CITY OF DOVER, DELAWARE
PLANNING COMMISSION
Monday, September 18, 2023 at 7:00 PM

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

AGENDA

Written comments are accepted via mail to City of Dover – Planning Commission, P.O. Box 475 Dover DE 19903 and via email at CompPlan@dover.de.us.

IN-PERSON & VIRTUAL MEETING NOTICE

The Planning Commission Meeting for September 18, 2023 will be held as an In-Person Meeting at City Hall in City Council Chambers. The public is welcome to attend in person. The Meeting will also be provided as a Virtual Meeting using WebEx, an audio/visual conferencing system as an electronic means of communication. See participation information below to join by phone or computer.

PUBLIC PARTICIPATION INFORMATION
City of Dover Planning Commission Meeting of September 18, 2023

Join by Phone Dial: 1-650-479-3208
Access code: 2534 658 1848 (Password: 3683772)

Join Online
https://bit.ly/PCMeeting9182023
Webinar Number: 2534 658 1848
Webinar Password: DoverPC

If you are new to WebEx get the app now at https://www.webex.com/ to be ready when the meeting starts. For problems accessing the meeting, please call the Planning Office at (302) 736-7196.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

ADOPTION OF AGENDA

APPROVAL OF MINUTES

1. Adoption of Minutes of July 17, 2023

COMMUNICATIONS & REPORTS

Meeting Reminder: The next Planning Commission regular meeting date is scheduled for Monday, October 16, 2023 at 7:00pm.

Update on City Council Actions

Department of Planning & Inspections Updates

2. Summary of 2023 Applications

3. Summary of Ordinances 2019-2023

Projects and Studies Activity Updates

OPENING REMARKS CONCERNING MEETING PROCEDURES

OLD BUSINESS

Requests for Extension of Planning Commission Approval

Other Items

4. Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28): Update on Design Professionals

NEW APPLICATIONS

NEW BUSINESS

WORKSHOP SESSION

5. Review of and Revisions to By-Laws of the Dover Planning Commission

6. Discussion of Development of Planning Commission Rules of Procedures

Planning Commissioner Comments and Concerns

Public Comment

ADJOURN

Posted Agenda: September 8, 2023

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 PLANNING COMMISSION
JULY 17, 2023

The Meeting of the City of Dover Planning Commission was held on Monday, July 17, 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), Mr. Hartman, Mr. Baldwin, Dr. Jones, Mrs. Welsh (virtual), and Mrs. Maucher. Mrs. Denney was absent. Mrs. Malone has completed her service; choosing not to be reappointed. A new Commission member has not been appointed.

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 Ms. Chevonne Boyd, Ms. Dana Dunphy, Mr. Mark Rinehart, Mr. Khalid Zerrad, Ms. Mackenzie Peet, Mr. Michael Glick, Ms. Lauren Townsend, Mr. Chad Warren, Mr. Dave Heatwole and Mr. Henry Mast. Speaking from the public were Ms. Ellen Dunn, Mr. John Pfleegor, Mrs. Samaria Pfleegor,

APPROVAL OF AGENDA

Mrs. Welsh moved to approve the Agenda as submitted, seconded by Dr. Jones and the motion was carried 7-0 with Mrs. Denney absent.

APPROVAL OF MEETING MINUTES OF JUNE 20, 2023

Mr. Hartman moved to approve the Planning Commission Meeting Minutes of June 20, 2023, seconded by Mrs. Welsh and the motion was unanimously carried 7-0 with Mrs. Denney absent.

COMMUNICATIONS & REPORTS

Mrs. Gray provided an update on the regular City Council and various Committee meetings held on June 26 & 27, 2023.

Mrs. Melson-Williams stated that the next Planning Commission regular meeting is scheduled for Monday, August 21, 2023, at 7:00PM in the City Hall Council Chambers. At the moment, it appears that there may not be applications for consideration that evening, but as we get closer, they will make the determination whether or not to have that meeting. There may be other items to bring before the Planning Commission.

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: None

NEW APPLICATIONS

C-23-02 The Hive: Business and Event Center at 28 W. Loockerman Street – Public Hearing and

Review of a Conditional Use Application to permit the conversion of the first floor (2,493 SF) within an existing building to serve as a professional office and event space. The property consists of one parcel of land. The property is zoned C-2 (Central Commercial Zone) and is subject to the H (Historic District Zone). The property is located at the south side of West Loockerman Street between the southern termini of South Bradford Street and State Street Alley. The owner of record is Conekt LLC. Tax Parcel Number: ED-05-077.09-04-15.00-000. Property at 28 W. Loockerman St. Council District 4. *Consideration of Tree Mitigation Plan.*

Representative: Ms. Chevonne Boyd, The Hive

Mr. Swierczek stated that C-23-02 is a Conditional Use Plan for 28 W. Loockerman Street. Some of you may remember that address as formerly the address of Bel Boutique. The applicant is seeking to allow professional office and place of public assembly use to be included in the existing retail use. This is as their business model calls for a variety of different uses there to allow for hired private events, seminars, and other such uses related to business growth and development. The Planning Staff has included several recommendations. One is for the dumpsters to note consideration that for many of the businesses on Loockerman Street, the sort of traditional method of trash collection with dumpster enclosures is not very viable. They would like the applicant to consider using the established process for trash collection. For the Tree Mitigation Plan, the *Zoning Ordinance* does not currently have any provisions to accommodate situations like this where pretty much the entirety of the site is taken up by the existing building. So, obviously it is a little bit difficult to accommodate something like tree plantings if the entire lot is a building. For that, there has been discussion for a Tree Mitigation Plan and it has been noted that there was some discussion about coordinating with DNREC about providing a tree for a park within city limits.

Ms. Boyd stated that she is happy to say that they have selected a location for their trees. They will be planting four at the Fork Branch Nature Preserve this fall.

Mr. Hartman stated that as far as a Conditional Use goes to designate this as a public gathering, that also allows for night clubs and things like that. If this business closes and another business opens, would that Conditional Use still be in effect? Responding to Mr. Hartman, Mr. Swierczek stated that he believes that if the business was to close and it was to change ownership, then the Conditional Use would not be allowed to continue.

Mr. Hartman asked the applicant that when she says a place for “hired private events”, could you clarify what that means. Responding to Mr. Hartman, Ms. Boyd stated that it would be any sort of meeting, workshop, training, or social networking event. It could be a photography session, a video recording session, or a podcast session. So, it runs the gamut based on the need of the small business and nonprofit founders in our area. But everything is designed to help and support the small business sector.

Mr. Hartman questioned that with that description, aren’t there offices in the regular zoning that does that kind of thing as well. Mr. Swierczek stated that the use for offices is a permitted use in the zoning as is. The primary reason that the Conditional Use Application has been submitted is because of the “event space” that would more closely align with the consideration for a “place of public assembly" and that type of use is explicitly listed as a conditional use in this zone. So because of the diverse nature and multifaceted description of this proposed business, we just wanted to make sure that sort of all of the bases were being covered for the applicant and the proposed uses there.

Dr. Jones stated that for the public assembly, as she read she doesn't recall reading a number. Do you have any idea what's going to be the maximum capacity for a public assembly? Responding to Dr. Jones, Ms. Boyd stated that a comfortable cap for them is fifty (50) within in the larger space. The space has two separate areas where people could actually meet. So, the larger room that sits at the front would be about fifty (50) people at the absolute max.

Mr. Swierczek stated that he believes that number is fine, but ultimately that will be determined by the Fire Marshal's Office.

Mr. Cooper stated that Mr. Hartman brought up a valid point. Are you the owner or the tenant? Responding to Mr. Cooper, Ms. Boyd stated both.

Mr. Cooper stated that Mr. Swierczek said something that gives him just a little bit of pause, so he is just looking for some clarification. He said if the property changed ownership that the Conditional Use would end. Does The Hive own the Conditional Use or does Conekt LLC? Responding to Mr. Cooper, Ms. Boyd stated that Conekt LLC owns the building at 28 W. Loockerman Street. Conekt LLC is owned by her and her husband. The Hive will become a tenant to Conekt LLC.

Mr. Cooper stated that he is trying to clarify as to whether or not The Hive would own the Conditional Use approval or if your LLC would. Responding to Mr. Cooper, Mr. Swierczek stated that he believes that it is tied to the ownership of the property.

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

Mr. Hartman moved to approve C-23-02 The Hive: Business and Event Center at 28 W. Loockerman Street to permit the conversion of the first floor within an existing building to serve as a professional office and event space and to approve the Tree Mitigation Plan as described by the applicant here tonight and additionally a condition concerning the event space. The place of public assembly must be limited to a space for hired private events as well as seminars and other such uses related to a business' growth as again described by the applicant here tonight. Further conditional upon prior to occupation by any private event, the occupancy limits must be approved by the Fire Marshal's Office and Chief Building Inspector, seconded by Dr. Jones and the motion as carried 7-0 by roll call vote with Mrs. Denney absent. Mr. Hartman voting yes; it should be a welcomed addition to Dover. Mr. Baldwin voting yes; based on the aforementioned statements. Dr. Jones voting yes; she wishes the applicant the very best for a very zealous project. Mrs. Welsh voting yes; it seems like it will be a great use of that space. Mr. Cooper voting yes. Mr. Roach voting yes; he thinks it will be a great addition to the City. Mrs. Maucher voting yes; based on the DAC comments and also welcome to Downtown Dover. She appreciates them coming to Downtown Dover when there are a lot of areas outside of the center of the City *that you could have gone.*

S-23-13 Delaware State ECIC Building at 1200 N Dupont Hwy - Public Hearing and Review of a Site Development Plan for a new 14,512 +/- SF Building on the Delaware State University Campus for the Early Childhood Innovation Center (ECIC). This 2 story building will be placed where there is an active Demolition Permit for part of the R. S. Grossley Hall. This new building will be separate from the remaining portion of the R. S. Grossley Hall. There is an existing parking lot that will serve both the R. S. Grossley Hall and the new ECIC building with 33 parking spaces, including 5 handicapped spaces. The property is zoned IO (Institutional and Office Zone) and also subject to the SWPOZ (Source Water Protection Overlay Zone). It is centrally located on the Delaware State University campus which the entirety is addressed as 1200 N. Dupont Hwy. Tax Parcel ID: ED-05-057.00-01-21.00-000. Council District 4.

Representatives: Ms. Dana Dunphy, Century Engineering, LLC; Mr. Mark Rinehart, Studio JAED and Mr. Khalid Zerrad, Delaware State University

Mrs. Melson-Williams stated that this is the Early Childhood Innovation Center building at Delaware State University. This is a new building proposed where previously part of R.S. Grossley Hall was located. A portion of that building does remain and will be detached from this new build. It is internal to the campus, almost in the center of the Campus and there are no specific waiver requests for this project. Ms. Katherine Oehmke worked on the review of this. The campus of Delaware State University is zoned IO (Institutional and Office Zone). It is also subject to the SWPOZ Tier 3: Excellent Recharge Area (Source Water Protection Overlay Zone) and with that, there are some limitations associated with amounts of impervious surface coverage. However, in this project area with the demolition of an existing building and then a new building going in its place, there's actually a decrease in this immediate project area of impervious surface; so, that's good for the Recharge Area. Parking on the University Campus is part of an overall Campus Parking Plan for the overall site. They do ask if there is any bicycle parking in the immediate area to be shown as part of the project. It is kind of centralized to the Campus and there is a lot of connecting pedestrian pathways that link this location to the surrounding area. There is an existing parking lot to the west of this building that will remain and likely provide immediate access for parking opportunities. The project for the new building does have some building architecture that was presented to the Planning Commission. It is a two story building, a rather modern looking building with lots of variation and dynamics to the facades with key features being brick and metal type siding panels. It has a relatively flat roof, but basically there is some variation in cornice height that gives them dynamic movement to all four of the elevations. You will be able to see all of them depending on how you approach the building. With this project being an early childhood education center, there a very sophisticated playground area that is part of the project. It is fenced and has a variety of walking trail systems and play structures. There are some targeted areas for age of children with the project as well. For tree planting, there are existing trees in the area and there are also proposals for more trees to be planted to meet the development area tree planting focuses for the project. Planning Staff did note some basic comments for improvements to the plan, but overall, it was a fairly detailed plan when it walked in the door. The other agencies have provided comments including the Department of Water/Wastewater. In this case, City water and sewer services go to the University and then there is a campus wide approach to their distribution. The same thing happens with electric. The Fire Marshal's Office is certainly involved in the review of this and will be looking at it from the proposed occupancy classification as a day care facility and what that means for its necessary fire protection needs. There is kind of a walking plaza that's on the north side of this building that they believe has served in the past as fire lane coverage for the building. DelDOT is asking for the initial pre-submittal meeting. This is really interior to the campus with no changes to how you access Delaware State University. In the case of stormwater management, because this is a State owned property that falls to the Department of Natural Resources and Environmental Control with their Division of Watershed stewardship; and they have begun that review process with that State agency.

