CITY OF DOVER PLANNING COMMISSION
March 19, 2012

The Regular Meeting of the City of Dover Planning Commission was held on Monday March 19, 2012 at 7:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Baldwin, Mr. Shomo, Mr. Tolbert, Mr. Ambruso and Mr. Nichols. Mr. Friedman, Mr. Holt and Colonel Welsh were absent.

Staff members present were Mrs. Melson-Williams, Mrs. Townshend, Mrs. Duca, Ms. Cornwell and Ms. Metsch. Also present was Mrs. Marijane Copes, Mr. Mike McKean, Mr. A.C. Lucas, Mr. Brandon Jones, Paula & Randolph Kinsey, Mr. Tim Skibicki, Mr. Bill Ayiers and Mr. Keith Kooker. Also speaking from the public was Mrs. Robin Achenbach, Mr. Daniel Zema, Mr. Edwin Baker, Mr. Bob Klewans, Mr. Thomas Byrns, Mrs. Carol Candor, Mrs. Bonnie Reidy, Mr. Pete Reidy and Mr. Mike Hall.

Mr. Hemmig stated that on your desk this evening is a letter of request from Calpine requesting that application S-12-03 Garrison Energy Center at Garrison Oak Technical Park be delayed and heard at the April Planning Commission Meeting.

APPROVAL OF AGENDA

Mr. Baldwin moved to approve the revised agenda as submitted, seconded by Mr. Shomo and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt and Colonel Welsh absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 21, 2012

Mr. Tolbert moved to approve the regular Planning Commission meeting minutes of February 21, 2012, seconded by Mr. Baldwin and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman, and Colonel Welsh absent.

APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF FEBRUARY 22, 2012

Mr. Tolbert moved to approve the regular Planning Commission Quarterly Workshop meeting minutes of February 22, 2012, seconded by Mr. Shomo and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman and Colonel Welsh absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend further stated that on March 14, 2012 there was an Audio-Web Conference held at the Kent County Administration Building entitled "Urban Agriculture and Food System Planning." Ms. Cornwell and Mrs. Melson-Williams attended this Audio-Web Conference.

Mrs. Townshend further stated that the next regular Planning Commission meeting is scheduled for Monday, April 16, 2012 at 7:00 PM in the City Council Chambers.

Mrs. Townshend provided an update on the regular City Council and Legislative, Finance and Administration Committee meetings of February 27, 2012; Safety Advisory and Transportation Committee on February 29, 2012; and the regular City Council and Utility Committee meetings of March 12, 2012.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend presented the audience information on policies and procedures for the meeting.

OLD BUSINESS

S-09-10 Fordham Brewery at 1284 McD Drive – Request for second one year extension between phases of the construction of work authorized for the project at Fordham Brewery (*Zoning Ordinance*, Article 10 §2.44 (D)). Following Planning Commission approval of the Site Plan on June 15, 2009 and Final Plan approval on November 11, 2009, the first phase of construction for 4,000 S.F. building addition was constructed under Building Permit #09-1912. A one year extension for the start of Phase 2 was granted on April 18, 2011 by the Planning Commission thus requiring construction to be started by May 31, 2012. The Site Plan indicated two building additions: the first phase consisting of 4,000 S.F. of building and the second phase consisting of 13,370 S.F. of additional building. The property is zoned IPM (Industrial Park Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone): Noise Zone C and Accident Potential Zone II. The subject area is located on the south side of McD Drive near the intersection with Horsepond Road. The owner of record is the William H. McDaniel, Inc. Property Address: 1284 McD Drive. Tax Parcel: ED05-077.12-01-13.00-000 (portion). Council District 2.

Representatives: None

Ms. Melson-Williams stated that this is a request that was received via a letter dated February 7, 2012, from the representative of the property. They are making a request for a second one year extension between the phases of construction work that has been authorized for the project. If you recall, it was a Site Plan that was approved by the Planning Commission in 2009 and then preceded with Final Plan approvals and completion of the first phase of construction for a 4,000 square foot building addition under a 2009 Building Permit.

Mrs. Melson-Williams further stated that last spring you saw a request for a one year extension for the start of Phase II. Between phases they actually have one year from the time of Certificate of Occupancy of one phase completion until they have to start the next phase. They are now asking for a second one year extension to be offered to the project so that construction for Phase II would not need to be started by May of this year; however, extended to the spring of 2013.

Mr. Hemmig questioned if there were any *Zoning Code* changes implemented since the start of this project? Responding to Mr. Hemmig, Mrs. Townshend stated that there were none.

Mr. Ambruso moved to approve the request for a second one year extension for S-09-10 Fordham Brewery located at 1284 McD Drive, seconded by Mr. Nichols and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman and Colonel Welsh absent.

NEW BUSINESS

MI-12-05 State Street Assisted Living: Waiver Request for Loading Berth – Public Hearing and Review of a waiver request from the off-street loading berth requirements (*Zoning Ordinance,* Article 6 §4) for the State Street Assisted Living facility to allow for the establishment of an on-street loading space on American Avenue. The parcel is zoned RGO (General Residence and Office Zone) and

subject to H (Historic District Overlay Zone). The property is located on the east side of North State Street in the block between Division Street, American Avenue, and Delaware Avenue. The owner of the property is State Street Assisted Living. Address: 21 North State Street. Tax Parcel: ED05-077.05-01-50.00-000. Council District 3.

Representative – Mrs. Marijane Copes, Executive Director, State Street Assisted Living; and Mr. Mike McKeon, Maintenance Director, State Street Assisted Living.

