CITY OF DOVER PLANNING COMMISSION
QUARTERLY WORKSHOP
May 17, 2017

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Wednesday, May 17, 2017 at 12:00 noon. Members present were Mr. Roach (arrived at 12:11 PM), Mr. Holt, Mr. Baldwin, Ms. Maucher and Mr. Tolbert. Mr. Holden, Ms. Edwards, Dr. Jones and Mrs. Welsh were absent.

Staff members present were Mr. Hugg, Mrs. Harvey, Mr. Diaz and Mrs. Mullaney.

Mr. Hugg stated that he kind of met everyone at the Planning Commission meeting held on Monday night. He is the Interim Planning and Community Development Director and the Director of Parks and Recreation. He used to do this for a living many years ago and then became the City Manager (of Smyrna) and promptly forgot all of the planning that he ever knew and is now having to learn it all over again.

DEPARTMENT OF PLANNING AND INSPECTIONS UPDATE

Summary of 2017 Applications

Mr. Hugg stated that this spreadsheet in is the packet.

Current Studies and Projects

- **Regional Bicycle Plan**

Mr. Diaz stated that they now have a Draft Plan that addresses two major goals. One goal is to improve the bicycle network in the City and in the County. The other one is to improve the ordinances, policies and programs that affect biking and that are held by the City and other agencies. The objectives are to increase the viability of bicycling as a solution for a daily need; to create an environment where all bicyclists and motorists know and follow the rules of the road; to promote bicycle transportation and to increase the availability of bicycles. The consultant on the project has asked for feedback from various agencies and they submitted that last week. Their next meeting on the Plan will be May 23, 2017. At that meeting, they will discuss the changes that everyone requested to the plan and will start moving towards a Final Plan. In addition to the agency comments, there will also be a public review period.

- **Downtown Parking Study**

Mr. Diaz stated that our consultants for this project have been working on various alternatives for what can be done to address the parking problem. Some of their suggestions so far are for streetscape improvements in the vicinity of the parking lots to make the walk from the parking lots to Downtown businesses feel safer. They are proposing a rebalancing of the amounts of permit parking spaces versus free two-hour parking spaces and paid meter spaces. There may be a restructuring of the fees for parking as well. The start on the higher end of the possible options there is re-configuration of the parking lots themselves. The most intensive possible recommendation would be to build a parking garage. There will be a public workshop to discuss these alternatives on May 31, 2017 in the Dover Public Library from 5PM-7PM.

Mr. Tolbert questioned if there was opposition to the parking garage? Responding to Mr. Tolbert, Mr. Diaz stated hopefully not.

Mr. Tolbert questioned what size garage was being discussed? Responding to Mr. Tolbert, Mr. Diaz stated that it hasn't been decided yet. He thinks that's if it were to be built it would be built where the Bradford Street parking lot is right now.

Ms. Maucher questioned if the draft study was available? Responding to Ms. Maucher, Mr. Diaz stated that he has a copy and he can ask the parking consultants if he can make it available to the Commissioners.

Ms. Maucher further questioned if it was going to get published? Responding to Ms. Maucher, Mr. Diaz questioned if she was referring to the Draft Plan for the Bicycle Plan?

Ms. Maucher stated that she was referring to the study for parking. Responding to Ms. Maucher, Mr. Diaz stated that there isn't a draft plan that has been written for the Parking Study. There is a presentation that the consultants gave to the Parking Committee last month and he can make that available.

Ms. Maucher questioned if they actually make recommendations or is it just a list of recommendations to be considered? Responding to Ms. Maucher, Mr. Diaz stated that they are working on the recommendations right now and the public meeting is when they will have the full list available.

Mr. Hugg stated that the public meeting will be on May 31, 2017 at 5PM. They have done some analysis of the existing lots in terms of the total number of spaces, the number of reserved and permitted and two-hour parking spaces. There are like four different classes of parking places in most of the lots.

Ms. Maucher questioned if it was a City list that they look at or are they looking at private lots? Responding to Ms. Maucher, Mr. Diaz stated that they are looking at City lots and also public on-street parking.

Mr. Roach questioned if they had done an analysis to see what would be most efficient way? Responding to Mr. Roach, Mr. Hugg stated that he doesn't think that they are there yet. Hopefully we will learn more on May 31, 2017.

Ms. Maucher questioned if that would be the only public input meeting? Responding to Ms. Maucher, Mr. Diaz stated no; there will be more meetings but they haven't been scheduled yet.

Ms. Maucher stated that she is just curious on the process because it's just surprising that they need to have a public meeting for something that hasn't been made public yet. Responding to Ms. Maucher, Mr. Hugg stated that they can certainly share the presentation to show what their objectives are and some of this background research that they had already conducted. He can report that a question came up in the Downtown Dover Partnership's Economic Development Committee meeting this morning as well. One of the underlying concerns is that parking garages are extremely expensive. They run $20,000-$30,000 per space and there's really no favorable economics unless you charge everybody to park everywhere Downtown so that becomes a choice. You aren't going to pay $2, $5 or $10 to park all day in a parking garage if you can find an alternative that's either free or at a much lower cost. You start from the premise you want it to be physically self-supporting.

Ms. Maucher questioned if there was any notion of charging people to park as that can have a lot of angst in the development.

Mr. Tolbert questioned why this was so costly? Responding to Mr. Tolbert, Mr. Hugg stated that he guesses because every floor has to be a load bearing structural floor. You start out by putting fifty cars on a concrete pad with each car weighing about 3,000 to 4,000 pounds then you start to get some pretty heavy loads of vehicles. He has seen parking programs that incorporate parking garages work really well when all of the parking is for a fee. A lot of municipalities have gone to a machine where you type in your license plate and pay by credit card to buy so many hours of parking. They work really well and they are fairly efficient in terms of cost to operate. In that context, the parking garage is an alternative; particularly it's a little bit cheaper. For an example, in Pittsburgh the on-street parking costs you $3.00 for 2 hours and he can't remember what is was for the entire day but it was cheaper to park in the parking garage all day than to park on the street. It wasn't cheaper to park short term in the parking garage so they had figured out that if you're an employee then you would probably park in the parking garage because on a daily basis it's a couple dollars a day cheaper. In that case, every space in the whole downtown was a fee space.