Ms. Dunphy stated that she just wanted to reiterate what Mrs. Melson-Williams had mentioned with the DAC Comments that they did receive. They have made submission to DelDOT and they are expecting their comments from them this week. They (DelDOT) will be approving their submission. They have also made their second submission to DNREC. They had made it originally, received comments, and they have addressed those comments and have resubmitted with that.

Dr. Jones questioned if the parking lot that is currently there, will that be exclusively for the center? Responding to Dr. Jones, Ms. Dunphy stated that it is currently serving the existing Grossley Hall. It will also serve for the new ECIC Building, the portion of Grossley Hall that's remaining, as well as the adjoining building to the south side.

Dr. Jones asked if they were referring to Delaware Hall. Responding to Dr. Jones, Ms. Dunphy stated yes.

Dr. Jones asked if there was a kitchen in this facility. Responding to Dr. Jones, Mr. Rinehart stated no, there is no kitchen.

Mr. Hartman asked if the dumpster situation has been resolved yet. Responding to Mr. Hartman, Mrs. Melson-Williams stated that he may want to go to the applicant. She believes that Delaware State University has sort of a campus-wide approach to collection of trash and recycling materials. She thinks that the applicant's representatives can enlighten them on that.

Ms. Dunphy stated that DSU has a centralized location for their dumpsters and then the trash will be collected from the buildings and then the appropriate Staff will take it to the appropriate dumpsters.

Mr. Hartman stated that that the Fire Marshal mentions fines and fees must be paid before the application can be approved. Can we expand on that? Responding to Mr. Hartman, Mr. Zerrad stated that they are currently working on that. They should have that resolved in about a week.

Mr. Hartman stated that in the interest of being a good neighbor, he hopes that we can resolve it.

Dr. Jones stated that for the Child Development Center currently, will it be replaced with this center? Responding to Dr. Jones, Mr. Rinehart stated yes, they will move into the new building.

Dr. Jones asked if there was a discussion of a kitchen with little ones. Responding to Dr. Jones, Mr. Rinehart stated yes, there was a discussion of a kitchen and it did not materialize.

Mrs. Maucher opened the public hearing and after seeing on one wishing to speak, closed the public hearing.

Mr. Cooper moved to approve S-23-13 Delaware State ECIC Building at 1200 N. DuPont Highway including the DAC Report and the comments in it, seconded by Dr. Jones and the motion was carried 7-0 by roll call vote with Mrs. Denney absent. Mr. Cooper voting yes; he thinks that you have a beautiful campus and he is looking forward to seeing another new building go up. Mr. Roach voting yes; based on the information that he read but he is having a very difficult time hearing the applicants. Mr. Hartman voting yes; based on the recommendations of the DAC. Mr. Baldwin voting yes. Dr. Jones voting yes; it is long overdue. Mrs. Welsh voting yes; she thinks it's a great addition to the University. Mrs. Maucher voting yes; based on DAC Comments.

S-23-15 Walker Road Professional Center Medical Buildings at 101 Mont Blanc Boulevard - Public Hearing and Review of a Site Development Plan Application to permit the construction of two 19,800 SF office buildings, parking, and other site improvements. The parcel totals 2.615 acres +/- and is zoned CPO (Commercial and Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The property is located on the southwest corner of Walker Road and Saulsbury Road, and east of Mont Blanc Boulevard. The owner of record is Walker Pavilion, LLC and equitable owner is Walker Road Professional Center, LLC. Property Address: 101 Mont Blanc Boulevard. Tax Parcel Number: ED-05-067.19-04-52.00-000. Council District 1. Waiver Request: Elimination of Loading Spaces. *This property was previously subject to Site Development Plan Applications S-05-18, S-06-46 and S-09-19 where construction did not commence, and the plans expired. The most recent Site Plan S-20-12 Walker Pavilion was granted Conditional Approval by the Planning Commission in November 2020 with an extension until November 30, 2023; Final Plan approval is pending.*

Representatives: Ms. Mackenzie Peet, Saul Ewing; Mr. Michael Glick, Lighthouse Construction; Ms. Lauren Townsend, Davis Bowen & Friedel; Mr. Chad Warren, P.E., Davis Bowen & Friedel

Mr. Swierczek stated that this is a Site Development Plan Application for 101 Mont Blanc Boulevard. They are proposing two (2) two-story buildings, with each one being a little over 19,000 SF. As an aside, some of you may remember that there was a recent application for this from 2020 for a one building in a two-story concept for a little under 25,000 SF. This is still technically considered an active application; but this is however, a different site design for this. The two buildings being proposed are for professional office buildings with the intent of being used for medical facilities. The property lies within the CPO (Commercial & Professional Office Zone). This is a permitted use here. It is also in the COZ-1 (Corridor Overlay Zone). This has some added site design requirements and architectural design requirements. For that, the applicant has submitted some renderings and elevation drawings to show that they would be meeting these requirements. The only vehicle access to the site would be off of Mont Blanc Boulevard to west. Saulsbury Road to the east and Walker Road to the north will not have any vehicle access. There will be pedestrian access from all three roads. The applicant has submitted some supplemental information to show that they have revised the site design to include a sidewalk connecting to the buildings from Mont Blanc Boulevard. Planning Staff had a few recommendations mainly for the pedestrian connections that were cited in the Report. As noted, they did submit supplemental information to show that they would improve the pedestrian connectivity to the west to Mont Blanc Boulevard. Regarding the dumpster location, they (Staff) had recommended that they look for a less prominent location for the dumpster location. Currently, it's at the northwest corner. They (the applicant) had advised that it is a little bit limited to what option they have available to them due to utilities. They had submitted information noting that it would be a masonry dumpster enclosure and that they would do some added landscaping there to help shield it.

Ms. Peet stated that that Mr. Swierczek basically summarized everything that she was going to say and she is here to answer any questions.

Dr. Jones stated that she is familiar with the area and it is almost a congested area already with a lot going on. The initial application was one building and now it's two buildings. Can you speak to that just a bit? Responding to Dr. Jones, Ms. Peet stated that the initial application that was discussed proposed one building instead of two. The two-building design is a more efficient design and it maximizes the space there. In the current climate of development, phased development is more attractive. To have two smaller buildings, the ability is to fill a phase as needed by tenants. It just better accommodates potential tenants that might fill that space.

Mrs. Maucher opened the public hearing.

Ms. Ellen Dunn – no address given

Ms. Dunn stated that her property is directly behind this and she doesn't want to stop anybody from doing their business. But they said something about a restructuring. She would just like to know how the restructuring will happen and where will the entrance be from. Responding to Ms. Dunn, Mr. Swierczek stated that the applicant can go into some specifics, but with the site design that they are showing, the only vehicle access would be off of Mont Blanc Boulevard. There would be no access off of Saulsbury Road or Walker Road.

Ms. Dunn stated that as Dr. Jones said, it is already congested. She would love to get a medical building there. She is a retired nurse and she would like that. Hopefully, they can all work together.

Mrs. Maucher closed the public hearing.

Mrs. Welsh moved to approve S-23-15 Walker Road Professional Center Medical Buildings at 101 Mont Blanc Boulevard inclusive of the waiver request for the elimination of the requirement to provide loading spaces, seconded by Mr. Baldwin and the motion was carried 7-0 by roll call vote with Mrs. Denney absent. Mrs. Welsh voting yes; it is a nicely designed complex and she thinks that it is a good use of the vacant space on that corner. She thinks that it is needed facility for the City of Dover. Mr. Cooper voting yes; for reasons stated. Mr. Roach voting yes; for reasons stated. Mr. Hartman voting yes; based on the DAC Report as well as the letter from Mr. Glick from Lighthouse Construction dated July 6, 2023. Mr. Baldwin voting yes. Dr. Jones *voting yes; hoping that the traffic pattern is kind to the residents of that development. Mrs. Maucher voting yes; based on comments in the DAC Report.*

SB-23-02 Land of Rojan Meadows: Minor Subdivision Plan - Public Hearing and Review of a Minor Subdivision Plan to subdivide two (2) existing properties consisting overall of 35,592 SF +/- (0.817 acres +/-) into four (4) new properties for development of one-family detached dwellings. From west to east, Lots 1 & 2 are proposed to be 8,890 SF each, and Lots 3 & 4 are proposed to consist of 8,901 SF each. An easement is proposed with a drive-aisle across the southern portion of all four properties for vehicle access from Rojan Road (proposed street), with no access from North Little Creek Road. The parcels subject to this Minor Subdivision Application lay on the south side of North Little Creek Road, across from the southern terminus of Nicholas Drive. The two (2) subject properties are zoned RG-1 (General Residence Zone) and are currently undeveloped. The owner of record for the two (2) subject properties Rojan Meadows, LLC. Current Property Addresses: 1542 & 1554 North Little Creek Road. Tax Parcel Numbers: ED-05-068.20-01-57.00-000, and ED-05-068.20-01-58.00-000. Council District 2.

Representative: Mr. Dave Heatwole; Siteworks Engineering; Mr. Henry Mast, Mast Construction

Mrs. Melson-Williams stated that this is a Minor Subdivision Plan. They are calling it the Lands of Rojan Meadows LLC. It involves two tracts of land currently addressed as 1542 and 1554 North Little Creek Road. These are two lots that are along that south side of North Litte Creek Road in the front of where Rojan Meadows PND is currently under development. There is active construction happening related to infrastructure. With these two lots, they are currently undeveloped and the owner is looking to re-subdivide them back into four lots. Actually, the land area was four lots a number of years ago. Going from two lots to four lots, we have a Minor Subdivision which requires review by the Planning Commission. There is one Waiver Request that Staff has handled related to the elimination of upright curbing for the shared entrance drive. The series of four lots that are proposed have to meet the requirements of the RG-1 (General Residence Zone) zoning district. So, they meet the bulk standards for size of the lots and the various setbacks. What they are proposing with these four lots is while they have frontage on North Little Creek Road, the access to them will come off of the subdivision street of Rojan Meadows that is under construction now and that will ultimately be dedicated to the City of Dover. What they are proposing is an easement area in which there is a private drive that runs the across the back of all four lots and that's where you will access each of the lots. That same general area is also being utilized for some of the utilities to reach the four lots. It will be considered a private drive located in an easement; it is not going to built to city street standards and ultimately dedicated to the City of Dover. It is an easement area so very careful notations on the Record Plan and in deed documents will have to be identified for the long-term care and maintenance of this shared private drive. Planning Staff has approved the elimination of upright curbing for this shared drive, finding that it acts more like a residential driveway than a public street. They find that it's appropriate especially when stormwater management has drainage kind of flowing south over this (driveway) drainage area to a nearby drainage swale that's to the south of this series of lots. With the development of these lots, it's considered infill development. There is a requirement for sidewalk along the frontage of North Little Creek Road and Rojan Road. Both of which there are in notations in the Plan about the construction of those sidewalk areas. Ultimately, with each lot development, they will also be required to plant a series of trees on the lots and that will be identified through any kind of permit process. It looks to be that each lot will end up with at least three trees. There is an existing tree that is currently showing as remaining on one of the lots. Because this is residential development, there is an active recreation requirement and what the applicant has proposed is that because of the proximity to Rojan Meadows PND, which is held in the same ownership, they are hoping to accommodate the active recreation area requirements for these four lots by adding that into the lots already being served by the planned active recreation in Rojan Meadows PND which includes a number of open space areas and then a centralized playground area. These four lots would become members of the Rojan Meadows HOA so a lot of paperwork is needed to assist that. Staff is fairly comfortable that that subdivision was providing well over the active recreation needs for it and it makes more logical sense for these four lots to join in participation in that active recreation area component. This Report also includes comments from the Department of Water/Wastewater, Public Works, the Office of the Fire Marshal, DelDOT and the Kent Conservation District. They have a little bit of work to do with each of those agencies to finalize the infrastructure planning for the site. She will note that water is City of Dover; however, wastewater will be the Kent County Department of Public Works. There is a force main that is in Rojan Road. Because of that force main owned by Kent County Public Works, they are the sanitary sewer provider for this subdivision and also for these four lots as proposed this evening. This is a Minor Subdivision, and it is a one step process here with the Planning Commission.