Mrs. Townshend stated that in 1997 the Planning Commission had approved the Site Plan for State Street Assisted Living and the re-development and preservation of the two (2) historic adjacent buildings.

Mrs. Townshend further stated based on the square footage of State Street Assisted Living three (3) loading spaces were required. The approved plan included one (1) loading space and showed two (2) future loading spaces to be constructed if needed. The area for the loading spaces was to be parallel to American Avenue located at the south entrance. Site construction moved forward and at this point, the one (1) loading space has been removed for a dumpster pad and there is a dumpster enclosure at that location. The original plan that the Planning Commission saw in 1997 showed that the trash was to be handled by a trash compactor located inside of the building.

Mrs. Townshend stated that the issue that has been brought to Staff is that vehicles that are loading and unloading from State Street Assisted Living are doing it from the fire lane which is a fire lane obstruction and second, it blocks the shared parking to the adjacent business. There is shared parking between the law office and State Street Assisted Living.

Mrs. Townshend further stated that the *Zoning Ordinance*, Article 6, Section 4.4 gives the Planning Commission the ability to approve a waiver for the off-street loading berths and in one of the cases, if it is in a Downtown location development target area where on-street loading areas are provided nearby. Staff is looking for American Avenue on the west side just beyond the property boundary to be an on-street loading area from the hours of 7:00 AM to 2:00 PM.

Mrs. Townshend further stated that Staff has reviewed this in conjunction with the Public Works Department and the Staff recommendation is in support of the elimination of the three (3) loading spaces and the reasons are specified in the report. In particular, the turning radius of the existing and proposed loading spaces is not sufficient to provide truck access for loading and unloading. Even if they were to construct the loading spaces in the areas designated on the 1997 Plan, it would be difficult, if not impossible, for trucks to safely get in and out of those places for loading and unloading. It would also require the relocation of grease traps and could potentially affect other utilities. It would displace trees on the site and would cause the dumpster enclosure to need to be relocated.

Mrs. Townshend further stated that on the side of American Avenue that the State Street Assisted Living is on, there are no other residences on that side. There is typically on-street parking available and by having it as a loading zone between the hours of 7:00 AM and 2:00 PM, it should pose very little intrusion on the neighboring residential properties.

Mr. Ambruso questioned on the night that the streets are cleaned, would the people who are parked on one side need to move their vehicles to the other side? Responding to Mr. Ambruso, Mrs. Copes stated that there will be no parking in our area after 2:00 PM with any of our vendors.

Also responding to Mr. Ambruso, Mr. McKean stated that the street sweeper sweeps the street where they do not park is from midnight Friday to 6:00 AM Saturday morning which is located on our side on American Avenue. Because this is on the weekend, we do not have any deliveries because they are done Monday through Friday.

Also responding, Mrs. Townshend stated that it is after 2:00 PM and again, it would not be the full length of American Avenue. It would be a relatively small area to be designated as a loading zone, not the whole length.

Mr. Ambruso questioned if this would include the four (4) residences along this area? Responding to Mr. Ambruso, Mr. McKean stated that there are a few more close to six (6). What they are asking for is from their entrance into the Assisted Living approximately sixty (60) to seventy (70) feet in length where a tractor trailer could park to unload. All the other spaces would still be parking spaces with parking as usual.

Mrs. Townshend stated that she would note for the record that it is under the purvue of the City Manager and delegated to the Department of Public Works to designate the on-street loading area. What is being requested of the Planning Commission is to waive the off-street loading. The on-street loading can be administratively designated by the Department of Public Works.

Mr. Hemmig opened a public hearing.

Robin Achenbach – 19 & 21 American Avenue – Stated that she is opposed to this application and would like to go on record stating as such. She was involved with the original planning and zoning of the original Assisted Living and was at all of the meetings held for that. At such time that this was approved, we were told that there would not be trucks on that street delivering and that there would not be trash on that street. Since that approval in 1997, we have dealt with the trash cans and the trash delivery at 5:00 AM in the morning. We have also dealt with their employees parking on that street. She does not know where those employees are going to go because they already have the street occupied every day; so there is not really room for a tractor trailer to do any delivery. This has been going on basically since January with the employees parking on the street. The trash came several years ago and no one was in opposition of that; they did cover it up and made it presentable. Tractor trailers have been delivering at this facility since 1997 and have not had any issues. She has watched them daily come in and out for deliveries and they come up and deliver and back in. Those tractor trailers drivers who cannot drive and shouldn't have a driver's license maybe they cannot make that turn; however, tractor trailer drivers who are educated and know what they are doing can bring those trailers in and back them up. They have two (2) parking lots, one on each end, with access in and out where they can park. She understands that there are some law offices that have moved in there that need parking. That was already designed when Assisted Living was there. The places on the ends were both reconstructed houses that had lawyers and attorneys and they were designated spots. She is sorry that they are Downtown; however, all of us that own those homes Downtown do not have off-street parking so therefore, our cars are on the street too. She needs to go to work in the morning and she does live in one of those residences with another one that will be a rental and those people will also

need to get out. If there is tractor trailer unloading in front of those homes at 7:00 AM in the morning, she cannot get her car out to go to work. This presents a problem to her and her employer. Also, the school is right around the corner where you will have children walking up and down this street all the time. It is a very highly populated street. She does ask you to please reconsider and oppose this application.

