022. It really focused on the plans for improvements to several streets in that area and as part of that, the Planning Commission made recommendations on some Subdivision Waiver Requests related to a street right-of-way width, a maximum length of the cul-de-sac, and partial elimination of sidewalk. Those recommendations moved on to City Council. City Council, via their Safety Advisory and Transportation Committee, met multiple times in the timeframe from May through November of that year of 2022. Ultimately, the waiver requests were not approved at the City Council level. She will note that this is the Site Plan for the street improvements aspects; this is not the Site Plan for development of the apartment project that came before you under S-23-06. This is just focused on the street improvements to the right-of-way in that area. They are seeking a One-Year Extension via the letter that was received from representatives of Parkway Law who represent the parties of ownership related in that area for the apartment project. They note in their letter that related activities are subject to litigation and they go on to list actually the three cases that are pending before Superior Court in Delaware. They are asking for the One-Year Extension as they have other matters to address related to these cases that are associated with this development. We do have a representative of that project team that has joined us online.

Mr. Riggin stated that he doesn't have anything additional to add at this time. He would refer the Planning Commission to the letter that they submitted on record but obviously he is here in attendance. He thanks the Planning Commission for allowing him to attend by the Webex platform; it is working very well so far.

Mr. Witham questioned if the Request was for a one-year extension. Responding to Mr. Witham, Mrs. Melson-Williams stated yes, the Request is for a one-year extension as that is what the *Zoning Ordinance* allows for you to consider.

Mr. Witham stated that if the extension is granted, he really has no opposition to that other than the fact that he would point out given the nature of the case numbers on the litigation, these cases could go as long as two years under standard Superior Court litigation schedule. So, we may be facing another year of extension if these matters are not resolved. Responding to Mr. Witham, Mr. Riggan stated that they are only requesting the One-Year Extension at this time. Obviously, they can't predict what could happen in the future with these three cases, while he is not the attorney handling them, he has consulted with them. His understanding is that the Court has somewhat intertwined the cases and they are already scheduling argument of one of the cases in later April. So, it's our hope that this will be wrapped up in short order, but he cannot deny that the realities of litigation sometimes take much longer than anyone would want. But obviously, they will be informing and upfront with the Planning Commission as that process goes forward.

Mr. Witham moved to approve S-22-04 Raymond Street and Railroad Avenue Street Improvements for a One-Year Extension, seconded by Mrs. Welsh, and the motion was carried 7-0 by voice vote with Mr. Cooper and Mr. Roach absent.

NEW APPLICATIONS

S-24-03 Delmarva Land Holdings, LLC Warehouse Buildings (Cassidy Commons) at 101-1001 Cassidy Drive – Public Hearing and Review of a Site Development Plan Application to permit construction of six (6) 9,950 square foot manufacturing/warehouse buildings (in addition to the four (4) already constructed) to be divided into smaller tenant spaces with other site improvements. The property of 10 acres ± is zoned M (Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone): APZ I and Noise Zones A and B. The property is located on the south side of Lafferty Lane west of Horsepond Road along a private drive known as Cassidy Drive. Property owned by Delmarva Land Holdings, LLC. Property Address: 101-1001 Cassidy Drive. Tax Parcel: ED-05-077.00-01-28.04-000. Council District 2. *Waiver Requests: Elimination of Upright Curbing, Elimination of Bicycle Parking, Partial Elimination of Sidewalks, and Consideration of Performance Standards Review Application. This site was most recently subject to Application C-21-01 which was approved by the Planning Commission on January 19, 2021, but Final Plan Approval was not achieved, and the Plan has expired. The initial four buildings were constructed under C-11-04 M & L Ventures at Lafferty Lane.*

Representative: Mr. Fredrik Ruhe, Delmarva Land Holdings, LLC; Mr. Mark North, representing Delmarva Land Holdings, LLC