Mr. Heatwole stated that this is the original Subdivision Plan (showing a plan sheet). There are four residential lots here, all sixty feet wide. There is actually eleven lots on this Plan that are all sixty feet by one hundred and sixty feet. They are just proposing to subdivide back to the original dimensions. The area is single family residential and there are single family residential lots on most of these subdivided lots. For their subdivision, water service will come from North Little Creek Road. There is an existing water main, so they are just going to tap that water main and bring it into the lot. Sewer service, as Mrs. Melson-Williams mentioned, is from the rear and Kent County will have a gravity sewer main in the rear of these lots. Trash will be set out front since there are these other lots with trash service out front; so, that will just continue. For most of the stormwater, there is a pipe on the south side of this plan. So, most of the stormwater from these lots is just going to sheet flow across that private drive and into that swale and just be conveyed into the Rojan Meadows stormwater network. There is sidewalk in the front. Our access, as Mrs. Melson-Williams mentioned, is by this private driveway. He is not sure if Mr. Osika updated his comments, but they do not need this private driveway to function as an emergency vehicle access. That can be done by North Little Creek Road or Rojan Road. The private drive does not need to function in that manner. During the DAC Meeting, there was some concerns brought up about the long-term maintenance of the private drive. Their proposal for ensuring that that is legally to be maintained by the HOA is that they would need to modify the Deed Book, especially Article 3.2 which outlines the community's facilities and maintenance responsibilities. They would need to modify that to include this driveway and then he would want to note that on their Record Plan so that it's kind of bulletproof if there is any issues 20-30 years from now. You could go to the Record Plan and trace it back to the updated document that should be filed with their Subdivision Plan so that you can see clearly that the maintenance responsibility lies with the Rojan Meadows HOA. With the HOA, they would also include these lots as members of that HOA so they would have a voice in that they would be responsible to pay the dues. As Mrs. Melson-Williams mentioned, there is some active recreation requirements so they would then be able to use the active recreation requirements that they would be paying dues for. They feel like it is a win/win situation. Mrs. Melson-Williams mentioned the waiver for curbing and we talked about active recreation so that was all that he had on his list.

Mr. Hartman stated that in light of what they have just been through with easements and property rights, how sure is the Planning Office that this alleyway or this private drive is not going to give us the same difficulties that they have experienced in the past. There are many things that have not been resolved like the HOA agreement. The deed annotations haven't been resolved and it says right in the DAC Report that access hasn't been resolved. Everything revolves around that access. How can we approve this without that being resolved? Responding to Mr. Hartman, Mrs. Melson-Williams stated that you need to take action on the Subdivision Plan before any of those changes could happen to deeds and any kind of Record Plans for the site. Our Report includes careful statements to ensure that if you are proposing the private driveway as shown in this Plan, that the entirety of it needs to be captured in easement documents that then are recorded appropriately. As Mr. Heatwole has noted, there are also HOA documents that would need to be updated. At this point, the HOA is fully under the developer's control. There are not residents on any of the lots that are covered by that HOA; so, she thinks Planning Staff is comfortable that those items will happen. That can be part of the process to achieve Final Plan Approval for the project. Ultimately, they would need to at least be recorded at the same time, so those references match up on the Plan versus the deed record. What is stated in our Report is that obviously there are some provisions that would need to happen, but they are not going to be able to do them before they appear before you because there is an action yet to be taken.

Mr. Hartman questioned that concerning the Rojan Meadows, what impact will these houses and the runoff, especially considering that there is no curbing, have on the Rojan Meadows? Responding to Mr. Hartman, Mrs. Melson-Williams stated that they should go the engineer to talk a little bit about how stormwater management is happening in this area. Obviously, they have got to do some coordination with the Kent Conservation District which is the delegated agency. But she thinks that Mr. Heatwole can explain how that happens in this area and where it goes on the adjacent property.

Mr. Heatwole stated that he has reviewed the stormwater design for the project and the drainage area for the Rojan Meadows design included this area as a residential design because most of that area drains into the Rojan Meadows storm drainage network right now, so it's already accounted for. Mr. Adkins with the Kent Conservation District wants us to amend the Rojan Meadows Stormwater Plan to include these four lots into that design from a limit of disturbance standpoint so that the NOI is tracked properly when they go to do the Building Permits. These four lots are already factored into that design.

Mr. Hartman stated that he had one further question about property rights. Since there is no curbing (there is an alley behind his house) and that's been reflected in the DAC Report that this is similar to an alley in the city. With people parking on either side of that alley in the grass, if they park on the Rojan Meadows side of that alley, will they be infringing on some property other than their own? Responding to Mr. Hartman, Mr. Heatwole stated that they have open space right there, but if you are into that open space, then you are infringing on the Rojan

Meadows LLC HOA's open space of which they would be a member of that open space.

Mr. Hartman stated that we hope. Responding to Mr. Hatman, Mr. Heatwole stated that the intent is that these four lots need to become part of this HOA so that they can use the active recreation and so that we an ensure that this private drive is maintained.

Mr. Hartman stated that other than the elimination of curbing, is there anything else that could be placed in that area to dis-sway parking on the grass on the Rojan Meadows side? Responding to Mr. Hartman, Mrs. Melson-Williams stated that there are other provisions in our Code that do not allow you to park on grass. You have to be parking on a paved dust free surface. So, while there is this entrance drive, each of the lots will be required to have two or at least one off-street parking space that is not the driveway. For example, if they were to park on the south side of this paved driveway, that would be a grass area and technically that could become a Code Enforcement case. She thinks that there is also some topography that is probably going to help avoid too much of that parking from happening because of the grade differences that are there along the Rojan Meadows Open Space area.

Dr. Jones asked if there were currently residents in Rojan Meadows? Responding to Dr. Jones, Mr. Heatwole stated not yet. It is under construction.

Dr. Jones asked if houses were under construction. Responding to Dr. Jones, Mr. Heatwole stated that it is just utilities and roads right now.

Mrs. Maucher asked if any of the properties have been sold. Responding to Mrs. Maucher, Mr. Heatwole stated not to his knowledge.

Mrs. Maucher questioned if that the modification of the HOA is just the developer and there is no vote by property owner. Responding to Mrs. Maucher, Mr. Heatwole stated yes.

Mrs. Maucher opened the public hearing.

Mr. and Mrs. John & Samaria Pfleegor – 1566 N Little Creek Road Dover, DE 19901
Mrs. Pfleegor stated that they are the property that butts up against the four lots that they are trying to divide up. She has two questions. The first question is before all of this started, was there a letter sent out in regards to a meeting? She is assuming that they received a certified mail about this meeting because our property butts up against the property that they are dividing up. But was there any notifications or meetings prior to this? They have lived here for almost 10+ years. It has always been woods and now all of a sudden, they are building a development. Which is not an issue but the question is was there meetings prior to this that they weren't privy to? Responding to Mrs. Pfleegor, Mrs. Melson-Williams stated that the application for Rojan Meadows is actually from a number of years ago. It was probably well over 10 years ago when that went through a very similar process with multiple public hearings. It has just taken a long time for them to get started. The Plan was recorded but with the market, the development is now finally moving forward for that area. But that Plan certainly had it's own public hearing and processes a number of years ago.

Mrs. Pfleegor stated that they bought this house eleven years ago so was it prior to that? Responding to Mrs. Pfleegor, Mrs. Melson-Williams stated that she believes so.

Mrs. Pfleegor stated that she is not sure if this would have been talked about at prior meetings or where this question is appropriate, but traffic on North Little Creek Road is very dangerous. People fly up and down this road all day and all night. The entrance and the exit both dump out to North Little Creek Road. Is Rojan Meadows going to speak to Dover PD? Are they going to try to put up speed traps? They had an accident right in their front yard. Someone ran off the road and hit their cars. This is a very terrible road for speeding since it is right off of Route 1. So now adding all of these other people to this small area of road, are there any plans or provisions to combat those extra people and the large amount of speeding? It is even harder to get out of our driveway sometimes. Is there any plans for them to discuss that with anyone? Responding to Mrs. Pfleegor, Mrs. Melson-Williams stated that these four new lots are not going to have driveways off of North Little Creek Road. The existing Plan for the subdivision includes Rojan Road which you see under construction at the far west end of where these lots are. Rojan Meadows also has an exit only or right in only a little further east. Certainly if there are speeding concerns, we can share those with the City's Police Department. In this area, She is not sure what the speed limit is. The design and the location of both the entrances or what will be the public streets for the larger Rojan Meadows Subdivision were approved with an Entrance Plan review process with DelDOT. North Little Creek Road is a State maintained road so all access to it is controlled by that entity. With this project, there is not any new access points that are being proposed but certainly your concerns with traffic in the area can be shared with our Police Department.

Mrs. Pfleegor stated that the sidewalk is going to be in front of their property. Who maintains that road, Rojan or the City of Dover? Responding to Mrs. Pfleegor, Mrs. Melson-Williams stated that there is a sidewalk that will be constructed as part of the subdivision activity here. Ultimately, with it being in front of your property, you would be subject to snow removal on it. But the initial construction is not a burden for you as a property owner along that sidewalk.

Mr. Pfleegor stated that the entrances to our driveway where they currently sit, are they are going to construct those for vehicle access where it is now when they put this sidewalk in? Responding to Mr. Pfleegor, Mrs. Melson-Williams stated that she is not sure of the details of the improvements in the right-of-way along the series of lots that exist there. That was part of the Rojan Meadows overall plan. Certainly they can look up that information if you want to reach out the Planning Office in order to get you some better information on that. She does not have it available this evening.

Mrs. Pfleegor stated that they understand that you don't have it, but why didn't they reach out to us as the existing homeowners? She is not trying to be combative or upset. She understands that there are certain places that certain questions need to be brought up at but this is the first letter that they received. They had to Google "Rojan Meadows" to figure out who they were. Her question is, who do they reach out to or can someone send them a letter because this is the first interaction? This is the first thing that they have been invited to about this development. So that they don't keep asking you guys questions that you may or may not be able to answer, should they just reach out to Rojan Meadows or should they just expect them to reach out to us? A big question is how are we going to get into our driveway? Responding to Mrs. Pfleegor, Mr. Mast stated that basically what's happening is, DelDOT has asked us to install the sidewalk but not mess with the driveways so that's what they are doing. In fact, they are paying for everything but they are following what DelDOT has asked us to do. In order for us to get Entrance Permits, that was something that they had to agree to.

Mrs. Pfleegor asked if they would take care of their mailbox that's in the area that the sidewalk is going to be built on. Responding to Mrs. Pfleegor, Mr. Mast stated yes, it will be in a lot better shape when they are done than what it is now.

Mrs. Pfleegor asked how far in advance do they get notice when you guys start to do this because obviously that's the only way we get into our driveway? How long is that going to take? Where do we park? Responding to Mrs. Pfleegor, Mr. Mast stated that he will have the site superintendent make sure that he is in contact with you probably a week before they actually start.

Mrs. Pfleegor stated that he will contact us and we will be able to get all of that information. Is it a day project or will it be a couple of days where they won't be able to access our driveway? Responding to Mrs. Pfleegor, Mr. Mast stated that you will be able to access your driveway every day. They are not going to make it where you can't access your driveway.

Mrs. Pfleegor stated like she said, they have never been through this and they are not going to be able to access our driveway when they are pouring concrete so there is going to be a point when they can't get into our yard. They just want to know the timeframes of where and how they are going to park. Like she said, they are not trying to be combative; she is just asking questions because they don't know. Like she said, no one reached out to us prior to today so they are just trying to figure all of this out last minute. Responding to Mrs. Pfleegor, Mr. Mast stated that what he told them was to make sure that you guys can come in right where their job trailer is sitting and you can pull right in there and park right next to your house.