Mr. Daniel & Elaine Zeman – 31 N. American Avenue – Stated that they are both opposed to the waiver. We both have resided at 31 N. American Avenue for forty-seven (47) years and were involved with the rezoning for the home. Our six (6) residential homes on the east side of American Avenue which have thirteen (13) adult drivers between them not counting any others that are coming as we have a college home which has four (4) residents and friends of theirs park there on a regular basis. There are a minimum of fifteen (15) vehicles on the block every day and night for these residents. Three (3) of the homes have off-street parking for at least one (1) vehicle. Not all of the vehicles are on the street all the time. On the north side of American Avenue, there are generally a couple of parking spots for most of the day that are available and they are occupied off and on by visitors to the home. A comment was made that from 7:00 AM to 2:00 PM on Wednesday morning we would have to park on that side of the street and leave the east side open for trash and collection. We cannot just move the cars over right away Wednesday morning because we are limited parking on that side of the street because of trash containers and recycling containers remaining in the street all day. First thing this morning he counted sixteen (16) vehicles still on the street and some of them had already left for work or school. He would prefer that you not vote yes and vote no for the waiver. The trucks have been backing in and parking in the unloading zone on the south end of the street on the south side of the building since the inception of the building and it works quite well. The only truck that normally parks on American Avenue on a regular basis is the one that pumps out the trash tanks which causes a severe stink on the whole neighborhood; however, we put up with that. We do not feel that we need another sixty (60) to seventy (70) feet taken away from the parking areas. We have no problem with the employees parking there because they park there during the daytime.

Mr. Hemmig closed the public hearing after seeing no one else wishing to speak.

Mrs. Copes stated that at this time, their employees have been parking on the street to be able to let the tractor trailers pull into the area behind their building and that is why they have been able to do it. The tractor trailer is her main concern for the vendors such as U.S. Food that is a large truck. The cars are parked back there and are in the middle of the lawyer's office and ours. No one can really back out when the tractor trailer is there to get out. We have only asked our employees to park on the street temporarily until this goes through then they would be back in the parking area. The vendors are only unloading from twenty (20) minutes to a half hour.

Mr. McKean stated that at the back part of their building where there is car parking between the shared parking they have nine (9) spaces. We have done some rearranging in this parking lot with regards to the fire lane and our employees do not park there right now. We have asked the employees to park on the street. By the tractor trailers going back into the parking area and taking three (3) spaces for an unloading berth zone, this opens up nine (9) more parking spaces for the neighbors where right now these nine (9) spaces are parking on the street which we understand also makes a hardship with regards to trash and the street sweeper. We are trying to get our parking back to where it was by asking for three (3) designated spaces for unloading which would make it better for them as well.

Mr. McKean further stated that the sanitation truck pulls in if it is a new driver; however, normally he will pull in by the dumpster where they would not be right on the road because he brings the hose around the back of the truck to take it off.

Mrs. Townshend stated that she would like to clarify that the issue is not that the loading vehicles cannot get into the area the problem is that this area is the fire lane. It is also the drive aisle to access the parking areas. The area that was designated to be the loading area has not been used as the loading area because they are loading in another area. The Site Plan shows additional loading areas to be constructed in the future if necessary. The concern is if trucks could very easily make the turn; however, to get into the loading area with the radius. Regardless of what direction you are coming into the loading area, it is very tight. The situation where they talk about having their employee's park on the street is to avoid parking in the fire lane for the unloading. They have created a parking deficit which is another code compliance issue. This is a very tight site and we need to figure out how to have it code compliant in terms of loading and parking to have as little imposition on all of the neighbors as possible. The issue becomes that they are parking in the fire lane which is a safety concern; however, also it means that people who are visiting either State Street Assisted Living or the lawyer's offices where they have shared parking, are not able to get in and out. This is how this issue came to us because we were getting complaints that customers could not get into the parking designated for that.

Mr. Hemmig questioned how many parking spaces on the left side are being used by the fire lane and how many they would be using on American Avenue? Responding to Mr. Hemmig, Mrs. Townshend stated that it would be less than nine (9) because if you look at a parking space that is eighteen (18) to twenty (20) feet and you designate sixty (60) feet as a loading zone, you are looking at approximately three car lengths.

Mr. Ambruso stated in going back to 1997, part of the approval hinged on these three (3) spaces as you needed three (3) more spaces to be approved. Responding to Mr. Ambruso, Mrs. Townshend stated that they needed three (3) loading spaces total and they built one with two reserved.

Mr. Ambruso further questioned that the State Street Living Facility agreed to put in a trash compactor system; however, they never did? Responding to Mr. Ambruso, Mrs. Copes stated that there was a trash compactor inside the building with regular grey trashcans outside. With more trash than the dumpsters, the trash would overflow and some of the items would not compact down. So she applied for a dumpster which was approved by the City of Dover to put there.

Mr. Ambruso further stated that the City's original approval it is contingent upon them to meet those agreements in the first place and then it was changed to accommodate placing this dumpster outside. Responding to Mr. Ambruso, Mr. Hemmig stated that they built one (1) loading space and then reserved space for two (2) more in case they needed them.

Mr. Ambruso further questioned if this area was originally a fire lane? Responding to Mr. Ambruso, Mrs. Townshend stated that yes, and you can see on the original plan that it was marked as a fire lane. Mr. Ambruso further stated that this goes back to when the Planning Commission can offer a waiver with one of the contingencies being "when the applicant can demonstrate that the intended use is such that no deliveries by large vehicles is expected now or in the future." Responding to Mr. Ambruso, Mrs. Townshend stated that there are four criteria. One is on an improved lot when it can be demonstrated that retrofitting the site for loading berths is impractical or impossible. The second

criteria is not applicable. The third criteria is when the applicant can demonstrate that the requirements of this Ordinance are far in excess of the actual needs on the site, in which she does not feel that this is applicable. The fourth criteria "in the Downtown Redevelopment Target Area where on-street loading areas are provided nearby" would be applicable. In this case, the City has agreed that they would be able to provide an on-street loading space.

