CITY OF DOVER PLANNING COMMISSION
January 22, 2013

The Regular Meeting of the City of Dover Planning Commission was held on Tuesday, January 22, 2013 at 7:00 PM with Vice Chairman Tolbert presiding. Members present were Mr. Shomo, Mr. Tolbert, Mrs. Still, Mr. Holden, Dr. Jones and Mr. Ambruso. Colonel Welsh, Mr. Holt and Mr. Baldwin were absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Ms. Cornwell, Ms. Duca and Mrs. Mullaney. Also present was Mr. Terry Jaywork, Mr. Herbert Konowitz, Mr. Franklin Everett, Mr. Kyle Burchard, Mr. Tim Glass and Mr. Jack Richter.

APPROVAL OF AGENDA

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

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF DECEMBER 17, 2012

Mr. Shomo moved to approve the Planning Commission minutes of December 17, 2012, seconded by Mrs. Still and the motion was unanimously carried 6-0 with Colonel Welsh, Mr. Holt and Mr. Baldwin absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that Kristen Mullaney will now be doing the meeting minutes for the Planning Commission meetings.

Mrs. Townshend stated that there was an Audio Web Conference "Zoning for Small Scale Businesses" that was held on January 16, 2013. The entire Planning Department staff attended the conference. She stated that she has been working with the Chamber and the real estate community on a number of changes to the commercial zones and the information presented in the seminar was very helpful.

Mrs. Townshend stated that information on the Institute for Public Administration Planning Series for 2013 was located within the packet information that was distributed before the meeting. The session also known as Planning 101, is scheduled for Friday, January 25, 2013. It gives the legal framework in which the Planning Office operates. She stated that if members were interested in attending, they should contact the Planning Office to become registered.

Mrs. Townshend stated that the next Planning Commission meeting will be held on Tuesday, (due to the holiday) February 19, 2013 at 7:00 PM in the City Hall Council Chambers. The next Quarterly Workshop is scheduled for Wednesday, February 20, 2013 at 4:00 PM in the City Hall Conference Room.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on January 14, 2013.

Mr. Tolbert noted that they will miss Diane Metsch (previous Secretary) and shared a thank you to her from the Planning Commission.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1.) Requests for Extensions of Planning Commission Approval: None

NEW BUSINESS

NEW DEVELOPMENT APPLICATION

1) SB-13-01 Lands of 1151-1155 Walker Rd, LLC – Public Hearing and Review of a Minor Subdivision to create two (2) parcels of land from the existing 1.779 acre ± parcel. The parcel will be subdivided into a 1.196 acre ± parcel and a 0.6594 acre ± parcel. The property is zoned IO (Institutional and Office Zone). The property is located on the north side of Walker Road west of Saulsbury Road. The property owner is the 1151-1155 Walker Road, LLC. The equitable owner of one parcel is Dover Interfaith Mission for Housing Inc. Addresses: 1151-1155 Walker Road. Tax Parcel: ED-05-067.18-01-79.00-000. Council District 4. *Waiver Request: Subdivision Waiver of Requirement for Lot Frontage on a Public Street*

Representatives: Mr. Terry Jaywork, Board of Directors for Dover Interfaith Mission; Mr. Herbert Konowitz, Vice President of Board of Directors for Dover Interfaith Mission; Mr. Frank Everett, managing member of 1151-1155 Walker Road, LLC

Mrs. Melson-Williams stated that this is a Minor Subdivision Plan application located on the north side of Walker Road, west of Saulsbury Road. The property consists of 1.779 acres of land and is improved with two (2) buildings, a parking lot area, stormwater management and landscaping. The developer is intending to subdivide the parcel into two (2) lots: the front lot being adjacent to Walker Road known as Lot 1 and a parcel to the rear labeled as Lot 2. The property is zoned IO (Institutional and Office) and the various set-backs of that zoning district would then apply to each of the lots proposed to be created.

Mrs. Melson-Williams further stated the project has actually submitted a proposal for a number of easements both for access and to deal with the shared parking and stormwater facilities on what is an improved site. This property was initially developed to this current format through an application that the Planning Commission considered during a meeting in May 1999. It was developed as an office complex and those are the two (2) buildings that are presently located on the site. Most recently, the Planning Commission in May 2011 considered a rezoning application that changed the zoning of the property from CPO (Commercial Professional Office) to its current zone IO (Institutional and Office).

Mrs. Melson-Williams further stated that with this project, they are proposing a subdivision into two tracts of land. There is one waiver request related to this subdivision, which is a subdivision waiver of the requirement that each lot have frontage on a public street. This requirement is found in our *Land Subdivision Regulations*. In this case, the Planning Commission will make a recommendation, which then is forwarded on to City Council for their review and final action. The requirement for lot frontage

is also found in the *Zoning Ordinance* related to building permitting for development activities. In the *Zoning Ordinance*, it mentions that a Building Permit cannot be issued for construction or alteration of a building upon a lot that does not have lot frontage or legal permanent access to a public street. With this subdivision proposal, they are proposing a cross access that would give Lot 2 the rights to cross Lot 1 to reach the public street Walker Road. With this project, the Planning Office has provided a code review of the plan itself as well as a recommendation on the waiver request of the applicant.