Mrs. Oehmke stated that S-24-03 is Delmarva Land Holdings, LLC addressed at 101-1001 Cassidy Drive. It currently has four buildings on the site. The remaining buildings are Buildings 5-10. The current zoning of this property is M (Manufacturing Zone), and it is subject to the AEOZ (Airport Environs Overlay Zone): APZ I and Noise Zones A and B. The history of the site goes back to 2011. It received conditional approval; it received a one-year extension. They built their first building in 2012. The last building was built in 2017. Delmarva Land Holdings, LLC

purchased the property in 2020; and in 2021, it received conditional approval for the rest of the buildings, but the plan expired. The location is off of Lafferty Lane. Cassidy Drive is a private road. As you can see, it is surrounded by fields. There is a new Frito Lay facility directly across Lafferty Lane. There is an approved Site Plan to the left that expires this year. As you can see in the back of the property, there is something what looks like asphalt, but it's not actually asphalt. It is used more like a contractor's yard. A picture on the screen shows what the back looks like currently. The Manufacturing Zone allows for a variety of different manufacturing uses including storage, public utilities, etc. It also has accessory uses and storage should be within a completely enclosed and secured area. The AEOZ (Airport Environs Overlay Zone) is to prevent aircraft accidents associated with the Dover Air Force Base and it wants to reduce density for potential human loss. The Noise Zones A and B are to reduce the noise due to the Air Force Base. There are a number of prohibited uses due to its location and its proximity to the Dover Air Force Base. As you can see Letter E, we are reducing items that might produce light, smoke or anything that would interfere with any airline. The AEOZ (Airport Environs Overlay Zone) Land Use and Compatibility Chart has a lot of different items that are not allowed. She has gone ahead and crossed off all of the uses within the Compatibility Chart that are not allowed based on the AEOZ (Airport Environs Overlay Zone). The buildings as they are currently look is the plan for Buildings 5-10. The plan shows the ten buildings with a road in the middle that goes up to neighboring properties. There are two dry stormwater retention areas. This "Construction Drive" as it is named on the plan is an undeveloped road. They are recommending that it be a private drive to eliminate any cross access easements required to access that road for City use. For the dumpster enclosures, there are dumpster pads for Buildings 1-4, but they are not enclosed. They are recommending that those dumpsters be enclosed and that the future buildings enclose their dumpsters as well. There is not street lighting other than the lights that are on the buildings. You can see the five lights on the plan. There are also lights above each door. As you can see, the parking and fire lanes are lined here at an angle. It doesn't allow for pass through parking or pull through parking for the larger vehicles that are using these warehouse spaces. So, they are recommending pull through parking. The Fire Marshal's Office has also recommended that the sprinkler systems be added so that the plan's twenty foot fire lanes can be continued for the rest of the buildings. They have requested three Waivers: partial sidewalk for one side of the private drive, the elimination of partial upright curbing, and the elimination of the rest of the bicycle parking that would be required to complete that project. As you can see, there is not upright curbing in the parking areas on the east or the curbing on the west side of the private drive. It allows for the natural water runoff which has been working thus far. They do have bike paths on Lafferty Lane so her recommendation would be to deny the waiver for the bicycle parking (elimination). They aren't currently being used but as this area gets developed, people might be inclined to use the bike paths and bring their bikes to these individual spaces. The Landscaping Plan is showing some trees along the roads including Construction Drive.

Mr. Ruhe stated that Mr. Mark North has joined by phone, and he can speak to the project.

Mr. North stated that we are basically in agreement with the DAC Report recommendations. They don't have any objections to any comments. This project is one that they are not proposing any changes to what the original plan was back in 2012. There was a change of ownership about two years ago and that caused a delay. They are ready to proceed with our project and they would like to proceed with it as it is designed. The waivers that they are requesting regarding the

sidewalk and the upright curb are integral to the functioning of the stormwater management. They propose to build the buildings exactly as per the original drawings and they are prepared to proceed at this point in time without delay.

Mr. Ruhe stated that he agrees with Mr. North. They just want to build the project like it was originally planned.

Mr. Witham asked if the applicant was seeking a bicycle waiver still? Responding to Mr. Witham, Mr. North stated that they have no objections to putting that aside.