Ms. Maucher questioned if there were any meters in Dover? Responding to Ms. Maucher, Mr. Hugg stated that some of the lots have metered spaces.

Ms. Maucher stated that she thought that they were paid permit spaces in the lots? Responding to Ms. Maucher, Mrs. Mullaney stated that the Loockerman Way lot has metered spaces and the Bradford Street lot has metered spaces. It's not many but it's close to ten spaces in each lot. You pay $1.00 a day.

Ms. Maucher stated that she believes that it would be a culture shock for the people of Dover to start paying for their parking.

Mr. Holt questioned if the metered spaces are always filled up? Responding to Mr. Holt, Mr. Hugg stated that he wasn't sure. Someone told him that a couple of lots never reach more than 70% capacity.

Mr. Diaz stated that the ones that don't reach full capacity now are the ones that are furthest to the west. Both the metered spaces in the Bradford Street lot and the Loockerman Way lot do tend to fill up.

Mr. Holt stated that there is parking Downtown but he thinks that it's just a matter of knowing where to park. The people who aren't familiar with Downtown can get frustrated trying to find a place to park. He has never had any trouble finding a place to park. People have the tendency to think that they can shop Downtown like they shop the Mall and it doesn't really work that way. They will park at the Mall and then walk quite a ways to get into the Mall and then when they get in the Mall they have to walk a lot more. But when they talk about Downtown they want to be able to park right in front of the store. He thinks it's a perception. Responding to Mr. Holt, Mr. Hugg stated that one of the suggestions that came up this morning and it will go to the Parking Committee is to make all of the parking Downtown free. To do away with all of the permits, reservations, metered spaces and let it all be free. He suspects that after a week or two that would probably turn out to be more effective than this hierarchy of permit spaces in lots. He

won't use the Bradford Street lot because he can't figure it out. You pull in the lot and see signs for permit spaces, metered spaces and reserved spaces. At some point, it becomes too confusing and people try to find a space on the street to park.

Mr. Tolbert stated that it's one of the concerns at the Mall. All you do is drive in and find a parking space; you don't pay for parking. Responding to Mr. Tolbert, Mr. Holt stated that you still have to walk.

Mr. Roach stated that Mr. Hugg is talking about the access to specific spaces. Like he said before if you pull into one of the lots Downtown you have to turn around and get back into traffic to find somewhere else to park.

Mr. Holt stated that he thinks the free parking would be the way to go as a good first step to see what happens. It would be easy to do and they could just see what happens the first month or two to see if people like it or if you get a lot of complaints.

Ms. Maucher questioned if that would also be for the 2-hour parking Downtown or just the permits and the meters? Responding to Ms. Maucher, Mr. Hugg stated that the discussion this morning was to make the whole thing free. In Smyrna, when they re-did part of the main street, they deliberately did not put any parking spaces back on the street. He just simply said this is where you can't park and the rest is open to anyone. Not only did it work out okay but they got more cars parked in that same area because when there weren't lines people tended to park closer to each other. They probably picked up a half a dozen car spaces just be default because you don't need twenty-two feet to park your car but that's how the spaces were marked before.

Mr. Holt stated that the free parking option would be good to try. If you start getting complaints then some changes can be made.

Mr. Tolbert stated that the way he looks at it is that parking and upscale stores are what are required to attract people to the Downtown area. They still have some work to do with making the stores more upscale and attractive to encourage people to come to Downtown.

Mr. Hugg stated that he expects that we pay more to pay the salaries of meter readers and parking ticket people than they earn in the course of a year. It probably doesn't pay to have the meter spaces in the first place.

Mr. Tolbert stated that if it's not free it's going to be a hindrance because the Mall is free and the stores are pretty much upscale.

Mr. Hugg stated that he knows that recommendation will be coming from the Downtown group on May 31, 2017.

Updates of Program and Plan Activities

- **Downtown Development District Program**

Mr. Hugg stated that they did get approval for a very slight expansion of the District. He can't remember the streets but they picked up a handful of properties near the Legislative Hall area. They continue to get projects coming in the door. They still find that there are a lot of people who don't know about the incentives that are available. They had one person show up the other

day who had come in to get a Building Permit and then two days later came in to ask how to get the waiver of Building Permit fees. So they lost an opportunity simply because they didn't know. We have plenty of brochures and all kinds of things in the lobby.

Ms. Maucher questioned if the customer doesn't ask for the incentive then they don't get it? Responding to Ms. Maucher, Mr. Hugg stated that they have to apply and unfortunately the way that particular provision is written is that the Building Permit fee waiver request has to take place before the permit is actually issued. There is not a provision for a reimbursement. That's something that they will take a look at.

Mr. Roach stated that the City should be giving the information about incentives to the customer.

Mr. Hugg stated that there is still some confusion as to who has what incentives because there City of Dover incentives, Downtown Dover Partnership incentives and there are State and County incentives. The timing of each of those is different in that some of them you can get upfront like a Building Permit fee waiver but some of them you have to complete the project first in order to get the incentive. That gets a little complicated to explain to people.

Ms. Maucher questioned if there was any effort to streamline incentives and application processes? Responding to Ms. Maucher, Mr. Hugg stated that it's on their list to try to figure out a simpler flow diagram or something so that people know that what that process is and who they talk to. The City can't issue the State incentives and the State can't issue the City incentives so you do end up having to go to a couple of different people. People come in asking how to get their State tax credit and we have to send them to the State Housing Authority because that's who administers the program.