Mrs. Pfleegor asked if they are going to pick up all of the nails and stuff. Even when going on the side of the road when she's pulling in, she's gotten two flat tires recently. So, they are going to make sure that all of their stuff is cleaned up before we park next door on your property? Responding to Mrs. Pfleegor, Mr. Mast stated that they will do whatever they can to make it a painless as possible for you.

Mrs. Pfleegor asked if they have any questions can they reach out to him directly. Responding to Mrs. Pfleegor, Mr. Mast stated that he will make sure that his superintendent is in contact with you on an ongoing basis.

Mrs. Pfleegor stated that as was said earlier, you guys are going to reach out to Dover PD about what they are going to do about the heavy traffic. She understands that those properties next to us face the opposite direction, but like she said, all of this dumps out to North Little Creek Road and is a major problem on this road. So are you guys are going to reach out and figure out the number of cars that come up and down this road and make sure that we are able to get out of our driveways safely? Responding to Mrs. Pfleegor, Mrs. Melson-Williams stated that the Planning

Department will share your traffic concerns with the Dover Police Department about what you are experiencing in that area. The Police Department will then determine any kind of enforcement efforts that they may be able to provide in that area to address your concern.

Mrs. Maucher closed the public hearing.

Mr. Hartman asked if there was a public notice for this and when was it? Responding to Mr. Hartman, Mrs. Melson-Williams stated that there is a little bit of confusion. Mr. Cooper was noting that we had previously entered into the record that the large part of Rojan Meadows PND was a Plan from well over eleven years ago and would have had its own public notice processes associated with it. For this particular Minor Subdivision for four lots, there was a requirement for a legal ad in the local newspaper and also mailing to the adjacent property owners.

Mr. Hartman asked if she said a legal notice in the paper and a notice to the adjacent property owners. Responding to Mr. Hartman, Mrs. Melson-Williams stated yes. The legal ad was published in the Delaware State News on July 2, 2023 and there were also mailings that were completed. They were postmarked on June 30, 2023 and they were mailings to a series of eleven addresses which represent property owners within two hundred feet of this four lot Minor Subdivision. They have that information here in our file.

Mr. Hartman asked if Mrs. Pfleegor received the notice. Responding to Mr. Hartman, Mrs. Melson-Williams stated yes, there was a mailing to a Mr. John Pfleegor at 1566 North Little Creek Road.

Mr. Cooper moved to approve SB-23-02 Land of Rojan Meadows: Minor Subdivision Plan including the waiver of curbing, seconded by Mrs. Welsh and the motion was carried 7-0 by roll call vote with Mrs. Denney absent. Mr. Cooper voting yes; based on the presentations and Staff recommendations. Mr. Roach voting yes; for reasons previously stated. Mr. Hartman voting yes; based on the DAC Report and the discussion tonight between himself, the applicant and Planning Staff. Mr. Baldwin voting yes; for reasons previously stated. Dr. Jones voting yes. Mrs. Welsh voting yes; for reasons stated in the application and for reasons previously stated. Mrs. Maucher voting yes; for reasons already stated.

NEW BUSINESS

Nomination and Election of Officers (Chairman and Vice-Chairman) due to Annual Meeting of Planning Commission

Mrs. Melson-Williams stated that included in the packets were the current By-Laws of the Planning Commission. July is your Annual Meeting and at such meeting, election of officers is to occur. Per your By-Laws, the vote on the election of officers is to be by secret ballot. You can certainly make a motion to suspend those rules if you so desire. The Commission does elect a Chair and a Vice-Chair. In the case of the Chair and Vice-Chair, they are limited to a period of four consecutive one-year terms in those offices and she would be happy to note that your current Chair has not served the full four years in that capacity. At this point, we are certainly happy to take nominations for those two positions of Chair and Vice Chair.

Mr. Roach moved to dispense with the secret ballot vote and move to voice vote for all elections and the motion carried 6-1 by voice vote with Mrs. Denney absent.

Dr. Jones nominates the current Chair (Mrs. Maucher) to continue in that role and our current Vice-Chair (Mr. Hartman) to continue in his role.

Mr. Hartman stated that although Mrs. Maucher has done an excellent job, he would like to nominate Mrs. Welsh for Chair.

Mrs. Melson-Williams stated that they should move that nominations be closed, then we can deal with the two individuals who have been put forth for Chair.

Dr. Jones moved to close nominations.

Dr. Jones asked if Mrs. Welsh accepts the nomination. Responding to Dr. Jones, Mrs. Welsh stated no. Thank you to Mr. Hartman for having faith in her but she does not think that she can take that position.

A voice vote was held for Mrs. Maucher to continue at Chair and the motion carried 7-0 with Mrs. Denney absent.

A voice vote was held for Mr. Hartman to continue as Vice-Chair and the motion was carried 7-0 with Mrs. Denney absent.

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

Mrs. Melson-Williams stated that included in the packet is the Code excerpt that talks about the Architectural Review Oversight Subcommittee of the Planning Commission. This is another item that is appointed at each Annual Meeting. It is a Committee that is called upon if there are concerns with architecture. A project may be referred to that Committee. In her time with the City, it has happened once and she believes one time before that. The current people that serve on that Committee are two Planning Commission members, the Mayor or the Mayor’s designee, and then two design professionals that are appointed to that Committee along with alternates to the design professionals. Currently, the Planning Commission members appointed to this Subcommittee include Mrs. Kathleen Welsh and Mr. Kenneth Roach. If you would like to confirm them for continued participation in that role or if someone else would like to volunteer, you can certainly do that.

Mrs. Maucher asked if there was someone else who would like to step onto that Committee. Seeing none, do Mrs. Welsh and Mr. Roach both desire to continue on the Architectural Review Oversight Subcommittee?

Mrs. Welsh stated that she would like to continue on the Committee.

Mr. Roach stated that he would like to continue on the Committee.

A voice vote was held for Mrs. Welsh and Mr. Roach to continue on the Architectural Review Oversight Subcommittee and the motion was carried 7-0 with Mrs. Denney absent.

Mrs. Melson-Williams stated that the other component to this are the design professionals. Currently it is Dr. RJ Chandler who is a member of the Del-Tech Community College and then Ms. Sarah Kieffer who is the Director of Planning Services for Kent County. Both of those individuals have previously served. Planning Staff can certainly reach out to those two individuals to see if they would be interested in continuing to serve and we can report that back to you. Or if you have other individuals that you would like to see appointed to that Committee, we can consider that as well. (By consensus, the Planning Commission referred the item to staff to confirm status and report back.)

Meeting adjourned at 8:40 PM.

Sincerely,

Kristen Mullaney
Secretary

City of Dover, Delaware
Summary of Applications

Application Type	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022					2023				
																Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3*	Q4	Total
Board of Adjustment	38	20	15	15	13	15	17	14	15	16	17	12	9	5	4	0	0	0	0	**0**	1	0	3	-	**4**
Annexations	4	3	1	0	0	1	3	0	1	3	0	2	1	3	4	1	0	0	2	**3**	1	0	0	-	**1**
Conditional Use	7	14	8	5	7	6	11	6	4	5	6	5	8	5	8	2	0	0	1	**3**	1	1	0	-	**2**
Site Plans	66	43	29	33	23	20	21	24	16	24	33	12	25	14	14	5	5	1	5	**16**	8	4	5	-	**17**
Subdivisions	7	2	7	5	2	2	6	5	2	0	2	4	1	2	5	2	1	1	1	**5**	1	0	1	-	**2**
Rezoning	10	11	5	8	6	2	3	4	4	7	5	3	6	3	7	1	0	1	1	**3**	0	1	0	-	**1**
Miscellaneous	23	20	15	20	17	24	22	14	14	18	8	13	8	8	11	4	0	0	1	**5**	2	0	0	-	**2**
Unified Sign	1	3	1	0	2	2	3	1	2	4	2	0	0	0	0	0	0	0	0	**0**	0	0	0	-	**0**
Historic District Commission	7	4	4	11	5	7	5	6	8	6	4	3	4	2	6	2	3	1	1	**7**	1	1	1	-	**3**
TOTAL	**163**	**120**	**85**	**97**	**75**	**79**	**91**	**74**	**66**	**83**	**77**	**54**	**62**	**42**	**59**	**17**	**9**	**4**	**12**	**42**	**15**	**7**	**10**	**-**	**32**

**Summary of Applications through September 1, 2023 including the September 2023 Meetings of the Planning Commission, Board of Adjustment and Historic District Commission and Administrative Plan Reviews.*

Summary of Ordinances 2019-2023
City of Dover, Delaware
To Date: September 8, 2023

File Number & Ordinance	Topic	Text Amendment	Action Date
MI-19-04 Ordinance #2019-15	Allows for a broader range of potential uses in the IPM-2 zone while retaining the emphasis on technology versus general manufacturing uses.	*Zoning Ordinance*, Article 4 Section 4.16 - Zoning Bulk and Parking Regulations and Article 12 - Definitions	Adopted: September 9, 2019
MI-20-01 Ordinance #2019-19	Text Amendment: General Residence and Office Zone (RG-O) Allow for Allow for barbershops to be included as a preferred use permitted subject to conditional use review within City's H (Historic District Zone) in the RG-O zone.	*Zoning Ordinance*, Article 3, Section 9	Adopted: February 10, 2020
MI-20-04 Ordinance #2020-05	Text Amendment: Short Term Rental Use Establishment of regulations for Short Term Rental Use. And revises definition of “family”	*Dover Code of Ordinances* and *Zoning Ordinance*, Article 12	Adopted: January 11, 2021 (CC Reaffirms CC Decision of December 14, 2020 after Mayor Veto)
MI-20-06 Ordinance #2020-13	Text Amendment: Wireless Communications Facilities Establishes provisions for Wireless Communications facilities related to location, placement (in Right-of-Way and on Property), construction and standards. Types include Small WCF, Non-Tower Based WCF and Tower-Based WCF. Also includes *Small WCF Design Manual.*	*Zoning Ordinance*, Article 5, Section 2; Article 12; Article 3 Section 20B; Article 5 Section 21; and *Dover Code of Ordinances*, Chapter 98, Section 98-11, Appendix F	Adopted: November 9, 2020
MI-21-07 Ordinance #2021-12	Text Amendment: SC-3 (Shopping Center Development) Zone Allow permitted uses related to warehousing and distribution.	*Zoning Ordinance*, Article 3, Section 17	Adopted: July 12, 2021

Summary of Ordinances 2019-2023
City of Dover, Delaware
To Date: September 8, 2023

MI-21-10 Ordinance #2021-19	Text Amendment: M (Manufacturing) Zone Remove Conditional Uses from M Zone and increase height in the Bulk Standards.	*Zoning Ordinance*, Article 3, Section 19; Article 4, Section 4.16; Article 5, Section 3	Adopted: November 8, 2021
MI-22-05 Ordinance #2022-21	Text Amendment: IPM2 (Institutional Park Manufacturing Zone – Business and Technology Center) Added purpose statement; added additional permitted uses including printing, binding & packaging and certain accessory uses; added conditional uses for building contractor's yard, vocational education facilities, associated retail, and craft distilleries and microbreweries.	*Zoning Ordinance*, Article 3, Section 20A and Article 12	Recommendation by Planning Commission: December 19, 2022 Adopted: January 9, 2023

- To Access the *Dover Code of Ordinances,* visit www.cityofdover.com and click on "Municipal Code" button on the homepage. Once on the Municode site, there is a table of contents and search functions. The *Zoning Ordinance* is found as Appendix B: Zoning. Also, on the City's website the text and status of Ordinances & Resolutions can also be viewed under the Government heading.

Appointment of the Architectural Review Oversight Subcommittee of Planning Commission

As part of the Annual Meeting of the Planning Commission, one of the responsibilities of the Planning Commission is to appoint the Architectural Review Oversight Subcommittee. The following excerpt from the *Zoning Ordinance* is provided.

Appendix B: Zoning Ordinance, Article 10 Section 2. Site development plan approval.

2.28 Consideration shall be given to the physical orientation and architectural characteristics of proposed buildings, the relationship of proposed buildings to existing buildings and to other proposed buildings, and their contributions to the overall image of the immediate vicinity by considering the building and architectural design guidelines as set forth in article 5, section 19. Design characteristics of proposed buildings and building additions shall not detract or devalue existing buildings in the immediate vicinity.