Mr. Nichols stated that it would seem that we have an Indian standoff. Perhaps we should table this situation until someone from Staff can go out and measure to see exactly what can be done to alleviate this problem of parking on one side.

Mr. Baldwin stated that it is his understanding that they would only lose three (3) parking spaces. Responding to Mr. Baldwin, Mr. Hemmig stated that this is correct and in addition, they are saying that employees currently park on American Avenue; however, would again be able to park in the nine (9) spaces that are near the fire lane moving some cars off of American Avenue. In that sense, it would be an improvement; however, there is still a disparity that those on American Avenue on the east side would have to move their cars to the west side overnight in that we are telling them that they have to move their cars by 7:00 AM. It would just be these three (3) spaces that would be affected from 7:00 AM to 2:00 PM if the measurements work out that way.

Mrs. Townshend stated that both the Planning Staff and the Public Works Staff have looked at this and it is a tight site. We looked at what the options would be if we had them construct the loading space and move the trash dumpster; where does that go? What we found was that this is a very tight site with very few options, not saying that there is not something that could be worked out; however, there is not a whole lot of room on this site without displacing parking of some sort or moving utilities. The idea of moving utilities to find that there is still backing up into the fire lane because the radius does not support it is not the answer. If the Commission feels that Staff should go out and look at the parking that is something that we can do; however, the site was studied very closely to see what we could come up with for other options.

Mr. Hemmig questioned who came up with the 7:00 AM to 2:00 PM hours? Responding to Mr. Hemmig, Mrs. Copes stated that it was based on their deliveries because they vary between these timeframes.

Mr. Nichols stated that he would rescind his statement regarding tabling the application.

Mr. Tolbert moved to approve MI-12-05 State Street Assisted Living: Waiver Request for Loading Berth contingent upon the applicant working with Staff to come up with the best possible solution in recognition of the problems that have been stated this evening by residents, seconded by Mr. Nichols and the motion was carried 5-1 with Mr. Ambruso in opposition and Mr. Holt, Mr. Friedman and Colonel Welsh absent.

NEW DEVELOPMENT APPLICATION

Z-12-01 Lands of Reidy, Lucas and Klewans at southwest corner of Route 8 and Mifflin Road – Public Hearing and Recommendation to City Council on a rezoning application consists of three parcels of land totaling of 2.21 acres ±. The properties are currently zoned R-8 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is C-2A

(Limited Central Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). The subject properties are located at the southwest corner of Forrest Avenue (Route 8) and Mifflin Road. The owners of record are Peter F. & Bonnie S. Reidy, Robert Klewans, and Doreen Lucas. Property Addresses: 4 Mifflin Road, 24 Mifflin Road, and 1510 Forrest Avenue. Tax Parcels: ED05-076.09-01-11.00-000, ED05-076.09-01-12.00-000, and ED05-076.06-01-08.00-000. Council District 1. Ordinance #2012-04. *The ability to consider this Rezoning Application depends on the action taken by City Council on March 12, 2012 on application MI-12-01 Comprehensive Plan Amendments 2012: Part A.*

Representatives: Mr. A.C. Lucas, property owner.

Mrs. Townshend stated that this request was initially to change the zoning to C-2A (Limited Central Commercial Zone) subject to the COZ-1 (Corridor Overlay Zone). You will recall that last month this was the subject of a Comprehensive Plan Amendment request. There was discussion regarding the appropriateness of commercial zoning on this corner. Following public hearing, the Planning Commission passed a motion to recommend to City Council that they not approve the Comprehensive Plan Amendment as put forward by the applicant.

Mrs. Townshend further stated that at the City Council meeting last week, City Council held a public hearing and ultimately decided to amend the Comprehensive Plan to show this area as commercial.

Mrs. Townshend further stated that when the Comprehensive Plan Amendment went to PLUS she will point out the DelDOT comments. They stated "regarding the proposed commercial classification for the southwest corner of Forrest Avenue and Mifflin Road, we recommend that the City consider designating more lots for this purpose, keeping the existing residential low density classification, or perhaps, zoning the lots for a less intense non-residential use." The Planning Staff had recommended that the applicant consider a CPO Zoning (Commercial/Professional Office Zone) which permits businesses, professional and government offices, bank, savings and loans, investment companies, credit bureaus, financial institutions, real estate agencies, insurance agencies, and the like. The CPO zone essentially does not permit retail as it is a lower intensity commercial zone than the C-2A which was requested.

Mrs. Townshend further stated that the report that you have before you shows the uses that are permitted in the CPO zone. Again, with the rezoning, this property would continue to be subject to the COZ-1 (Corridor Overlay Zone). The applicant was provided the information regarding the C-2A versus the CPO zone and based on an email that was provided to us by Mr. Lucas, he indicated that at least on his part, they were amenable to the CPO zoning and the other applicants were copied in that email as well. We have not heard otherwise. The other agency DAC comments have been provided; however, nothing specifically related to the rezoning.

Mr. Lucas stated that the three (3) property owners assembled this property to have ample road frontage and acreage as it made sense and have agreed to downgrade to the CPO zoning which is less intense with more restricted hours and less intense traffic.