Mr. Holt stated that the real estate people should be schooled on that. Responding to Mr. Holt, Mr. Hugg stated that they should and that's a good idea. Maybe they need to reach out to some of the lenders and Realtors. Maybe they could send them some information just so they are aware of the incentives.

Ms. Maucher stated that she's surprised that they don't already have the information about the incentives. Responding to Ms. Maucher, Mr. Hugg stated that they might but it just seems that periodically they bump into someone who doesn't know about the incentives.

Mr. Holt stated that a good real estate person should be up-to-date on that information. We should just make sure that all Realtors are aware of the incentives. Responding to Mr. Holt, Mr. Hugg stated that he thinks that's a good idea. They can at least send out brochures and things saying that if they are doing business in Downtown Dover that they tell customers about the incentives.

- **Restoring Central Dover Community Plan**

Mrs. Harvey stated that right now she thinks that they are in a process of building twenty plus homes in the Downtown Restoring Central Dover area. If you have been down Kirkwood Street lately you can see all of the new houses in that area and they are all owner occupied and full at this time. NCALL plans to build ten new homes and Milford Housing Authority plans to build some as well. They are really doing great work in that area downtown. Last month, they shot a video highlighting the area. They interviewed new home owners, the Mayor did a speech and

they interviewed existing homeowners as well. They are looking to promote that sometime next month and they are working on a marketing plan now. They've looked at Facebook, YouTube and they are trying to get a PSA.

Mr. Tolbert questioned if this was Affordable Housing? Responding to Mr. Tolbert, Mrs. Harvey stated yes.

Mrs. Harvey stated that she does have to promote the City's Homeownership Program. $20,000 is available to first time home buyers.

Mr. Holt stated that when buying a house there is a lot of up-keep. Responding to Mr. Holt, Mrs. Harvey stated that these are brand new homes and also in the Downtown area they are working on doing emergency home repairs and those are free because they have grant money to do that. So for the older homes in the neighborhood, to keep up with the look of the new homes they are doing some work on those too.

Mr. Tolbert questioned if she knows what the requirements are to be eligible for that? Responding to Mr. Tolbert, Mrs. Harvey stated that you have to be qualified based on income and family size.

Mr. Tolbert further questioned if it's for interior and exterior work? Responding to Mr. Tolbert, Mrs. Harvey stated that right now it's just exterior. They may be looking into doing interior work as well but they have a statewide agency program. Milford Housing Authority got the grant; it's a huge grant and it's statewide. She can provide the Commission with the contact number if you need work done to your home if you are eligible.

Ms. Maucher stated that there is also the Weatherization Program and the Sustainable Energy Program also runs a Pre-Weatherization Program so if you are deferred for weatherization because of a leaking roof they will pay to have your roof repaired and then they can go back into the Weatherization Program.

EDUCATION AND TRAINING OPPORTUNITES

IPA Planning Education Series 2017

- **Planning 201: Creating a Flood Ready Community to be held May 19, 2017, 9am to Noon at Paradee Center**

Mr. Hugg stated that there is another training being offered. If anyone wants to go please let Staff know so that they can register you for the class.

Mr. Tolbert questioned what they would be doing to get a community flood ready? Responding to Mr. Tolbert, Mr. Hugg stated that the determination of flood risk is done based on what the projected 5 year, 50 year and 100 year flood potentials are and that's based on historical records about rainfall. The Flood Ready Community initiative looks at things that the City and homeowner or business owners can do to ensure that if there is a flood that it doesn't come through the windows in the basement and that you elevate the foundation of new buildings so that you are above the expected flood damage. In some areas it goes as far as storm shutters and those kinds of things. It really talks about how you prepare for the flood and protect yourself from the damage. He doesn't know whether this session will get into it or not but one of the key

issues that communities often get faced with is what do you if you do have the flood? If there is a lot of damage you have huge piles of damaged materials. Where do you take them? You have people without water, sanitation and electric. How do you deal with those issues? The downside in most cases is that the first responders do a really good job but by day three or four when someone is trying to dry out their house that's gotten wet, there are no services available to them. Or the grocery store hasn't reopened because it got flooded or the gas station isn't back in service yet. Those kinds of things tend to get out there on the outer edge.

Mr. Tolbert questioned if Dover was a high risk flood area? Responding to Mr. Tolbert, Mr. Hugg stated that he doesn't think it's a high risk but there are some areas such as Water Street and the north end of Silver Lake.

Mr. Holt stated that one of the big problems is that people try to go through the flooded areas on the roadway and they get caught in the car and drown because they can't get out of the car. There is a saying "Don't drown, turn around." He doesn't know about here but out in Texas and Arizona they have real problems.

PLANNING COMMISSIONER COMMENTS AND CONCERNS

Mr. Holt stated that he thinks that the Commission is doing a good job.

Ms. Maucher stated that her comment probably relates to the next topic.

Mr. Hugg stated that when he was hired he was given two tasks. He was hired as a consultant and task one was to make sure the Planning Office and Inspections Department continued to operate as far as permits being issued and decisions being made in terms of the day to day operations. There was a sub-note to look at who they do business to see if there were places where they could improve by either adding efficiencies or better serving the customer. That ranges from just cleaning up the clutter in the front lobby to more. If you haven't noticed, slowly but surely the front office is becoming more welcoming and less cluttered.

Mr. Tolbert stated that he noticed that the table with the brochures was very appealing.