Ms. Oehmke stated that it was part of the application, but the applicant said that they would be willing to set it aside in order to get the plan approved.

Mrs. Denney stated that she realizes that the original approval was some time ago but are they planning to accommodate electric cars now that things have changed environmentally? Responding to Mrs. Denney, Mr. Ruhe stated that with all of those units, they can fit them out to what the tenants are going to use them for. It is not a problem to add electric chargers for cars if that is something that the tenants need or want.

Mrs. Maucher asked if they would be enclosing the four existing dumpster pads as well as for the future buildings. Responding to Mrs. Maucher, Mr. North stated yes.

Mrs. Maucher opened the public hearing.

Mr. Zach Prebula – Kent Economic Partnership – 555 Bay Rd Dover, DE 19901

Mr. Prebula stated that they are the economic development organization for Kent County and recently they commissioned what they call the Rockport 2.0 Study which identified the target industries for Kent County. Both manufacturing and warehousing were our identified targets for Kent County. By approving the construction of these buildings, you can help align our targeted industries with the need of businesses and make Kent County more attractive for businesses along with being able to facilitate the local businesses looking to expand.

Mrs. Maucher closed the public hearing.

Mrs. Denney stated that she fully understands the parking and the sidewalk, and she feels satisfied about that. She does think that as we are trying more and more to encourage different modes of transportation. She would really like to see that the bicycle parking remain and it appears as though they do not have an objection to that. Again, if there is a thought for someone to make a motion to approve, she thinks they really should address or include within what we are doing the pads for the dumpsters.

Mrs. Maucher asked if they have identified any potential tenants yet. Responding to Mrs. Maucher, Mr. Ruhe stated that they have a lot of requests from people who want to rent. They don't have anybody lined up because we don't have anything available. It is very popular as far as for small businesses that want to rent that type of space.

Mrs. Maucher stated that her question would be more in line with what kind of vehicular traffic would you be anticipating? Would it be big tractor trailers? Especially based on the size of the buildings, is it more car type traffic or box truck type traffic? Responding to Mrs. Maucher, Mr. Ruhe stated that a lot of it is small businesses that need warehouse space with maybe one office. It is normally one or two vehicles per unit. It's everything from regular cars to cargo vans and pickup trucks.

Mr. North stated that there are mostly like general contractors or flooring contractors with pickup trucks.

Dr. Jones moved to approve S-24-03 Delmarva Land Holdings, LLC Warehouse Buildings (Cassidy Commons) at 101-1001 Cassidy Drive to include the Waiver Requests for partial elimination of upright curbing, partial elimination of sidewalks as well as consideration for the Performance Standards Review, seconded by Mrs. Welsh.

Mrs. Melson-Williams asked if this was a motion to also approve the Site Development Plan with the Development Advisory Committee comments or are you going to make another motion for that.

Dr. Jones moved to approve S-24-03 Delmarva Land Holdings, LLC Warehouse Buildings (Cassidy Commons) at 101-1001 Cassidy Drive for the Site Development Plan as well as the Waiver Request for partial elimination of upright curbing, partial elimination of sidewalks, and with consideration for the Performance Standards Review as well as comments from the DAC, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mr. Cooper and Mr. Roach absent. Dr. Jones voting yes; it appears the applicant has done their homework and is moving forward. Mrs. Welsh voting yes; the application appears to address issues that are needed there at the site and to complete the project as originally intended. Mr. Reaves voting yes; for reasons stated previously and the DAC recommendation. Mrs. Denney voting yes; she thinks that the applicant has done due diligence in addressing the recommendations of the DAC and the waivers she thinks are understandable as they were explained to them this evening. Mr. Witham voting yes; for the reasons set forth on the record by all Commissioners as well as what is set forth in the planning documents. The applicant seems to meet all of the requirements and the waiver requests are approved as well. Mr. Baldwin voting yes; for reasons previously stated. Mrs. Maucher voting yes; for reasons stated and with the additional support of the Kent County Economic Development Office.

NEW BUSINESS - No items.

Meeting adjourned at 7:55 PM.

Sincerely,

Kristen Mullaney
Secretary