Mr. Nichols stated that he has a lot of reservations regarding this application as traffic is already horrendous. He is on Mifflin Road and Route 8 a couple times a day and at the easterly inside lane

before you turn into Mifflin Road there is a yield sign there. However, if you stop and watch fifty (50) percent of the people do not know what a yield sign means so they are coming around and in the mean time you have people coming down Route 8 that are turning at the same time and then the ones that are coming in off of the easterly lane want to go into Wawa or the bank so you have confusion of a lot of traffic in this area. There is a tremendous amount of traffic that is turning off of Route 8 onto Mifflin Road. He feels that the traffic is warranting it not being a commercial property.

Mr. Tolbert questioned if their plan was to develop this corner and tear down the houses? Responding to Mr. Tolbert, Mr. Lucas stated that this was correct.

Mr. Hemmig opened a public hearing.

Mr. Edwin Baker – 1526 Forrest Avenue – Stated that his concern is the traffic. If any of the Commissioners go out and look at this site, you will find that the only section of the road that does not get heavy traffic is the west side of Mifflin Road where those houses are. If you are coming east, there is the yield lane. If you are coming down Mifflin Road, and you are going to turn east, there is a yield sign. When you pull up to the red light and you try to look west, with the cars merging in and the other cars merging the opposite way, it is very hard to see the traffic. There have been numerous accidents already there. So to develop this into a commercial property is only going to compound the problem with the Wawa and the bank being there. He travels this road every day and it is very dangerous now. With the new school coming, it will compound it even more as these properties are torn down. Apparently, to have three (3) different owners to give up their properties to go commercial apparently, there is someone in the wings that may be building a good sized building there which is going to employ people which he realizes will develop more problems for the traffic. He would encourage everyone who has not seen this intersection to go look at it before you approve or disapprove because he feels that it is self-explanatory. Once an area is developed for that, as he has experienced tonight, they come back with other plans and he feels that this would happen. This concerns him as these properties are not that deep and with not knowing what is going there, it is hard to comment on. The traffic issue is going to be a major one and apparently the State has even commented on that. He feels that this is something that you should take a hard look at. He noticed that from Mifflin Road going east into Dover, there are a lot of properties that are available for commercial sites. His feeling is that he always thought that Mifflin Road was the stopping point for commercial expansion and it seems to have stopped there; however, it is trying to move forward west. It is a concern to him because he does have the property located at 1526 Forrest Avenue and believes that now, at quitting time, the traffic in the morning and afternoons is unbelievable. With the 10:00 am coffee break at Wawa, you can hardly get onto Route 8 from the Wawa site as everyone cuts through the bank to get out onto Mifflin Road because there is a red light there. He feels that this application should be denied and remain residential.

Mr. Bob Klewans – 24 Mifflin Road – Stated that he would like to address the concerns of the traffic. When he bought out there, there was not as much traffic. Traffic has come about not because of the commercial development of Wawa and the bank; traffic has come about because of the development on Hazletteville Road. Nothing was ever done in the planning stage to develop any road to connect Hazletteville Road with Route 8 to bring all of the traffic through. When you talk about Cannon Run (Mill), Eagles Nest, and Westover and all the other developments in that

area, they all come out and turn to go down Mifflin Road that is the traffic problem. When we went through this a couple of years ago, he sat and actually counted how much traffic actually turns in as opposed to how much traffic uses Mifflin Road as a cut through. Now, the City, or whoever had the power allowed the high school to be built there. Surely, the State is going to do something with the roads. He agrees with what they are saying about the traffic; however, whether you put an insurance company there or a bank that is not going to create a traffic hazard. The traffic hazard is already there and the coming of the high school and a new set of apartment buildings coming out on Route 8 is even going to add to it. They are going to have to widen Route 8 and the turn lane will probably cease to exist or be moved farther into the properties. He does not understand how a building on that corner is going to add that kind of traffic as the traffic is already there. If you have the apartment building, how many cars are you going to have with that apartment building and those people getting in their cars and driving places? He agrees with Mr. Baker, Mifflin Road is the end of the commercial line. When he moved out here, the end of the line was sort of Kenton Road as there was no Wawa or McDonald's. These are all new things. This is the way that the City is moving and this is progress and the fact that there are more and more commercial buildings moving westward is just the way that it is. He would ask the Planning Commission to look at the realities of what is going on out there and also what is going on as far as the movement of commercialism and residential as well. His property located at 24 Mifflin Road. When you say it is on Mifflin Road, it goes back no further than the current WSFS building on Mifflin Road. It is not as if we are going into Mifflin Road and extending the traffic.

Mr. Thomas Byrns – 1514 Forrest Avenue – Stated that after we got together the last time, he went home and looked out his front window and he looked at Route 8 and he said "well a lot of things have changed." Then the State came back and said to think about other properties. This was one of the concerns last time we were together too about how far the commercial was going to come. To him, in looking at the map, he is not familiar with what the Corridor Overlay Zone is; however, he went back and took a look at the Comprehensive Plan. The Comprehensive Plan seemed to want the west side of Mifflin Road as well as the whole corner involved in the City corporate. To look at the map, it almost seems like, if in fact, we will commercialize this corner then why not bring it right up to where the natural break is which would be at 1522 Forrest Avenue. This would be a natural break for the corner, not that he and his wife are willing to leave their property because they have been there for so long; however, if it seems like the properties that they are looking at right now. We know for a fact that Bonnie and Pete have moved, the house next to him is a rental property. We are the people who actually live in this house and we pull out onto Route 8 everyday just like the folks behind us. So to look at the plan, he is not in favor of just doing the corner there; however, if you bring it up to the natural break where it would be at the end of 1522 Forrest Avenue, which makes sense.