(A) If the planning commission determines that the proposed physical orientation and architectural characteristics of the proposed buildings do not meet the intent and objectives of this section, then the planning commission shall refer the proposal to the architectural review oversight subcommittee for review and comment.
(B) The subcommittee shall meet and review the proposal with the applicant, and return its comments to the planning commission by the next regularly scheduled meeting.
(C) The architectural review oversight subcommittee shall be appointed by the commission at its annual meeting, and membership shall consist of two planning commission members, and two design professionals with experience in construction, and the mayor or the mayor's designee. Two alternate design professionals with experience in construction shall also be appointed.

At the July 17, 2023 Meeting of the Planning Commission, the following individuals were appointed to the Architectural Review Oversight Subcommittee of Planning Commission.

- Kathleen Welsh, Planning Commission member
- Kenneth Roach, Planning Commission member
- Mayor or Mayor’s designee

The Planning Commission at their July 17, 2023 also considered the appointment two Design Professional members to the Subcommittee pending confirmation of their availability. Planning Staff was directed to confirm their availability and to report back to the Planning Commission. No other Design Professionals as Alternates were offered. Their availability will be confirmed by Planning Staff and reported at the September Planning Commission Meeting.

- Dr. R.J. Chandler, Faculty member of Architecture program at DelTech Community College, Design Professional
- Ms. Sarah Keifer, Director of Planning Services for Kent County, Design Professional

The Planning Commission as part of their Annual Meeting must act to appoint the membership of the Architectural Review Oversight Subcommittee. In July, the Planning Commission acted to appoint the membership of the Architectural Review Oversight Subcommittee as noted above.

- **Planning Staff will be contacting the proposed Design Professional members to discuss their availability and will report on their status at the meeting.**

Review of and Revisions to By-Laws of the Dover Planning Commission

The currently adopted By-Laws of the Dover Planning Commission are the By-Laws Amended August 20, 2018. This an opportunity to review these By-Laws for any potential revisions and amendments.

The following documents are provided for reference:

- By-Laws of the Planning Commission of the City of Dover (Amended August 20, 2018)

The following documents are examples from other jurisdictions:

- Bylaws of the City of Newark Planning Commission (July 7, 2020 – Revised February 2, 2021)

- Bylaws of the Kent County Regional Planning Commission

By-Laws of the Planning Commission

of the City of Dover

Objectives

Section 1 The objectives and purposes of the Planning Commission of the City of Dover, Delaware, are those set forth in Chapter 7, Title 22 of the Delaware Code annotated, and amendments, supplements, thereto, and those powers and duties delegated to the Planning Commission by the City Council of the City of Dover pursuant to state statute.

Powers, Duties and Procedures

Section 2 The duties, powers and procedures of the Planning Commission be as set forth in the following documents:

(a) The resolution of the City Council establishing such Planning Commission;
(b) The Building Zone Ordinance as to matters relating to amendments to site plan approval;
(c) The Subdivision Regulations as to the review and approval of subdivision plats;
(d) As to the regulations set forth herein for all other matters for which the Commission has the responsibility.

Officers

Section 3.1 The officers of the Planning Commission shall consist of a Chairman and Vice-Chairman.

Section 3.2 The Chairman shall preside at the meetings and hearings of the Planning Commission and shall have the duties usually conferred upon a presiding officer. He shall continue to exercise the prerogatives of an individual member of the Commission while performing the duties of presiding officer.

Section 3.3 The Vice Chairman shall be the presiding officer in the absence of the Chairman.

Recording and Corresponding Secretary

Section 4 The Commission shall appoint a Secretary who shall not be a member of the Commission or an officer, and shall have the following duties and responsibilities:

(a) Prepare agenda for all meetings with the Chairman and provide notice of meetings to Commission members.
(b) Keep minutes of all meetings, and record of the Commission.
(c) Act as agent for the Commission in receiving submissions, applications, correspondence, etc.
(d) Act as agent for the Commission in arranging for notice of public hearings and notifying interested parties of Commission actions as authorized by the Commission.

Official Records

Section 5 The City Clerk shall be the official custodian of the records of the Commission and shall make them available to the public as provided by law. He may designate the office of the Secretary of the Commission or the Planning Office as the place where such records shall be kept.

Elections of Officers

Section 6.1 The officers shall be elected by the Commission at the annual organization meeting which shall be the regular scheduled meeting in July of each year. Election of officers shall be held by secret ballot.

Section 6.2 A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected and shall serve for one year or until his or her successor shall take office.

Section 6.3 Vacancies in offices shall be filled by the Commission at any scheduled or special meeting.

Section 6.4 The Chairman and Vice Chairman shall be limited to four consecutive one-year terms. A former Chairman or Vice Chairman who has held four consecutive terms in such position may be elected to that position after vacating the position for a period of one year.

Meetings

Section 7.1 The Commission shall hold one public meeting during each calendar month.

Section 7.2 The monthly meeting date for the coming year shall be established by a majority of the Commission at its organization meeting of the year. The date of the public meeting can be changed during the year by a majority of the Commission

Section 7.3 The Commission will receive all applications concerning matters within its jurisdiction only at its public meetings. All times to be submitted for consideration at any public meeting shall be submitted in complete and final form for Commission consideration not less than thirty days prior to said meeting. No items submitted subsequent to this time shall be placed upon the Agenda except by a majority vote of the Commission members present at such meeting. The official date of receipt of any matter presented to the Commission shall be the date of the first public meeting at which such matter is received for consideration. Any maximum time periods established by the Zoning Ordinance or other local laws limiting the time for consideration of any matter by the Planning Commission shall commence on such date of the receipt.

Section 7.4 A majority of the membership of the Commission shall constitute a quorum. The Commission may act on any matter by a majority vote of such quorum.

Section 7.5 All formal votes to record the decision of the Commission on any matter referred to it shall be taken only by a quorum at a public meeting. By a majority vote of those members present the Commission may convene in executive session. However, all formal votes to record the Commission's decision shall only be taken during periods in which such meetings are open to the public.

Section 7.6 Special meeting may be called by the Chairman or by a majority of the Commission, providing that not less than 24 hours notice by writing or telephone is given to each member of the Commission. Such meetings shall be executive sessions at which no formal votes shall be taken.

Section 7.7 All public and special meetings shall be held in City Hall or other public facility with proper public notification.

Agenda

Section 8 The Secretary shall prepare the proposed Agenda for each public meeting, with the Chairman not less than ten days prior to the date of such meeting, and shall transmit a copy of the Agenda to each Commission member on such date of preparation. No items will appear on such proposed Agenda except those for which applications or written requests have been received not less than thirty days prior to the date of the public monthly meeting as set forth in Section 7 above. The Commission may amend the proposed Agenda by a majority vote of those members present.

Section 9.1 The order of business at public meetings shall be as follows:

(a) Roll Call.
(b) Adoption of Minutes of previous meetings.
(c) Approval of Agenda
(d) Communications
(e) Report of Officers and Committees
(f) Old Business
(g) New Business
(h) Referrals, Administrative Reviews, Petitions, Applications and Other Matters presented by the public.

Section 9.2 The order of business at special meetings shall be as determined by the Commission.

Section 9.3 At all meetings and hearings attended by the public, the Chairman shall make a brief statement indicating the nature of each item on the Agenda, except that in the case of petitions, applications and other matters presented by the public, such statement shall be made by the person introducing the matter.

Section 9.4 Minutes of all public and special meetings of the Commission shall form part of the records of the Commission and shall be available to the public when duly adopted by the Commission.

Committees

Section 10.1 There may be a Subdivision Committee appointed by the Chairman with the approval of the Commission at the annual organization meeting. It shall consist of three members who shall serve until the next annual meeting. The Chairman may make appointments to bring the committee to full strength in the event of temporary absence of committee members.

Section 10.2 Other Committees may be appointed by the Chairman from time to time with the approval of the Commission.

Public Hearings

Section 11.1 The Commission shall hold public hearings as required by statute and applicable ordinances of the City. In addition to those required by law, the Commission may at its discretion hold public hearing when it considers that such hearings will be in the public interest.

Amendments

Section 12 These By-Laws may be amended at any time by a majority vote of the entire membership of the Commission.

Adopted September 15, 1959
Amended November 17, 1975
Amended March 16, 1981
Amended March 19, 1981
Amended June 17, 1991
Amended January 25, 1995
Amended April 26, 1995
Amended August 16, 2010
Amended August 20, 2018

Bylaws of the City of Newark Planning Commission

July 7, 2020 – Revised February 2, 2021

The Planning Commission of the City of Newark, established in conformance with State Code and the Charter of the City of Newark, has adopted the following Bylaws in order to facilitate its power and duties in accordance with the Code of Delaware, as amended.

Legal Authority

Newark City Code, Chapter 2, Sections 78 through 90; Newark City Charter, Section 901; Delaware State Code, Title 22, Chapter 7.

Meetings

All regular and special meetings of the Planning Commission shall be open meetings to which all members of the public shall be admitted without restriction or qualification. Meetings will be held at locations accessible to persons with disabilities, and reasonable accommodations shall be made to the greatest extent possible. All procedures of the Planning Commission shall comply with the Delaware Freedom of Information Act, as contained in Title 29, Chapter 100 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

The Commission may hold executive sessions as provided in Title 29, Chapter 100 of the Delaware Code and the Code of the City of Newark. Executive sessions must be on the agenda of a regular or special meeting and the purpose for such a session must be on the agenda. The vote to enter executive session must be made publicly by the members of the Planning Commission prior to entering executive session.

In all respects, the conduct of the Planning Commission, its meetings, and its Members, shall comport with the City's Code of Ethics.

Regular Meetings

Regular meetings of the Commission shall be held on the first Tuesday of each month at 7:00 P.M. in Council Chambers in the Municipal Building, or as otherwise specified and approved by the Planning Commission. When a meeting falls on a legal holiday the meeting shall be held on the day following unless otherwise designated by the Commission.

Regular meetings may be cancelled by the Chair upon notice to all members and to the public at least two weeks in advance of the meeting date. If the Chair declares that weather or other conditions make it hazardous for members to attend, all hearings and other matters previously advertised shall be conducted at the next regular meeting. Regular meetings may be cancelled for reasons other than weather or other hazardous conditions provided there are no applications, public hearings, or other business pending or advertised for that meeting date and provided that the Commission meets at least every two months.

An applicant may notify the Planning and Development Director, in writing, to withdraw or defer their project with no additional action required.

Special Meetings

Special Meetings of the Planning Commission may be called by a majority of the Planning Commission, by the Chair, by staff in consultation with the Chair, or by staff with notification to the Chair when advance consultation is infeasible. Staff and/or the Chair shall make a good-faith attempt to gain majority consensus where feasible before calling a Special Meeting, and shall at a minimum issue notification to all members immediately upon determining to call a Special Meeting.

There shall be no limit to the number of Special Meetings that may be called in a given year.

Order of Business

Meetings shall be conducted in accordance with the adopted Planning Commission Public Hearing Rules of Procedure.

The privilege of the floor may be granted to the public at any time by the Chair.

Agenda

Working within the framework of the Commission work plan, budget, and other policy direction set by Council; staff will identify the need for and schedule the majority of Planning Commission agenda items. The Chair shall review and approve the proposed agenda prior to publication.

Standard agenda items shall include Chair's Remarks, Approval of Minutes, items for consideration by the Commission, New Business, Informational Items, and General Public Comment regarding items not on the agenda but related to the work of the Planning Commission. Items carried over from previous meetings (Old Business) shall be considered before new items.

Agenda items shall be annotated "Discussion", "Action" or "Information" as applicable.