Mr. Hugg stated that last night most of the paper near the copier went somewhere; he doesn't really want to know where. They are looking at some signage and things to give a more positive appearance. We are also getting panic buttons for the three ladies out front so that if they are dealing with a customer that gets a little unruly they just have to touch a pendent or something to call for police. It concerns him because in this day and age they are really vulnerable. So those kinds of things are being done and at the other end they are talking about maybe adding some access to the public by either phone or email to track their permits so that they don't have to call someone. They have at least put it on the bulletin board. Could we move to paperless applications? Could we move to different ways to take payment? There is a lot of discussion going on about time periods that it takes to get through the Planning stuff.

The other assignment was to try and get his arms around this "anti-business" image that seems to prevail in Dover and even more directly, whether it's right or wrong, his department had earned the nickname of "the department of no." Mrs. Townshend has the "Queen of no" amongst both Council people and a lot of the development community. He doesn't know if that's fair or not fair and he doesn't even want to get into that discussion. So moving forward with this second

assignment, he very early on went to the Downtown Partnership and others and asked them to tell him what was going on and what was bothering them. He asked if there are things that they can maybe tweak or make some adjustments to that will make life easier for all of us. This created an informal sub-committee of the DDP, a "business friendly working group." It's mostly Realtors and developers with Mr. Gregg Moore from Becker Morgan is kind of the Ad-Hoc Chair. Mr. Phil McGinnis and Mr. Todd Stonesifer attend and some of these people that are doing business in Downtown or in the City generally. He asked them to tell him what they think needs to be fixed. He wasn't going to guarantee that they were going to fix it but if there are things that we can tweak then we will. He did promise them that sometime in July or August, they are going to go back to Council with a housekeeping ordinance just to clean up a bunch of little things that he knows are a pain in the butt that are in the *Zoning Ordinance* or the *Subdivision Ordinance*. They ran into one this morning where a lady has a bucket truck and the bucket truck is licensed at 31,000 pounds. Our Ordinance states that you can't park any vehicle with a carrying capacity of more than 1 ton in a residential neighborhood. If you know anything about a bucket truck you know that you probably can't carry 1 ton in a bucket truck because the truck is the chasse, the frame and the bucket. So she is arguing because she got a citation that the truck can't carry 1 ton worth of stuff which she is probably right but it's licensed at 31,000 pounds. There was an issue the other day where there are two different provisions dealing with professional home occupations. One of them allows signs and one doesn't. The section of the Ordinance that fit best listed like six different types of professional offices but not tax accountant. The clear reading of the Ordinance was that you can't have that type of office if it's not listed. It didn't say "such as" or "including but not limited to" so they had to make a determination. They are going to go through it as much as they can and try to find as many of those instances as they can.

DISCUSSION OF POTENTIAL *ZONING ORDINANCE* AMENDMENTS

Mr. Hugg handed out a bunch of documentation not because he wants the Commissioners to act on it today but because he wants everyone to think about it and help him figure it out. One of the three documents is some advice from Mr. Bill Pepper as you can see when looking through. The Commissioners may be more familiar as to why some of these things are in the Ordinance than he does yet. For example, there are restrictions on the maximum number of parking places that you can have. He appreciates that we don't want acres and acres of parking but for some classes, for example restaurants, that's becoming a major hindrance because if you look at how the Ordinance works, Starbucks couldn't have enough parking places to have a Starbucks and meet Starbucks' national standards. It just seems to apply to a lot of food places that that the restriction is actually discouraging people from coming to town. The question is do we eliminate the 125% cap and see what happens? Do we try and write a provision that is more limited and deals with certain classes of uses to recognize if you are a Mission BBQ or something you are going to try to maximize the number of parking spaces.

Mr. Holt stated that the calculation is based on the number of seats in the restaurant. Responding to Mr. Holt, Mr. Hugg stated that if you think about a Starbucks, there are only probably ten seats in a Starbucks. There is a drive through component, the drive-in component where the person gets out of the car and goes in to gets the product and then you have people who use Starbucks as an office. If you only say based on ten seats then you don't get enough parking to meet all of those requirements combined and that's where the rub is starting to happen. That's an area that they have asked Staff to take a look at to maybe adjust that provision. One project that they have already looked at once, they went so far as to not call potential restaurant usage

restaurant uses because the retail number gave them more spaces. They were actually trying to beat the system because they couldn't make it work for a restaurant.

Mr. Diaz stated that it was the other way around. They started with retail and they couldn't have the number of spaces that they wanted under the maximum cap so they changed the plan to two restaurants.

Mr. Hugg stated that he had it backwards but the point is that the provision does cause some difficulty and we want to take a look at it.

Mr. Tolbert stated that they went from calling it retail to calling it a restaurant. Responding to Mr. Tolbert, Mr. Hugg stated yes, in this case the 125% maximum gave them more spaces.

Mr. Tolbert questioned if they finally opened the facility? Responding to Mr. Tolbert, Mr. Diaz stated no, this was going to go to Planning Commission but it did not.

Mr. Holt stated that the Planning Commission is pretty easy going. They approve almost everyone.

Ms. Maucher asked if that in these cases they can request for variances. Responding to Ms. Maucher, Mr. Hugg stated that one of the measures of how current your Ordinance is, is how many times people ask for waivers and variances. The Planning Commission does a lot of waivers. It strikes him that if you are going to waive that requirement all of the time then maybe that requirement should just be in taken out of the Ordinance. Obviously, you don't have hardship with it and the Commission agrees but they have to go through an extra process. Both tree planting and flood plain require that you look at the entire piece of property. The argument that one of the people made to him is that if they have 100 acres and they are only developing 10 acres, the Ordinance says unless they get a waiver that they have to have one tree every 3,000 square feet. They will be planting trees on 90 acres that they have no idea what they are going to use the property for yet and the same thing with the flood plain. Maybe they can change the language to read "for the disturbed area" and then they don't have to get a waiver.

Mr. Holt stated that the Commission normally grants all waivers. Responding to Mr. Holt, Mr. Hugg stated that we shouldn't have to keep granting the waiver.