Mrs. Carol Candor – 24 Mifflin Road – Stated that she lives and has lived for the past eight (8) years at 44 Courtside Drive, B-12 which is a condominium where she lives on the first floor of the B building which out her porch she can see the Lucas property and the Reidy property. Until six (6) months ago, she worked at the hospital so she drove back and forth from 8:00 AM in the morning until 4:30 PM in the evening and the traffic is bad in this area. However, she is hoping that with the high school and if the corner of Mifflin Road becomes commercial and if a physician's office is there or something like that then the lanes will be widened because this is not a developed corner. It is because the roads at this intersection that she can hear the screeches and the accidents because the street is not developed at this corner. There might be a stop sign there. She walks back and forth to

Mifflin Road because she has friends that live on it and it takes forever when you push the button to walk across the street. She too remembers when she first lived at Mifflin Road and she looked out the kitchen window and saw across the street where it was a nice green treed property. She thought the end of the commercial was Greentree Plaza Super Fresh and thought that this is where it was going to stop. Then Wawa came and then moved to where the house used to stand next to Wawa and then the Wawa moved there and then WSFS went up. Now she looks out on Route 8 and she sees the Royal Farm complex at Pearsons Corner and she sees the school. She does not think that you are going to be able to say this is where it stops. Mifflin Road is within the City limits and she does not believe that the Bakers and the Byrns are within City limits. However, they could have chosen to be within the City limits; however, they did not so she really does not think that they have a say about what goes on with the City of Dover plans for this area.

Mrs. Bonnie Reidy – 4 Mifflin Road – Stated that she looks around the room here and there is no one here from Mifflin Road except for the few of us who are requesting this rezoning. We have been here a very long time on Mifflin Road and have been considered the country because no one even wanted to drive out of Dover to come out here because it was so far out. It is all melded together just like the rest of the City in all different directions. The traffic is ridiculous as we cannot even get out of our driveway at times. It is not fit for young children to be driving around here. Thankfully, all of my children have all grown up and are gone before it got so bad where accidents occur here all the time. Outside last Friday night, she and husband were standing outside working on a car; the noise and exhaust fumes are not even meant for residential of any kind. It is absolutely horrible being outside any time of the day on that corner or on that road for that matter. She used to walk up and down Mifflin Road just for exercise and she wouldn't dare do that anymore. The traffic is not going to go away; it is only going to get worse especially with Dover High School coming in. With property entrances and exits as might occur with the rezoning, that would take care of a lot of the problems that are happening now such as the accidents that are occurring normally on that corner. Besides the fact that people think that they are supposed to be doing 50 MPH coming down Route 8 where it is 35 MPH. Rezoning would solve the lane problems as it is not fit for residential life. She would like you to consider changing the zoning for these properties especially since it is in the Corridor Overlay Zone where at once someone did consider this might happen.

Mr. Pete Reidy – 4 Mifflin Road – Stated that they have been in this house for roughly twenty-eight (28) years. The shopping center where Super Fresh is when they moved in was under construction. Technically, the commercial line was the railroad twenty-eight (28) years ago. For someone to say that you cannot go commercial when there is commercial property across the street from us with a horse farm behind them where they board horses, as far as he is concerned, that is a commercial piece of property from one perspective to another. The traffic can be addressed. It may take roads. It may take lanes and exits and entrances played around; however, it is an area that can be addressed. He thinks that it is ridiculous to think that commercial property would need to stop at the Wawa.

Mr. Hemmig closed the public hearing after seeing no one else in the public wishing to speak.

Mr. Ambruso stated that Mifflin Road has evolved into what it is today to be something that it always was intended to be and a lot of people just do not realize it. Mifflin Road was the feeder road for the Hazletteville Road years ago. A contractor came along and bought a lot and built a

home on it and it sold, then he bought another lot and before you know it he had built three (3) or four (4) nice homes. Then other people got the idea and even though it is very pretty, that was intended to be a feeder road. Somehow or another, it got away from City Council over the years and one at a time they allowed a lot to be built and you now have the Mifflin Road that you have. It is absolutely gorgeous but this road was intended to be a feeder road for Scott Paper and General Foods.

Mr. Tolbert stated that he would raise a question. With regards to going on at length raising the concerns of traffic and other things, the issue before us this evening is just the rezoning and our recommendations to City Council. Responding to Mr. Tolbert, Mr. Hemmig stated that this was correct. Once the zoning is changed and they come back with a plan, all of these issues would be addressed at that time of Site Plan approval.

Mr. Tolbert moved to forward to City Council a recommendation to approve Z-12-01 Lands of Reidy, Lucas and Klewans located at the southwest corner of Route 8 and Mifflin Road as recommended by Staff to CPO (Commercial Professional Office) and to retain the COZ-1 (Corridor Overlay Zone) with the general reason for approval is the Staff recommendation and the fact that City Council amended the Comprehensive Plan as the land use classification of commercial combined with the public testimony, seconded by Mr. Baldwin and the motion carried 5-1 with Mr. Nichols opposed and Mr. Holt, Mr. Friedman and Colonel Welsh absent. Mr. Nichol's reasons for opposition are noted in his earlier comments.