Agendas will be scheduled so that meetings do not exceed two hours of planned time. Each agenda item shall have an estimated time noted using the following list as a guide:

- Ordinances – 30 minutes
- Minor subdivisions – 30 minutes
- Major subdivisions – 45 minutes
- With site plan approval – add 15 minutes
- With special use permit – add 15 minutes

- With parking waiver request – add 15 minutes
- With rezoning request – add 15 minutes
- With annexation request – add 20 minutes
- With Comprehensive Plan Amendment – add 20 minutes

Future agenda items may be requested by a Member of the Planning Commission in open session. Such items shall be added by staff if approved by a majority of the Planning Commission. If a future agenda item is requested by a member of the public in open session, the Planning Commission shall not be obligated to deliberate on the agenda item request, however any Member may request that the Planning Commission consider adding the item, in the manner described in this paragraph. Occasional agenda item requests from a member of the public received outside of a noticed meeting, or other atypical agenda items, may be considered by staff, in consultation with the Chair, for suitability for being added when consulting with a majority of the Planning Commission is infeasible due to time constraints. Issues may also be referred to the Planning Commission by Council and staff shall add them in a timely fashion.

Recusal (Disqualification due to Conflict of Interest)

In accordance with the City of Newark's Code of Ethics, Planning Commission Members shall disqualify themselves from making, participating in the making of, or in any way using their official position to influence a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, that is distinguishable from its effect on the public generally, upon the Member and certain immediate family members. Any Member with such a disqualifying financial interest relating to a particular agenda item shall openly announce the nature of the conflict following the Chair's announcement of the item, but before discussion has begun.

A Member who is recused due to conflict of interest may not be called upon to break a tie .

Officers

Election of Officers

In addition to the officers designated in the City Code, the Planning Commission shall also elect a Vice-chair. If no Vice-chair is nominated or elected than the most senior member of the Commission shall serve the role of Vice-chair.

Duties of Officers

The Chair shall:

- Preside at all meetings. Points of order and meeting conduct shall be settled by the Chair, unless overruled by a majority vote of the Planning Commission, in compliance with these Bylaws, the Commission's Public Hearing Rules of Procedure, and the advice of the City Solicitor. Staff will assist the Chair where appropriate.

- Review and Approve the Agenda for meetings.
- Appoint committees and chairs.
- Act as the primary contact for staff for certain matters not requiring action by a majority of the body
- Represent the Planning Commission before City Council whenever deemed necessary or desirable by the Planning Commission or Council.

The Vice-chair shall:

- Act in the absence or inability of the Chair to act.
- Have the power to function in the same capacity as the Chair in cases of the Chair's inability to act.

In the absence of both the Chair and Vice-chair, and provided that there is a quorum, the remaining members shall choose who shall preside at the meeting.

The Secretary shall be responsible for:

- Reading the official motions for agenda items.

Standing and Special Committees

Committees may be created by the Planning Commission for purposes and terms approved by the Planning Commission. The Planning Commission, and committees thereof, may work with member(s) of the public in pursuit of the Planning Commission's purpose and duties. All committees, regardless of its composition or number or office of members, shall be required to comply with the Open Meeting requirements of the City Code.

The Chair shall be an ex officio member of every committee.

The Planning and Development Director or their designee shall serve as an ex officio member of every committee.

Standing Committees

Standing Committees may be established by a majority of the Planning Commission to gather information or deliberate on issues deemed necessary to carrying out the functions and purpose of the Planning Commission, on an ongoing basis.

All standing committees shall provide written or oral reports in public session, no less than quarterly, to the Planning Commission.

Special Committees

Special Committees consisting of less than a majority of the Planning Commission and members of the public may be established by a majority of the Planning Commission. Such committees shall be established to gather information or deliberate on a particular issue deemed necessary to carrying out the functions and purpose of the Planning Commission, for a limited duration.

The final report of the Special Committee on its subject of investigation shall be entered into the public record. The Planning Commission shall deliberate and act upon on the designated issue. Special Committees shall be dissolved once their specific task is completed.

Staff

Staff Relationship to the Planning Commission

Staff support and assistance is provided to the Planning Commission in pursuit of the achievement of approved work plan items. While Staff members may work closely with advisory bodies, those advisory bodies do not exercise supervisory authority. Staff members remain responsible to their immediate supervisors and ultimately to the City Manager and Council. In order that Members may be fully prepared to engage in productive discussion and take action when in open session, individual Members are encouraged to maintain a rapport with staff outside of meetings and ask clarifying questions regarding report materials and general matters within the body's purview prior to meetings.

However, individual Members shall not make separate work product requests of staff without discussion and approval of the Planning Commission in open session, and shall not request that staff undertake work outside the scope of authority of the Planning Commission.

Agenda Reports to Planning Commission

Matters placed upon an agenda for consideration by the Planning Commission shall be accompanied by a written report by staff if the request involves the adoption of a resolution or approval of other written policy or procedural document, the rendering of a formal recommendation on a matter to be heard by higher body, and in other cases determined appropriate by staff. A consistent report format shall be adopted.

Staff reports shall clearly state staff's recommendation for action and the rationale therefore, and shall provide sufficient background information and context to allow the Planning Commission to render a well-informed decision or recommendation. Documents that are the subject of, or will substantially aid, deliberations shall be attached to and discussed within such reports. Where an agenda item requires deliberation and/or recommendation on project design or other aesthetic considerations, plans, photographs, or other relevant visual aids shall be included with the agenda materials for consideration in advance of the meeting.

Rendering of Recommendations to Council

Recommendations of the Planning Commission deemed necessary or desirable for consideration by Council shall be presented to the Council in a manner deemed appropriate by the Director of Planning and Development. Recommendations to be forwarded to the Council in open session shall be prepared by staff in the manner typical of all other Council matters. A report conforming to the format and standards for Council agenda items shall be prepared by department staff.

In the event that staff's professional recommendation on a matter differs from the recommendation rendered by the Planning Commission, staff's report to Council on the matter shall include both recommendations, and a thorough analysis of each, for the Council's consideration.

ADOPTION OF BYLAWS

These rules as amended shall become effective upon adoption by a majority vote of all the Members of the Planning Commission.

These Bylaws shall not be construed in any manner conflicting with controlling provisions of state or federal law, and shall not be construed as attempting to supersede any ordinance of the City of Newark. In the event of conflict between these Bylaws and other policies enacted by Council regulating these same matters, the newer of the policies shall prevail. If any portion of these Bylaws shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. The provisions of these Bylaws shall not preclude the preparation and adoption of further procedural manuals and policies by which the Planning Commission may direct its activities.

These Bylaws are the sole work product of the Planning Commission. They are not intended to be adopted in any form by City Council.

Amending of Bylaws

The bylaws may be amended by a Member through a two step process:

1) Submitting the proposed amendment at a regularly scheduled meeting
2) Review and adoption at the next regularly scheduled meeting.

Setting Aside the Bylaws

Any section of the bylaws may be set aside by a unanimous vote of the Members present. The justification for the set-aside shall be placed on the public record.

BYLAWS
OF THE
KENT COUNTY REGIONAL PLANNING COMMISSION

ARTICLE I
NAME OF ORGANIZATION

Section 1. The name of this organization shall be the Regional Planning Commission of Kent County, Delaware, hereinafter referred to as the Commission.

ARTICLE II
AUTHORITY

Section 1. The Commission is authorized under and charged with the duties and responsibilities contained in Chapters 48 and 49, Title 9, Part III, Delaware Code, as amended.

ARTICLE III
PURPOSE, DUTIES AND RESPONSIBILITIES

Section 1. The general purpose of the Regional Planning Commission is to study, research, plan and make advisory recommendations regarding the matter relating to the Kent County Zoning Ordinance, the Kent County Comprehensive Plan and the Subdivision Ordinance.

Section 2. The Commission is charged with the duties and responsibilities contained in Chapter 48 and 49, Title 9, Part III, Delaware Code, as amended, and such duties and responsibilities as may from time to time be assigned to it by the Levy Court of Kent County, Delaware (reference Kent County Levy Court Ordinance 88-16, An Ordinance amending the Membership, Terms, Qualifications and Compensation of the Kent County Regional Planning Commission, and amendments).

ARTICLE IV
MEMBERSHIP, APPOINTMENT, COMPOSITION

Section 1. The County Government shall appoint a Regional Planning Commission of seven (7) members.

Section 2. Each Levy Court Commissioner shall be entitled to submit the name of a qualified appointee residing in his district for consideration and confirmation by the Levy Court.

Section 3. The term of each appointee shall continue until a successor is named by the Levy Court Commissioner in whose district the appointee resides and is confirmed by the Levy Court.

Section 4. During the term of the appointment, a member must maintain residency within the Levy Court District from which appointed.

Section 5. Any member may terminate his/her membership at any time by notifying, in writing the Chairman. Unless otherwise specified in such notice, such resignation shall take effect upon receipt thereof by the Chairman.

ARTICLE V
ELECTION OF OFFICERS

Section 1. At its annual organizational dinner meeting on the second Monday in July, the Commission shall elect a Chairman and a Vice Chairman, each of which shall serve for a term of one (1) year or until his successor shall take office. The Chairman and Vice Chairman may be elected to succeed themselves.

Section 2. Nominations for Chairman and Vice Chairman shall be made from the floor and elections shall follow immediately thereafter. Voting shall be by paper ballot.

Section 3. The candidate receiving a majority vote of those present and voting shall be declared elected.

Section 4. Vacancies in office shall be filled immediately by regular election procedure at any properly constituted meeting.

Section 5. Newly elected officers will assume their responsibilities following the first official meeting after the annual organizational meeting in July.

ARTICLE VI
DUTIES OF OFFICERS

Section 1. The Chairman shall preside at all meetings and hearings of the Commission, shall appoint all committees, and shall perform all of the duties normally conferred by parliamentary usage on such office as well as those duties specified by these Bylaws.

Section 2. The Chairman shall be a voting member of the Commission. He shall have the privilege of discussing all matters before the Commission, of initiating or seconding motions and of voting thereon.

Section 3. The Vice Chairman shall act for the Chairman in his absence. He shall be a voting member of the Commission.
Section 4. In the absence of the Chairman and Vice Chairman, the members present shall elect one of their number to be temporary Chairman for the meeting.

ARTICLE VII
STAFF

Section 1. The Levy Court, through the Department of Planning, shall provide such secretarial and professional staff as may be required to adequately accomplish the Commission's administrative functions and responsibilities.

Section 2. The Commission shall designate a member of its staff who shall act as secretary of the Commission. The secretary shall keep the minutes and records of the Commission, prepare agenda of regular and special meetings and hearings, provide notice of meetings to Commission members and others, arrange proper notice of meetings and hearings, attend to the correspondence of the Commission and represent the Commission in other designated official capacities.

ARTICLE VIII
COMMITTEES

Section 1. Standing committees of the Commission shall consist of:

Zoning Ordinance Committee
Legislation and Bylaws Committee
Subdivision Regulations Committee
Budget and Capital Improvements Program Committee

Section 2. Ad hoc committees and sub-committees may be established at the discretion of the Chairman.

Section 3. The Zoning Ordinance Committee may have referred to it for special review and report to the general membership of the Commission any matters which pertain to the zoning ordinance or the zoning district maps of Kent County.

Section 4. The Legislation and Bylaws Committee may have referred to it for special review and report to the general membership of the Commission any matters which pertain to the bylaws of the Commission or the state enabling legislation under which the Commission is empowered to act.

Section 5. Subdivision Regulations Committee may have referred to it for special review and report to the general membership of the Commission any matters which pertain to the Subdivision Regulation or the implementation documents of the Kent County Comprehensive Plan.

Section 6. The Budget and Capital Improvements Program Committee may have referred to it for special review and report to the general membership of the Commission any matters which pertain to the County's proposed capital improvement program or the Commission's annual operating budget. In addition, this committee shall meet annually and prepare with the assistance of the staff a proposed capital improvement program and operating budget for Commission consideration, approval and submission to the Levy Court for adoption.

Section 7. Each of the committees shall consist of at least two (2) members appointed by the Chairman. Committee members shall be appointed at the first business meeting following the annual organizational meeting and shall serve for a term of one (1) year. They may be appointed or reappointed at any properly constituted business meeting of the Commission. The Chairman of the Commission shall be an ex-officio member of each committee; however, the Chairman may appoint himself as a voting member to any committee.

Section 8. The Staff of the Commission will be available to assist any committee in the accomplishment of its assignment.

ARTICLE IX
MEETINGS AND HEARINGS

Section 1. The regular monthly public hearing of the Commission will be held on the first Thursday of each month at a time and place publicly designated by the Commission unless there is no business pending before the Commission. The regular monthly business meeting of the Commission will be held at a time and place designated by the Commission at least seven (7) days in advance. Said time and place shall be publicly posted in the Kent County Administration Building at least seven (7) days in advance of the meeting.