Mr. Hugg stated that one item that the committee mentioned is that in most jurisdictions you don't have to come back to the Planning Commission to get an extension of time for a Site Plan. Most of the time that's an administrative decision. For example, in Smyrna he could grant a two year additional approval and he could then grant three one year approvals without going back to the Planning Commission unless he thought that it needed to go back before the Commission. There was an application at Monday's meeting that went right through and it wasn't a big deal but it still takes up time and the customer sees it as some kind of obstacle.

Mr. Holt stated that they do a lot of extensions.

Mr. Tolbert stated that you would have to have some kind of requirement on how many extensions could be given. Responding to Mr. Tolbert, Mr. Hugg stated that typically what you see is that it can be granted administratively under certain conditions. They would have had to

have made some initial investment and there has to be an active presence of a developer and usually for no more than two or three additional extensions before Staff would tell the customer that they have exhausted all of their options and they have to start over. In this economy, the problem that a lot of them run into is that by the time you start the process, you go to DelDOT, you get your financing and you hope that you can break ground you are close to the two years already. If the market is a little soft then they will probably get a one year extension. DelDOT could hang the developer up for a year and we don't have any control over that.

Mr. Tolbert stated that all of the extensions that are requested are for one year. Can that be changed to 18 months or 2 years? Responding to Mr. Tolbert, Mr. Hugg stated that it could be another alternative to make the extension period longer. Most jurisdictions have a one year extension after the first two years but there's nothing magic about a year; it's just simply saying that they understand that your project has been tough to get started and get it through all of the approvals. The flip side is that you don't want a project lying around for ten years with nothing happening. There's a reason to not let it go on in definitely.

Ms. Maucher stated that you also have to look at the development that may have gone on around it because at some point you can't just keep extending it because the character might not blend well with what's actually been developed. Responding to Ms. Maucher, Mr. Hugg stated that this is another reason why you wouldn't want to have too many extensions.

Mr. Tolbert questioned if the Ordinance limits how many extensions you can give? Responding to Mr. Tolbert, Mr. Hugg stated that it might but he knows that right now it's two years and then the developer has to come back to the Commission for a one year extension. He doesn't know if the Commission can extend indefinitely or not. Normally, you don't. You can't get some number of extensions and then the developer will literally have to start over.

Mr. Tolbert stated that he thinks after two extensions then they have to re-file an application.

Mr. Hugg stated that the business friendly group would like to see a Minor Subdivision that Staff could administratively approve up to three or four lots without having to come back to the Commission. The Commission is welcome to them if they want them but from his perspective it's a burden that's put on the Commission that should be done by administrative staff.

Mr. Roach stated that with situations like those, that's an opportunity for the public to come in because they may have concerns as it pertains to the subdivision or the continued growth of the plan. If it's being done administratively then people aren't getting the opportunity to explain their concerns. Responding to Mr. Roach, Mr. Hugg stated that's a good point. We may want to think other options.

Mr. Roach stated that he knows if someone is working on construction and they've been working on it for the last three years and say he moved in and now the Commission keeps granting extensions, he as the neighbor wants to know when this project will get done.

Ms. Maucher stated that the subdivision plan was the one that was in Mr. Roach's back yard. She thinks that his comments were helpful and if you are going to be subdividing and putting three homes into the area there are concerns in the community. Just because they didn't show up, you shouldn't not give them the opportunity.

Mr. Roach stated that for the subdivision plan from Monday night there could have been twenty people there saying no we don't want the three houses. Responding to Mr. Roach, Mr. Hugg stated that is a good point and something that we want to keep in mind. We probably still need to notice the surrounding people that someone has applied for an extension. Typically, these kinds of ordinances have the opportunity where the Planning Administrator can ask the Commission to hold a public hearing.

Ms. Maucher stated that in her work there won't be a hearing unless there is a request. Your notice will have the information but if nobody asks for a hearing for good reason then you don't hold a public hearing.

Mr. Hugg stated that this morning they had no one show up for the Board of Adjustment meeting other than the applicant but at least they had that opportunity.

Mr. Diaz stated that the Ordinance states "that under no circumstances shall the Planning Commission grant extensions beyond thirty-six months from date of first approval." Responding to Mr. Diaz, Mr. Hugg stated that the developers only get three years right now.

Mr. Diaz stated that it doesn't say that extensions have to be for one year. It looks like the applicant can request how much time they need.

Mr. Roach stated that it couldn't be more than one year because if it's only thirty-six months that's three years. To him that number seems unfair because like it was said before, by the time you get everything approved you might have already gotten through the two years by the time you can even break ground. Responding to Mr. Roach, Mr. Hugg stated that if you are building a complex building then a year may not be anywhere near enough.

Mr. Roach stated if it could be something like thirty-six months after the final approval of the plan.

Mrs. Harvey stated that it should start from the final approval date.

Mr. Roach stated that if the applicant is ready to break ground but has been waiting on DelDOT for a year, that's not their fault but now they have to ask the Commission for an extension.

Ms. Maucher stated that you can't punish the developer because of another agency.

Mr. Hugg stated that sometimes it also discourages developers. If you have a developer that's really proactive and they really want their project to be state of the art. If they start to bump up against the drop dead deadline they start to say maybe I won't make this certain thing compliant. If you have somebody who wants to work on a project and really wants to have it evolve then that drop dead deadline may discourage them.

The second list that he has distributed came from a second meeting that he had. It refers more to the Capital Station project which is the old Playtex site for the landscaping issues. Is there any way to expedite a large project? The question about should they have to ask for waiver after waiver. Why can't it just be a requirement and they do it? They were concerned about the thirty

foot setback requirement from Route 13. In this case, DelDOT has already taken an additional twenty feet so in order to follow our Ordinance it would twenty plus thirty more and now they are fifty feet back into the project and that's a substantial amount of land. The question was is there some way to recognize when a developer has already been told by DelDOT that they are going to have to be setback by some distance, can we have the thirty feet setback include their amount as well?