C-12-01 Lands of Cornelia Jones Building Partnership at 223 South State Street – Public Hearing and Review of a Conditional Use to allow for the use of the existing building as a multiple dwelling (a building containing more than two dwelling units). The parcel is zoned RGO (General Residence and Office Zone). The property is also subject to H (Historic District Overlay Zone) and SWPOZ (Source Water Protection Overlay Zone). The property is located on the east side of South State Street south of Loockerman Street. The owner of the property is Barrister Properties T/A Cornelia Jones Building Partnership. Address: 223 South State Street. Tax Parcel: ED05-077.09-05-04.00-000. Council District 4.

Representative: Mr. R. Brandon Jones.

Ms. Cornwell stated that the property is looking to propose up to three (3) dwelling units within the existing building. The existing building currently has one (1) residential unit that was formerly used as an office space for the adjacent lawyer's office. They are proposing up to three (3) residential units within the building. The site has the required parking as they have a parking agreement with multiple property owners as to who can use the parking between the church and the other property owners in the area. They are meeting all the other requirements and the other agencies reviewing this application have provided their recommendations in the DAC Report.

Mr. Jones stated that this building is located across the street from the Schwartz Center and was a home for over 100 years. In the last twenty (20) years, Hudson, Jones, Jaywork and Fisher has grown and expanded into it. We occupy three (3) buildings as offices and when the recession hit, we decided to downsize to two (2) buildings. We are trying to lease this building out for commercial use until we are ready to expand back out. The reality of life is it is very difficult to lease space in this area as no one is excited about it since it sat vacant for over a year not worth anything to anybody. We decided

that it made sense to take it back to its original use which was residential for a while until we expand back out.

Mr. Jones further stated that they met with the Planner and the Fire Marshal and they understand the things that are needed for us to do to shift it over to residential use for the time being. We also understand the steps that we would have to take to move it back to commercial once we are ready to move back into it. We do not know what the timeframe will be for that. We are trying to make use of the building until such time that we move back into it.

Mr. Nichols stated that apparently there is plenty of parking. Responding to Mr. Nichols, Mr. Jones stated that yes there is. We have an agreement with the church between the two buildings that wraps around.

Mr. Nichols questioned if the second building is this tied across there now into that building, isn't there a walkway there? Responding to Mr. Nichols, Mr. Jones stated that they have firewall doors there that lock both ways so that they cannot be accessed either way; however, there is access.

Mr. Nichols questioned how many apartments they expect within this? Responding to Mr. Nichols, Mr. Jones stated that up to the first, second, and third floor if we take it in stages. It would make sense to go with just one on the first floor and one on the second floor.

Mr. Hemmig opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mr. Ambruso moved to approve C-12-01 Lands of Cornelia Jones Building Partnership located at 223 South State Street for use as a multiple dwelling with all DAC comments of record, seconded by Mr. Shomo and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman and Colonel Welsh absent.

C-12-02 Lands of Paula Kinsey at 224 North State Street – Public Hearing and Review of a Conditional Use to allow for a restaurant specifically a tea house on the first floor of the house as an accessory use incidental to the principal residence. The parcel is zoned RG-1 (General Residence Zone). The property is located within the Victorian Dover Historic District of the National Register of Historic Places. The property is located on the west side of North State Street south of Mary Street. The owners of the property area George and Paula Kinsey. Address: 224 North State Street. Tax Parcel: ED05-068.17-02-49.00-000. Council District 3.

Representative: Mr. & Mrs. Paula and Randolph Kinsey, Property Owners.

Ms. Cornwell stated if you recall, not too long ago the Commission adopted a Text Amendment to allow this and a few other accessory uses into the RG-1 zoning classifications so this will be the first application that you see of this kind. What this does allow for is a restaurant, specifically in this case a Tea House, to occupy no more than 2,000 square feet of the floor area. In this case, they will be occupying around 800 square feet which is the first floor of the house.

Ms. Cornwell further stated that they are providing two (2) off-street parking spaces which are located around the back of the property off of the alley. The other agencies reviewing the application have provided their comments.

Mrs. Kinsey stated that her application is limited Conditional Use which means that it is not a typical restaurant; it is more to the liking of a bed and breakfast. A Tea House serves finger sandwiches, desserts and tea. A Tea House is in comparison to a restaurant as comparing a bed and breakfast to a hotel. They are one in the same; however, very different. She is 66 years old and she cannot take care of a restaurant that is why she asking for Conditional Use that would be from Wednesday through Saturday for four (4) hours a day. A Tea House is allowed to serve breakfast usually from 6:00 AM to 11:00 AM. They serve what they want to serve; they are not regulated. They can feed up to 18 people and she is requesting 15. She feels that it would be a great service for Dover to have an opportunity to provide a house for the ladies here in Dover as well as the surrounding areas. She has approached people in ten (10) different municipalities and twenty-six people have signed up that they would like to come to her Tea House. Also, the Tea House in Milford, which most people are familiar with, closed Saturday. She feels that the closing of that will bring many people to Dover. Once the girls get out shopping and having a good time they like to stop in the different stores. She feels that it would bring a lot of business to Dover and she also thinks that the Tea House would help to make Dover a place that would be more a suitable place to live and visit. She feels that the Tea House would be an asset to Dover and would also help Dover to become the potential that it has to be as one of the top ten cities in the US and she thinks that she can help with that.

Mrs. Kinsey walked around with some photographs of what the first floor tea rooms would look like.

Mr. Tolbert questioned what they would be serving for food? Responding to Mr. Tolbert, Mrs. Kinsey stated that she would be serving finger sandwiches which are like a peanut butter sandwich or a cream cheese sandwich with strawberries on it or watercress, or cheese sandwiches with slices of cake and cookies. The finger sandwiches have no meat on them.