Section 2. A quorum of not less than four (4) members shall be necessary before the Commission shall take any official action upon any matter before it for consideration. Four (4) affirmative votes shall be required to pass any motion.

Section 3. If requested by the Chairman or by a majority of the members present, voting shall be by roll call and a record of the roll call shall be kept as part of the minutes.

Section 4. Special meetings may be called by the Chairman or Vice Chairman. It shall be the duty of the Chairman, or in his absence the Vice Chairman, to call such a meeting when requested to do so in writing by a majority of the members of the Commission. The notice to the members of such a meeting shall specify its purposes and no other business will be considered except by unanimous consent of the members present at said meeting. Such notice shall be extended verbally or in writing.

Section 5. A meeting may be postponed to an alternate date and time agreeable to the Commission.

Section 6. Proposed changes to the text of the zoning ordinance or zoning district maps or any matter in the zoning ordinance requiring public hearing prior to Commission action will be heard at public hearing on the first Thursday of each month. Said public hearing shall continue thereafter until all matters which were advertised have been heard, except that the Commission may temporarily adjourn a public hearing and reconvene at its convenience. The hearing record will remain open for a period not to exceed two (2) work days after the hearing day, to permit the introduction of additional written statements or other written evidence into the record.

Section 7. Each applicant shall be notified of the date, time and place of the hearing at which his application will be heard. Each applicant or his designated representative will be requested to appear at the public hearing or to notify the staff if unable to attend.

Section 8. No less than four (4) members shall be necessary before the Commission may conduct a public hearing.

Section 9. The case before the Commission for consideration shall be presented in summary by its staff or by a designated member of the Commission. Parties in interest shall be extended the privileges of the floor by the Chairman and in accordance with the rules of conduct for public hearings established by the Commission. A record shall be kept of those speaking before the Commission. Public hearing testimony by all witnesses shall be under oath.

Section 10. In addition to those hearings required by law, the Commission may at its discretion hold hearings when in its judgment such hearings will be in the public interest.

Section 11. Notice of the time and place of all public hearings and the subject under discussion shall be given in accordance with applicable laws and regulations.

Section 12. All hearings and meetings at which official action is taken shall be open to the general public and all official action shall be taken in public session.

Section 13. All meetings held by the body shall follow procedures in accordance with Title 29, Delaware Code, Chapter 100 entitled "Freedom of Information Act." This chapter of the Delaware Code is an attachment of these bylaws and is a part thereof.

Section 14. Any member of the Commission who fails to attend seventy-five percent (75%) of regular or special meetings of the Commission in any twelve (12) month period, without an excuse acceptable to the Chairman, shall be deemed to have resigned and the vacancy shall be filled as herein provided for original appointments.

ARTICLE X
ORDER OF BUSINESS

Section 1. The order of business at regular meetings shall be:

Call to Order
Roll Call and Determination of Quorum
Approval of Minutes
Zoning Status Report
Communications
Subdivision and Site Plan Review
Report of Officers and Committees
Staff Report
Old Business
New Business
Adjournment

Section 2. A change in the Order of Business may be approved by a simple majority of those members present.

Section 3. The staff of the Commission shall have the responsibility of providing a written agenda prior to the Commission's meetings. Such agenda shall be posted in a public place seven (7) days prior to the meeting. Additional items may be added to the Commission's agenda at the business meeting, if agreed to by a simple majority of those present.

ARTICLE XI
VACANCIES

Section 1. Vacancies on the Commission shall be filled for the unexpired term by the Levy Court in the same manner as in the case of regular appointments.

ARTICLE XII
RULES OF ORDER

Section 1. The rules contained in Mason's Manual of Legislative Procedures shall govern the Commission in all cases to which they are applicable and in which they are not inconsistent with the bylaws or any special rules of order adopted by the Commission.

Section 2. An affirmative vote of a simple majority of those present is required to suspend the rules at any properly constituted meeting.

ARTICLE XIII
COMPENSATION

Section 1. Commission members shall receive such compensation as the Levy Court shall from time to time establish for boards and commissions. No out-of-pocket expenses or mileage will be reimbursed. Each Commission member must be present at a meeting to receive compensation. An annual organizational dinner meeting may be held with dinner paid for by Kent County (not to exceed dinner amount as specified in Levy Court Policy) for all members and staff who normally attend the meetings.

ARTICLE XIV
AMENDMENTS

Section 1. Notice of the proposed amendment to the bylaws shall be given to each member of the body in writing fourteen days prior to the business meeting, at which the proposed amendment is to be presented for consideration and approval at the next business meeting.

Section 2. A proposed amendment to the bylaws shall be adopted by a two-thirds vote of the members.

Section 3. Any proposed changes to these bylaws are subject to approval by the Kent County Levy Court.

____________________________ ATTEST:

Chairman Director

Regional Planning Commission

DATE:____________________ DATE: __________________

___________________________ ATTEST:
President Secretary

DATE:____________________ DATE:

Discussion of Development of Planning Commission Rules of Procedure

Currently, the City of Dover Planning Commission does not have a Rules of Procedure document outside of the provisions established by the *Dover Code of Ordinances* including the *Zoning Ordinance*, the *By-Laws of the Dover Planning Commission*, and the standard practices of each meeting. This an opportunity to consider the development of Rules of Procedure.

The following documents are examples from other jurisdictions:

- City of Newark, Delaware Planning Commission Public Hearing Rules of Procedure (October 11, 2017 – last Revised February 2, 2021)

- Regional Planning Commission (Kent County, Delaware) Public Hearing Rules of Conduct

- Rules of Procedure of the Planning Board New Castle County, Delaware

CITY OF NEWARK
DELAWARE

PLANNING COMMISSION
PUBLIC HEARING RULES OF PROCEDURE

October 11, 2017 – Revisions April 2, 2019, Revisions May 7, 2019, Revised February 2, 2021

Purpose

Public Hearings of the City of Newark Planning Commission are conducted for the purpose of obtaining public input and comment on issues before the City of Newark Planning Commission.

Quorum

A quorum is required for the Planning Commission meeting. A quorum for the meeting is a minimum of four (4) Commissioners present.

Legal Authority

Newark City Code, Chapter 2, Sections 78 through 90; Newark City Charter, Section 901; Delaware State Code, Title 22, Chapter 7.

Agenda Items

The agenda can be altered by an affirmative vote of a majority of the Members present.

For public hearing items before the Commission:

1. The Planning Director will provide an overview of the agenda item unless the Chair decides otherwise.

2. The proponent will be allotted 15 minutes. The proponent includes development applicants as well staff and representatives of other invited organizations to present zoning and rules changes, informational items and other matters.

3. The Commission may ask questions of the proponent or staff.

4. The Commission will then receive public comment.

5. When everyone has had an opportunity to speak, the public comment on the item will be closed.

6. Commissioners may continue to ask questions of applicant, staff or a member of the

public who has made a public comment.

7. Chair shall call for deliberation.

8. The Planning Commission shall make a recommendation on the application to the City Council. In the case of a parking waiver request, the Planning Commission will grant or reject the request. The Planning Commission may also continue the hearing should they feel they require additional information, or more time to review information and/or comments that were offered at the hearing.

9. Each Planning Commissioner shall include the reason(s) for their vote on each application.

Public Comment

1. Each person providing oral comments shall be allotted 5 minutes per person unless a shorter time limit of not less than 3 minutes is determined by the Chair. .

2. Public comment must be germane to the agenda item and directed to the Planning Commission.

3. A person providing public comment may only orally comment once per agenda item.

4. The Chair may discourage duplicative comment and may ask for members of the public to caucus to determine a spokesperson.

5. All those providing oral comment shall publicly state their name and address or City Council District for the record. Professionals testifying on behalf of an applicant or in support or opposition shall state the name of their company or employer and business address.

6. Copies of any written statements or exhibits used during the hearing should be presented for identification and inclusion in the record.

7. All parties present at hearings, shall conduct themselves in a civil manner. There shall be no audience demonstration, applause, cheering, displaying of signs or placards, or other conduct disruptive to the hearing. Disruptive conduct may be cause for appropriate action as determined by the Chair or City Solicitor, including removal of disorderly or disruptive persons by an officer of the Newark Police Department.

8. Written comments from the public must be received at the Planning Department by the close of business on the last business day before the hearing in order to be included in the pre-hearing record. At the time of public comment on an agenda item, any member of the public in attendance may file written comments in lieu of oral comment or may elaborate on their oral comment by filing a written comment.

9. The applicant has to the close of the business day one week prior to the hearing to submit additional information to the Planning Director in order for it to be considered by the Planning Commission at the hearing, unless the Chair allows for a late filing for good cause shown.

10. The Chair may modify a rule or rules for a particular agenda item to facilitate more orderly presentation on a case-by-case basis should the complexity or public interest in a matter so warrant.

Meeting Length

1. Planning Commission hearings shall conclude no later than 9:00 p.m. The Chair may extend the meeting to 9:30. Any further extensions shall require approval of a majority of the Planning Commission members present.

Motions

Call for Motion

Upon conclusion of discussion and following acceptance of public input, any Member may place a motion on the floor. The motion shall contain the proposed action in sufficient detail so as to be understood by the audience and staff. If no motion is immediately forthcoming, the Chair may call for a motion to be made.

Seconding a Motion

The Chair shall receive all motions and shall call for a second to each motion.

Lack of a Second

If, after a reasonable time, no second has been made, the motion shall be declared dead for lack of a second, and the Chair shall so state.

Discussion/Debate

After a motion has been made and seconded, the Chair shall call for a discussion of the question. All discussion shall be limited to the motion on the floor. At the close of the discussion, the Chair shall put the matter to a vote by causing either a roll call vote or voice vote to be conducted.

Time Limits on Discussion/Debate

The Chair reserves the discretion to limit the duration of debate on any motion, but shall ensure that each Member has the opportunity to speak.

Amending a Motion

A motion to amend may be made by any Member to revise a motion on the floor, but it cannot be a freestanding motion on its own, nor can it substitute for a main motion. The motion to amend must be voted upon, unless the maker and the seconder accept it as a friendly amendment, and, if so accepted, it then becomes part of the main motion.

Withdrawing a Motion

Any motion may be withdrawn by the maker at any time prior to being voted upon.

Motion to Continue

A motion to continue may be made by a Member should they feel they require additional information, or more time to review information and/or comments that were offered at the hearing. The motion must contain a specific plan for bringing the motion back to the Commission.

Method of Voting

Roll Call Vote

Voting upon a motion shall be conducted in the form of a roll call vote, unless the Chair determines to conduct a voice vote. When a motion has been made and seconded and no matters remain under discussion, the Chair shall call on each Commissioner alphabetically. For each subsequent vote, the voting order will rotate in a consistent manner, with the name previously called first rotated to the last position, except that the Chair shall always cast the last vote.

Each Commissioner must state the reasons for their vote for the record.

A roll call vote must be conducted for all Site Plan Approval applications, zoning changes, Special Use Permit applications, annexations, and parking waivers. For all other matters, the Chair may conduct a vote by voice or acclamation. An applicant may request a roll call vote.

Voice Vote

Where a roll call vote isn't required and there is no objection from any Member or staff, the Chair may conduct a vote by voice or acclamation in lieu of a roll call vote.

The Chair shall call the question in the form of "All in favor?" followed by "All opposed?" Each Member shall clearly state “Aye," "Yes," or "Yea" in the affirmative; “No," or "Nay" in the negative.

In the event the outcome of a voice vote is unclear, any Member or staff may request a roll call vote immediately following a voice vote. A roll call vote shall be taken without further discussion.

Outcome of Vote

A positive recommendation requires a majority vote of the members present. In the event the Planning Commission motion ends in a tie, the motion fails.

MEG/WFH/mv

REGIONAL PLANNING COMMISSION
Public Hearing Rules of Conduct

Public Hearings are conducted for the purpose of giving the citizens of the county the opportunity to present testimony on the subdivision, conditional use, text amendment, and map amendment items before the Regional Planning Commission.

For public hearing items before the Commission:

1. The Chairman will introduce the application /ordinance.

2. The applicant or applicant's representative will be allotted 15 minutes to present the application unless a longer time limit is permitted at the discretion of the Chairman. Questions from Commissioners shall be withheld until the conclusion of the applicant's or representative's presentation.