The 15% rule in the flood plain, a waiver can be issued and the Commission does every time it comes up but there are some criteria about wetlands and having to mitigate 15%. Again, it's one of those things that apply to the whole property when the piece of flood plain might not be as big as this room. There's a requirement that was imposed on an office building here in Downtown for a buffering requirement for a hedge but then there was a requirement that they had to put in a temporary fence before the hedge got tall enough to screen the property. The developer doesn't necessarily object to the intent but now you are costing me twice because I have to build a fence and wait a few years for the hedge to get big and then I either have a hedge and a fence or I have to take the fence down. It's little things like these that also creep. On the Capitol Station project, there was a staff recommendation to remove the angled parking on Maple Parkway which is a City street. That may actually be a really smart recommendation but it's not within the confines of this project. What the developer was objecting was that it's a City street that's City maintained so if you don't like the parking then change it but don't make us have to change it as part of our project. Other than one access to the site they won't affect Maple Parkway.

The one that caused him more concern is the Development Advisory Committee Report that the Planning Commission gets has a couple of issues. The secondary issue is more of a timing issue. Typically, the DAC meeting is the Wednesday before the Planning Commission which means that the final DAC document which can be seventeen or eighteen pages long, by the time it gets finalized and sent to the applicant. They have to come before the Commission that next Monday there is almost no time to work out any issues except in the context of the Planning Commission meeting. The point that was made to him was that they don't necessarily object to some of these things. For example, for the Capitol Station project there was an issue that got resolved but where they show one of the driveways there is a City utility pole right in the middle of it and it's a high voltage utility pole and the City isn't going to move it. It somehow slid through without anyone catching it until the Friday before Planning Commission. Fortunately, they have a local architect and it was easy to push the driveway up on the plan. But there are things like that and the developers felt that if there was a little bit of room to negotiate them out then they wouldn't have to have the Staff and the developer negotiating in front of the Planning Commission for things that are probably going to get fixed that aren't really Planning Commission issues. He doesn't think the Commission cares if they move the driveway to miss a utility pole. Their concerns are is there adequate access and parking and those types of details.

The second issue is a little more serious and this may just be an evolution of language over time. When the developer gets the DAC Report, it has all of the code requirements listed. There is a separate section that is basically recommendations that should be conditions of approval and then there are suggestions. The problem with the way that language reads right now and your action on it is that if you aren't really careful, you care creating Code on the fly. For example, if Staff really thinks that I should have five trees on my project and the Code says three and they put that as an advisory to the Commission as a condition of approval that says you should not approve this project unless there are five trees. It's approved then the Commission just created Code in

violation of the statute. As soon as you start to impose conditions that meet the intent of the Ordinance. The Ordinance talks about health, safety, welfare, morals and all those types of things so it does create this gray zone in which the Commission does have some authority to dictate things above and beyond the Code but that's a very risky area. In a couple of cases that he's looked back through on the DAC Reports where the Commission has actually adopted the Staff recommendation and if he were that developer he would sue you. The reason you aren't getting sued is because most of them are minor enough that it isn't worth it. Most of them are I'll plant five trees just to make you all happy. If they really wanted to push it they could come back and claim that you violated your authority by creating code that had never been officially adopted by the City. That's what Mr. Bill Pepper's memo is about. He references a Dover decision from some number of years ago that provides some guidance on how to deal with those issues. What he suggested to Mrs. Melson-Williams is that maybe we need to rethink what we call that section so that we are not asking the Commission to actually impose conditions. It's an area that we need to be concerned about because you could get that developer that just finally comes back and says I don't care if you want purple bricks and green trim, I've met the Code and then you find out that the Commission has done something illegal.

Mr. Tolbert questioned if it was important that they be as consistent as they can? Responding to Mr. Tolbert, Mr. Hugg stated that yes, it is important that you be consistent and that's the other piece of the second and third parts of the Staff Report that to the extent the Commission adopts those kinds of things. Most of them are good suggestions and it's not that he thinks the Planning Office is being difficult. It's can you be assured that if you make me put in five trees that you are going to make the next person put in five trees also. Any one of those things opens both the Commission and Staff to a legal challenge.

Mr. Tolbert stated that as a Commission, if they aren't consistent as much as possible that damages our credibility. Responding to Mr. Tolbert, Mr. Hugg stated that it does. With most developers that he has dealt with including a few in the City of Dover, they are not necessarily opposed to some of the things that staff ask for. They are opposed in part because it's so late in the process. For example, the Lidl Store that was approved just north of that site followed the thirty-foot buffer but there are some other properties along Route 13 that we didn't require the thirty-foot buffer. Now the people from Capital Station are thinking okay Lidl did and but they didn't care because their store is so far back from the street that it didn't matter to them and DelDOT had not extracted twenty extra feet from them. His cautionary advice is that as we can we need to be careful of that additional requirements.

Ms. Maucher stated that is the concern that she has with the number of variances that are requested. If you give them for everybody and then the one time you deny it, then you are setting precedence every time you give a variance. Responding to Ms. Maucher, Mr. Hugg stated that the developers of Capital Station raised that. It was a Staff recommendation to deny a waiver.

Mr. Diaz stated that he can't remember the last time that they received a waiver request for the buffer.

Mr. Hugg stated that if they are issuing waivers all of the time then they should just make it a requirement and fix it so that you don't have to issue the waiver. Then you don't have the problem of trying to remember how other situations in the past were handled.