Mr. Tolbert questioned what the hours would be? Responding to Mr. Tolbert, Mrs. Kinsey stated from 11:30 AM to 4:30 PM four (4) days a week Wednesday through Saturday; however, she will say she would also like the approval to be open on Old Dover Days and for the Christmas Candlelight tour in which her house always participates in.

Mr. Nichols stated that the parking you have is in the rear of your property. Responding to Mr. Nichols, Mrs. Kinsey stated that she has three (3) parking spaces and her garage.

Mr. Nichols further questioned that you would be using State Street as customer parking? Responding to Mr. Nichols, Mrs. Kinsey stated that yes they would be using State Street for parking. Also, there will be reservations for seating with three (3) seating's a day: one at 11:30 AM, 1:00 PM, and at 2:30 PM. So it limits the amount of people that is coming as it is all done by reservations.

Mr. Hemmig opened a public hearing.

Mr. Mike Hall – Manager of Bed and Breakfast at 228 N. State Street – Stated that he and his wife enthusiastically and whole heartily are looking forward to the Kinsey's Tea for Two Tea House being next door to us.

Mr. Hemmig closed the public hearing after seeing no one else wishing to speak.

Mrs. Townshend stated for the Record, you have two (2) letters in your packet. One from Mike and Yvonne Hall located at 228 N. State Street which is in support as you have heard from Mr. Hall. You also have a letter from John & Nancy Gardner located at 213 N. State Street and they are in support of this request.

Mr. Hemmig closed the public hearing after seeing no one else wishing to speak.

Mr. Tolbert moved to approve C-12-02 Lands of Paula Kinsey located at 224 North State Street as a Tea House with the DAC comments of record, seconded by Mr. Shomo and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman and Colonel Welsh absent.

S-12-02 DelTech Science and Engineering Technology Building Addition – Public Hearing and Review of a Site Development Plan to allow for the construction of a 4,178 S.F. addition to the existing Science and Engineering Technology building on the campus of Delaware Technical & Community College: Terry Campus. The subject parcel of land is zoned IO (Institutional/Office Zone). The property is located on the west side of North DuPont Highway north of Scarborough Road. The owner of record is State of Delaware - Delaware Technical & Community College. Address: 100 Campus Drive. Tax Parcel: ED05-057.00-01-01.00-000. Council District 4.

Representatives: Mr. Tim Skavicky, Tetra Tech Architects; Mr. Bill Ayiers, Delaware Tech; and Mr. Keith Kooker, Landmark JCM.

Mrs. Melson-Williams stated that this building addition is very close to the one that you approved back in April of last year for a building addition. With this addition, the building would be 52,698 square feet. Overall, there are a number of things that are looked at campus wide for this project. Parking is calculated based on the overall square footage of all the buildings on the campus and including this building addition that means the campus is required to provide 954 parking spaces and they actually have 1,282 parking spaces in existence on campus. They are considered an existing condition and are allowed to continue to be there even though our Ordinance now has some parking maximum thresholds. With this project, there are no changes to the parking provided on campus or to any additional loading spaces. The building itself has a service side to it where loading and dumpsters already exist for the building overall.

Mrs. Melson-Williams further stated that the building addition is to the south side of the building and will have its own entry and sidewalk linkage into what is the sidewalk network that exists for the campus in that area. With the campus overall, previously with the last application you addressed parking for bicycles campus wide and set that threshold for the campus. So on campus there is a total of thirty-four (34) bicycle parking spaces which would be in compliance with the code.

Mrs. Melson-Williams further stated that with this project, Staff looked at a Landscape Plan with this building being located in what is known as Phase II area of the campus. The Phase II has an overall area landscaping requirement. For this project as a defined project area, we judge the tree planting compliance for that specific area. The majority of the Phase II area on campus is actually undeveloped at this point so we felt it was more appropriate to do a designated area and judge the tree planting compliance with the area immediately surrounding the building. With that, they are going to

be planting several trees in the area in order to meet the compliance of the tree planting. There are fifty-seven (57) trees that are required and they will be planting eighteen (18) new plantings in the area.

Mrs. Melson-Williams further stated that the building addition itself from an architectural standpoint follows the one story concept of the rest of the building and continues the use of brick. It has a curtain wall system to bring light into the entry area doors of the building. It does have a roof element which is a mechanical systems for the building; however, it has a screening element around them very similar to what already exists on the building itself.

Mrs. Melson-Williams further stated that with this project, there are no waivers to consider. The application itself includes the comments provided by the other agencies including the Electric and Public Works Departments, Fire Marshal's Office, DelDOT who had no comments because it is interior to the campus itself with no new entrances to the campus onto State roads, and a sediment and stormwater management plan will be required working through DNREC for the site.

Mr. Kooker stated that they have reviewed all of the DAC comments of record and have no objection to them.

Mr. Nichols questioned why DNREC took over this project from the Kent Conservation District? Responding to Mr. Nichols, Mrs. Melson-Williams stated that the property is considered State owned property and with any State owned property the stormwater management planning is subject to DNREC review.

Mr. Hemmig opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mr. Ambruso moved to approve S-12-02 DelTech Science and Engineering Technology Building Addition with all DAC comments of record, seconded by Mr. Tolbert and the motion was unanimously carried 6-0 with Mr. Holt, Mr. Friedman and Colonel Welsh absent.

Meeting Adjourned at 8:40 PM

Sincerely,

Diane Metsch
Secretary