3. The Commission will then receive public testimony from all of those in favor.

4. Public testimony will then be received from those who may be opposed.

5. All public testimony shall be sworn.

6. Each person providing testimony in support or opposition shall be allotted 5 minutes unless a longer time limit is permitted at the discretion of the Chairman. Questions from the Commission shall be withheld until the conclusion of said person's testimony.

7. A person in support or opposition may only testify once during a specific public hearing. Commissioners may at any time ask questions of a speaker, a member of the audience, or member of staff.

8. All those providing testimony shall publicly state their name and address for the record. Professionals testifying on behalf of an applicant or in support or opposition shall state the name of their company or employer and business address.

9. Copies of any written statements or exhibits used during the hearing should be presented for identification and inclusion in the record.

10. All parties to hearings, their counsel, and spectators shall conduct themselves in a proper manner. Disruptive demonstrations of any kind at hearings shall not be permitted. No signs, written material in support or opposition of any proceeding shall be permitted inside the Commission hearing room. Any disregard by parties, attorneys, or other persons of the rulings of the Chairman or Commission on matters of order or procedure shall be noted on the record. The Chairman may, at his or her discretion, recess or continue any hearing when the deportment of witnesses, spectators, news media, or other person unduly disrupts or interfered with the proper conduct of such hearing.

11. When everyone has had an opportunity to speak, the hearing on the item will be closed.

12. The record will remain open for 2 business days after the hearing.

RULES OF PROCEDURE
OF THE
PLANNING BOARD
NEW CASTLE COUNTY, DELAWARE

These Rules of Procedure, adopted ___________________, supersede the Planning Board By-Laws and Special Rules of Order revised and adopted February 19, 2019.

ARTICLE I. <u>Name of Organization</u>

§1. The name of the organization shall be the Planning Board of New Castle County.

ARTICLE II <u>Authorization</u>

§1. The Board is authorized by *9 Del.C. §1303.*

ARTICLE III <u>Members</u>

§1. The Planning Board shall consist of nine members.

§2. The County Executive, with the advice and consent of County Council, shall appoint eight members who shall serve for terms of three years, provided that the terms of two members shall expire each year, one term to expire on January 31 and one term to expire on July 31. A member whose term has expired will continue to serve until a successor is duly appointed and qualified.

§3. The County Executive, with the advice and consent of County Council, shall appoint one member who shall be Chair and who shall serve at the pleasure of the County Executive.

ARTICLE IV <u>Officers</u>

§1. The officers of the Planning Board shall consist of the Chair and the Vice-Chair.

§2. The Chair shall designate a member as Vice-Chair who shall act for the Chair in the Chair's absence. The Vice-Chair shall serve at the pleasure of the Chair. In the absence of the Chair and the Vice-Chair, the members present shall elect one of their members to be the temporary chair for that meeting.

§3. The Chair, or in his or her absence the Vice-Chair, shall preside at all meetings and hearings of the Planning Board, decide all points of order or procedure, and perform all duties required by law or these rules.

§4. The Chair shall be a voting member of the Planning Board and may participate in all discussions.

§5. The Chair shall serve as an ex officio voting member of the State Coastal Zone Industrial Control Board, pursuant to 7 Del.C. §7006.

ARTICLE V Conduct of Members

§1. A member of the Planning Board shall not be an officer or a substantive committee chair in a local or umbrella civic group; being an officer in an ownership or maintenance organization does not disqualify a member from serving on the Planning Board.

§2. The Planning Board is subject to the New Castle County Code of Ethics, Divisions 2.03.100 and 2.04.100, administered by the New Castle County Ethics Commission. In the event of a potential conflict of interest or appearance of impropriety, as defined by the New Castle County Code of Ethics and as explicated by the New Castle County Ethics Commission, a Planning Board member shall recuse himself of herself and end participation in the matter. Recusal includes ending advice, input, direction, recommendations, or discussion, as well as refraining from any decision or vote.

§3. No Planning Board member shall discuss or communicate, directly or indirectly, respecting any issue of fact or law with any person or party, except upon notice to and opportunity for all parties to participate.

§4. No Planning Board member shall accept any compensation, gift, payment of expenses, promise of future financial benefit, or any other thing of monetary value which is intended or received to influence the vote, official action or judgment of the recipient or which creates the reasonable perception in the public that the vote, official action or judgment of the recipient would be influenced or impaired by the gift. An unsolicited gift which is promptly returned in its entirety is not considered accepted by the recipient.

ARTICLE VI Attendance

§1. Any member of the Planning Board who fails to attend three regularly-scheduled meetings in a one-year period, except those where such absence is deemed by the Chair to be excusable, shall forfeit membership on the Planning Board.

§2. The Chair of the Planning Board, upon the unexcused absence of a member at three regularly-scheduled meetings in a one-year period, shall inform the County Executive and Council President in writing that a vacancy exists on the Planning Board and include the name of the member who held the forfeited position.

ARTICLE VII Committees

§1. Committees, subcommittees, and ad hoc committees may be established at the discretion of the Chair.

§2. Each committee shall consist of at least two members appointed by the Chair. Each subcommittee shall consist of at least one member except that if the Chair is the subcommittee chair, an additional member of the Board shall be appointed to serve on the subcommittee. Committee members shall be appointed or reappointed at any business meeting of the Planning Board. The Chair of the Planning Board shall be an ex-officio member of each committee; however, the Chair may appoint him/herself to any committee.

ARTICLE VIII Public Hearings

§1. The primary purpose of the Planning Board is to conduct hearings and receive comments from the public regarding pending applications. The Board will not debate or negotiate with the speakers at the hearing but may question a speaker for clarification or to summarize relevant provisions of the law. The public is invited to attend public hearings on Appeals but is not permitted to make presentations to the Board in connection with the Appeals.

§2. The Planning Board and Department of Land Use may hold public hearings, in accordance with the Unified Development Code and state law, when they decide that such hearings will serve the public interest.

§3. Regularly-scheduled hearings will be held at a time and location agreeable to the Planning Board and Department of Land Use and shall be conducted jointly by the Board and the Department. Notice of time, location, and subject of discussion shall be given in accordance with applicable laws and/or regulations and shall be open to the public.

§4. The following land-use applications require Planning Board hearings:

- Major Land Development Exploratory Plan Reviews
- Major Land Development Preliminary Land Use Service (“PLUS”) Review
- Statutory Text Changes
- Rezonings
- Deed Restriction Changes
- Subdivision Variances
- Appeals from Land Use Department Decisions

Exploratory Plan Reviews, Major Land Development Plan Reviews and PLUS Reviews require a joint public hearing with the Department of Land Use but do not require a Board recommendation, vote, or decision.

Statutory Text Changes, Rezonings, and/or Deed Restriction Changes require a joint public hearing with the

Department of Land Use and require a Recommendation by the Board to County Council. The hearings will be held in conformity with the Procedure for Amendment of Zoning Regulations or Classifications, adopted by County Council.

Subdivision Variances and Appeals from Department of Land Use Decisions require a public hearing and a Board Decision.

§5. Joint Public Hearings of the Planning Board and Department of Land Use shall require a quorum of at least one member of the Department and two members of the Board.

§6. All public hearings shall be conducted pursuant to these Rules of Procedure and Robert's Rules of Order.

The Order of Business at Public Hearings is as follows:

a. Call to Order

b. Rules of Procedure and Attendance

c. New Business

d. Comments from Board Members

e. Public Comment

f. Adjournment

§7. Speaker Time Limits are as follows:

a. Following the reading of the title and a description of each agenda item, the applicant (or representative) is given a total of fifteen minutes for relevant remarks.

b. On Appeal applications, the Department of Land Use representatives are given a total of fifteen minutes for relevant remarks.

c. Following the applicant's or Department's presentation, Board members may ask questions of the presenter. Board members shall address the Chair and wait to be recognized before proceeding to question a presenter.

d. The public will then be invited to speak for or against the application (except in the case of Appeals). Each speaker will address the Board. Speakers are to avoid repetition of previous testimony.

e. Each speaker is allowed one opportunity to comment on each application. Testimony is limited to five minutes and speakers may not yield their unused time to another speaker. Board members are not permitted to debate with any speaker but may ask questions. Speakers are limited to a two-minute response.

f. Following public comments, the applicant will be given fifteen minutes for rebuttal response to issues raised by speakers.

§8. The record shall be held open as follows:

a. For *Statutory Text Amendments and Deed Restriction Changes*, the record shall remain open to permit the applicant or members of the public to submit written testimony or other comments until the close of business on the Friday of the week of the Public Hearing. If the County offices are closed on that Friday for any reason, the record shall remain open until the next business day when the County offices are open. The Planning Board may, by motion, hold the record open for an additional period of time.

b. For *Exploratory Plans, PLUS Reviews, or Rezoning Applications,* the record remains open after the public hearing without action by the Planning Board, consistent with the requirements of the Unified Development Code.

ARTICLE IX <u>Business Meetings</u>

§1. Regular business meetings will be held monthly at a time and place agreeable to the Planning Board and the Department of Land Use. Notice of time, location, and subject of discussion shall be given in accordance with applicable laws and/or regulations and shall be open to the public.

§2. To conduct a business meeting, at least five members of the Board shall be present. A motion is carried by the affirmative vote of a simple majority. If a member abstains from voting, that member still counts toward a quorum. If, however, a member recuses him/herself, that member does not count toward a quorum. If a quorum is lost at any point in the meeting, the meeting cannot continue. Board members are prohibited from discussing pending applications among themselves outside of the public hearing.

§3. The Planning Board shall discuss and then vote on matters under the Board's purview, as specified by the Unified Development Code. These matters include the recommendations of the Department of Land Use with respect to proposed amendments to the Code previously heard at a public hearing. A member shall not vote on an item that the applicant presented at a public hearing which that member did not attend, unless that member states on the record at the business meeting that he or she has reviewed the official transcript, or reviewed another verbatim and complete record of the hearing.

§4. In any matter where the Planning Board is required to vote on an application upon which the Department of Land Use has offered its formal recommendation and wherein the Board has final approval authority, each member voting in opposition to the Department's recommendation is strongly encouraged to state the reasons for that vote on the record. [See UDC Table 40.30.110 Procedural Responsibilities.]

§5. All business meetings shall be conducted pursuant to these Rules of Procedure and Robert's Rules of Order. Participants shall address the Chair and wait to be recognized before proceeding to speak.

§6. Once the Department of Land Use has presented its recommendation and answered Board members' questions, a motion shall be made and seconded by the Board. Motions should refer to the application's corresponding Ordinance number. For applications that have no companion ordinance, the motion should refer to the application number.

Examples:

- *"I move to recommend approval (or denial) of Ordinance Number _____."*
- *"I move to recommend approval of Ordinance Number ____ subject to the conditions set forth by the Department of Land Use."*

Once a motion has been made and seconded, only Board members may participate in the discussion on the matter. If, during the Board's discussion, a Board member wishes to ask the Department or the Applicant a question, that member shall first address the Chair and wait to be recognized by the Chair before proceeding.

§7. The Order of Business at regular business meetings is as follows:

a. Call to Order

b. Roll Call

c. Approval of Minutes of the previous meeting

d. Old Business

e. New Business

f. Report of the Planning Board Chair

g. Report of the Land Use General Manager

h. Report of the Committee

i. Adjournment.

ARTICLE X Special Meetings

§1. Special meetings may be called by the Chair provided that all members are notified at least three days in advance of such meeting. Additionally, the Chair shall call a special meeting when requested to do so by a majority of the members of the Board.

ARTICLE XI Amendments to the Rules of Procedure

§1. Notice of a proposed amendment to the Rules of Procedure shall be given to each member of the Planning Board at least two weeks prior to the business meeting at which the proposed amendment is to be introduced. The proposed amendment shall be read and discussed at said Board meeting, and may be adopted by an affirmative vote of six members of the Board at the subsequent meeting, provided that at least two weeks have elapsed between the first and second meeting. Amendments shall not become final until approved by the County Executive.

____________________________	____________________________
Karen E. Peterson	Matthew Meyer
Chair, Planning Board	County Executive
Date:______________________	Date:_____________________