Ms. Maucher stated that curbing waivers make her crazy. It's a curb; it's not something that impacts quality. There are other variances that she thinks do need to come to the Commission but they need to sort some of them out. Responding to Ms. Maucher, Mr. Hugg stated that he doesn't know why the Planning Commission even needs to be concerned about curbing; it's an administrative detail. For example, he can't imagine a Commissioner asking any questions about grading. They have the ability to but why would they? They have the situation now where the Code requires a strictly vertical curb but DNREC wants rolled curb in some places to deal with stormwater. That's an administrative issue to figure out. Staff should be able to report to the Planning Commission that they have met the DNREC requirements and the City requirements and let the Commission focus on questions like is this the right use? Does the property's plan benefit the City? Does it address quality of life? Those kinds of things are where he would really like to see the Commissioner's energies directed and not with the nit-picky things like three versus five trees.

Ms. Maucher stated that the setback is a little more concerning because it does impact the value of that property with that developer. Responding to Ms. Maucher, Mr. Hugg stated that he thinks the case with the Station was more that DelDOT had already taken twenty feet and now we want thirty more. They said that they don't mind thirty feet as long as the twenty feet the DelDOT is telling us that we can't use is included. Which would be consistent with Lidl next door and others.

Mr. Hugg stated that he is bringing this to the Commission today to kind of share it with them and let them think about it. This "business friendly committee" meets about once a month and they talk about a lot of issues. Some of these things are pretty straight forward so the Commission may see him come to them and say things like, could you really live without that 125% requirement? If some things could be eliminated, then he could make a lot of these issues go away. The Commission will see him bring a few things to them like that over the next month or so. The business friendly committee requested for an example, that right now if you are a historic building you have to go before both the Historical Review Board for architectural review and then to the Planning Commission for architectural review.

Mr. Diaz stated that they first go before the Architectural Review Board and they make a recommendation to the Planning Commission on whether to grant an Architectural Review Certificate. The Planning Commission then has the benefit of the Historic District Commission's recommendation at that point.

Mr. Hugg stated that on the surface his first reaction was that it seems like that's duplicating a lot of work. After thinking about it, he's not too sure that he would agree with the committee. If it's a historical building, then maybe it needs that second level of review. For some of these things, he is not just going to buy into on the fly.

He's asking the Commission to think about and communicate with him either now or over the next week or so. Why do we have a negative image in Dover?

Mr. Holt stated that he didn't think that we did. Responding to Mr. Holt, Mr. Hugg stated that we do. It's perceived that we do.

Mr. Holt stated that it's only because a lot of people don't like laws or restrictions. Responding

to Mr. Holt, Mr. Hugg stated that was true but Milford and Smyrna are flourishing and Smyrna's regulations were pretty much just as restrictive as Dover but somehow they are flourishing. In spite of the "we don't like your regulations but we will deal with them", there's some message somewhere there that makes people who develop in those two municipalities that make them sort of part of the team. It seems in Dover that Staff are being difficult and anti-business.

Mr. Holt stated that they usually approve every project. Responding to Mr. Holt, Mr. Hugg stated that his sense was observing from outside and now having been here for a month and a half, he doesn't really see enough difficulty. He can appreciate some of these things that have been discussed but that's not enough in his mind to say don't go to Dover because they are hard to deal with.

Mr. Tolbert stated that maybe Dover is just getting a bad rap. Responding to Mr. Tolbert, Mr. Hugg stated that they might be but the question is how do we turn that around? This is broader than just the Planning Commission but he can tell them that statewide that Dover just has a bad reputation.

Mr. Tolbert stated that there is a reason for it and they have to find out the reason. If that's true, there is a reason and they need to know why they have that opinion. Responding to Mr. Tolbert, Mr. Hugg stated that he can't get anybody to actually tell him what it is.

Mr. Roach stated because there is no reason. It's just the fact that we are the Capital of the state and we are better than Smyrna or Milford. He isn't being rude; he is being serious. You have to understand that we have a lot of things going on and we are going in different directions. This is with any situation; people are going to dislike certain things. As far as the bad rap, from his outside perspective he is reluctant because if they just start giving the developers approvals do to whatever they want to then what's the purpose of having all of the codes and ordinances?

Mr. Holt stated that you have to have restrictions. He thinks that they are pretty easy going.

Ms. Maucher stated that she thinks timing, the length of the process and responsiveness have been comments that she has heard. These are just general comments that she has heard. It does take what seems to be a long period of time.

Mr. Roach questioned how that process is as it pertains to the different approvals and waivers in Smyrna? Like it was said, it might take two years to get anything done before you even break ground. Responding to Mr. Roach, Mr. Hugg stated that all of the developers in his community have to go through the same process.

Mr. Holt stated that when he was looking over his plans for the Longhorn Steakhouse with his wife, she said that we didn't need another restaurant in Dover. He said that it was their money and if they wanted to build one then let them build one. They did a good job and the building looks so nice.

Ms. Maucher stated that the project was also part of a master plan and they all knew that something was going to go there; they just didn't know what. Responding to Ms. Maucher, Mr. Hugg stated that was a great re-development.

Mr. Tolbert questioned that when Mr. Hugg is talking to the developers can he make an attempt to find out why they have that perspective?

Mrs. Harvey stated that it's not so much Planning Commission, she thinks it's internally and the process. She doesn't see Dover being unfriendly compared to Sussex County.

Mr. Hugg stated that apparently if we did everything that they asked for here, it wouldn't really change the process that much. Instead of a waiver request it would just be a requirement. There's a more fundamental something and he hasn't put his finger on it yet.

Mr. Holt stated that maybe they just need to update the paperwork a little bit.

Mr. Roach questioned if we did a satisfaction survey or anything like that? Responding to Mr. Roach, Mr. Hugg stated that there was one done in Dover when Mr. Tony DePrima was the City Manager.

Mr. Roach stated that he means with each developer. What did you like about the process? What did you dislike about the process? Responding to Mr. Roach, Mr. Hugg stated that almost every day he gets a compliment in the office about how much they appreciated somebody helping them with some issue. One comment that he has heard and he would say this if she was here as well is that Mrs. Melson-Williams tends to be a super micro-reviewer but everyone that he has talked to has said that if they call her with a problem she gets on it right away. It's like okay maybe we are making you jump through an extra hoop but they are not delaying the process. He hears it from the Mayor, he hears it from Council President Slavin, other members of Council and from the development community that there is this bad image.

Mr. Roach stated that he doesn't like that because that's like high school drama. People are saying that they don't like something but they don't know why. He knows that Staff has to deal with it more than the Commission but you can't say that there is just something about you that I don't like and I don't know how you can fix it because I don't know what it is.

Mr. Tolbert stated that it's important to find out why they are saying that. You can't fix it if you don't know why.

Mr. Roach stated that if there's an issue and if you are that upset and there are certain things that you don't like about us but you haven't told us yet, then obviously, it's not that big of a deal. The old saying, how long does it take an old dog to sit on a nail before he decides to move? He just doesn't want to be even more uncomfortable so he just stays at a bad place. If the developers haven't come out and said it then how can we fix it?

Ms. Maucher stated that it might be good to start with developers that were going to come in and didn't and find out why they didn't come. Responding to Ms. Maucher, Mr. Hugg stated that they are harder to find. The ones who didn't come because they heard Dover was hard to work with and just never showed up will be hard to find. The people who at least came to talk and then didn't come are the ones that you might be able to find.

Ms. Maucher stated that would lie in the Economic Development Office because they have marketed for people to come.

Mrs. Harvey stated that a lot of it is on the developers themselves. They have to meet certain conditions from other agencies, not just the City of Dover. If they owe taxes they won't be issued a Building Permit. They can complain about that all day long but the permit just won't be issued. It's their problem not ours don't blame the City.

Mr. Roach stated that out of all of the issues brought up today the only one that would make sense is if the three-year time period starts after the last approval is received. For example, if DelDOT was the last approval and they approved the plan today then the developer would have three years from today. That time limit shouldn't be included while you are waiting for everyone to give their approvals.

Mr. Hugg asked that the Commissioners go through the material and they have any reactions or comments send them to him. If there are other things that they think of that we can take a look at just let him know. For example, the carrying capacity of a vehicle. This poor woman is getting cited every day for having this bucket truck in her yard. It's a commercial vehicle that she uses for her business and three hundred pounds in the bucket is the carrying capacity of that truck.

Ms. Maucher stated that there must have been complaints about the bucket truck. Responding to Ms. Maucher, Mr. Hugg stated that somebody in the neighborhood keeps complaining and then Code Enforcement rides by and sees the truck. The Ordinance says no more than one ton and the truck is more than one ton so they have to write her a citation. If you don't write her a citation, then someone in the neighborhood calls the Mayor or Councilman Hare.

Mr. Hugg stated that if you can think of steps that we could take to change the image of Dover. He would love to hear that because that is what he was tasked to do and he is having a hard time doing it. We need an Economic Development Office; we need some active promotions and we need to be more active with the Downtown Dover Partnership and NCALL. Something has to change and he doesn't know what that is yet.

Ms. Maucher stated that there are so many entities that do so many different things and overlap and the right hand doesn't know what the left hand is doing. There's no coordination. Like with the emergency home repairs, there's other programs that also do things like that. There's limited money by each group but if you leverage funding from one group against another then wonderful things could be done. They don't know about each other or the income qualification for one program is different from another program and it's frustrating for people involved so they just give up.

Mr. Hugg stated that there are three groups active in the Downtown right now all going in their own direction. The Downtown Dover Partnership which has been around forever. There is a group with NCALL for the vision of Downtown and then there is Destination Downtown Dover which has seemed to pop up out of the merchants that's holding events. He doesn't think that the groups even talk to each other. The scary thing is that in many cases the same people are on the same boards. A Destination Downtown Dover member is also a board member for the Downtown Dover Partnership.

Ms. Maucher stated that if you don't get the answer that you want from one group then you start your own group. For the 300th Birthday Anniversary, she is a member of a non-profit group and

they are interested in doing something at the event but they don't know who to contact. She is on the Fourth of July Committee so she knows about that one but trying to find out anything about Old Dover Days was next to impossible. She thinks that's part of the issue is that you don't know who to call or go to and you get one answer from one spot and then you get another answer from another spot. Coordination and having everybody talk to each other would be a wonderful thing. Responding to Ms. Maucher, Mr. Hugg stated that he has heard this already and he appreciates her sharing.

Ms. Roach stated that like it was said, there are a lot of different entities. Working as a therapist in a school and dealing with resources, one of the most difficult things is to try to find various entities that have one answer.

Ms. Maucher stated where she works they send people to them not knowing what they do. She then has to apologize to the customer because she can't help them. She tries to be as helpful as she can but she also doesn't know where to send people either. There are a lot of resources but there is just no composite way of getting to know where everything is.

Mr. Hugg stated that he thinks having a Planning Commission Quarterly Workshop meeting is an awesome idea. They should have had that in Smyrna with their Planning Commission. If he had to point it to one single reason why Smyrna is flourishing, it's because they established communication with all of the players on a regular basis. They really worked hard at getting people attending meetings regularly and that makes a huge difference.

Mr. Holt stated that he thinks that a questionnaire with no more than five questions would be a good idea.

Mr. Roach stated to make the questionnaire quick so that people wouldn't mind filling them out. It should consist of the following questions: What did you like? What did you dislike? What would you change?

Ms. Maucher stated that she applauds the effort to update City Codes and Ordinances because it's been put on the back burner for some time.

OPEN DISCUSSION

Meeting adjourned at 1:34 PM

Sincerely,

Kristen Mullaney
Secretary