Mrs. Melson-Williams further stated that this is just for the subdivision of the land. Any new uses for either of the buildings may be subject to other review processes with the City. The other agencies have provided comments regarding the project. Those include comments from the Public Works Department, City Electric Department, DelDOT and the Kent Conservation District. The Fire Marshal's Office did not provide comments for the subdivision. Some of the comments in the Public Works section are elements related to utility planning that will be necessary because of the split of the subdivision.

Mr. Jaywork stated that the Dover Interfaith Mission for Housing has been looking for an opportunity to setup transitional housing facilities. The way that the overnight shelter is operating at this time, allows men who meet the standards to stay at the shelter for 90 days and then they must move on. The organization would like to setup transitional housing which would be a little more permanent. These men would live there, pay rent, have jobs in the community and so on. Mr. Everett had the property rezoned a couple of years ago because he was contemplating a similar project for young adolescents of legal age, with nowhere to go. Under the contract of sale, the Dover Interfaith Mission has an option to purchase the front portion of land. They would have similar intentions for that parcel as well, in the future.

Mr. Jaywork further stated that located in the staff report is a cross easement agreement that would be executed by the parties that would not only take care of access to the rear property but also provide for who would maintain it. There are also cross easement agreements for the erosion and stormwater management facilities, for the utilities on the property and so on. Although the use of the back building is designed for offices at this time, those offices would be converted into rooms to be occupied by the residents. He stated that there will be no exterior changes made to the buildings. In terms of parking, both parcels will meet the off-street parking requirements but he points out that the transitional housing use may result in fewer vehicles than if used for office space. Mr. Jaywork stated that if there are any questions about the past use or the rezoning, Mr. Everett will assist or if there are any questions about the intended use, Mr. Konowitz is available.

Dr. Jones questioned how many occupants were anticipated during the first transitional phase? Responding to Dr. Jones, Mr. Konowitz stated that they are expecting 30-32 occupants. The intention is to run this transitional housing as a dormitory. There will be resident advisors on each floor. These will be paid positions. They will also have a full time chef to feed the residents. Mr. Konowitz further stated another interesting thing that has developed since the last meeting with DAC is that they plan to house disabled Veterans in wheelchairs. A school is being setup in Dover to train these men to be watchmakers. This was done during the Second World War; there was a high demand for these people. Once the course is completed, these men should be able to land a job making between $50,000 and $60,000 a year. Mr. Konowitz stated that by creating this transitional housing, they are going to be able to care for foster kids who have aged out, disabled Veterans and also disabled people.

Mr. Tolbert questioned how long it would take these men to complete the training? Responding to Mr. Tolbert, Mr. Konowitz stated that he believed it was ten (10) months but that he was not 100% sure.

Mr. Tolbert further questioned if they intended to have other kinds of training at the facility? Responding to Mr. Tolbert, Mr. Konowitz stated that there would be no other training offered at the present time.

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

Mr. Ambruso moved to approve SB-13-01 Lands of 1151-1155 Walker Road, LLC and the waiver request portion, based on the applicant's acceptance of the Planners' recommendations, seconded by Dr. Jones and the motion was unanimously carried 6-0 with Colonel Welsh, Mr. Holt and Mr. Baldwin absent.

S-13-01 7-Eleven at 127 S DuPont Highway – Public Hearing and Review of a Site Plan to allow for the construction of a 2,590 SF retail building with gas pumps and associated site improvements. The property is zone C-4 (Highway Commercial Zone). The property is located at the northeast corner of South DuPont Highway/Route 13 and East Loockerman Street. The owner of record is Lin Properties, LLC. Address: 127 South DuPont Highway. Tax Parcel: ED-05-077.06-01-61.00-000. Council District 2. *Waivers Requested: Reduction in Arterial Street Buffer and Tree Mitigation. This application is also associated with a Board of Adjustment application V-13-01 regarding setbacks.*

Representatives: Mr. Kyle Burchard, HFA; Tim Glass, Lane Engineering

Ms. Cornwell stated that this is a Site Plan application for the construction of a 2,590 SF convenience store with four (4) gas pumps, to be located at the corner of East Loockerman Street and South DuPont Highway. As noted in the staff report, they needed to get to the Board of Adjustment. The Board of Adjustment did meet on January 16, 2013 and granted variances for both the front yard and rear yard setback. A revised Site Plan sheet was given to each Planning Commission member, showing the variances granted by the Board of Adjustment. The Board of Adjustment granted a twenty (20) foot front yard setback and a six (6) foot rear yard setback for the canopy. Also on the desks of all Planning Commission members are revised architecture showing there is only one gas pump (in each row) for the gas canopy. The parking for the site requires thirteen (13) parking spaces, they are providing fourteen (14). The bicycle parking calculation is one (1) bicycle parking for every twenty (20) parking spaces, so only one (1) bicycle parking needs to be provided. Sidewalks are being provided along East Loockerman Street and South DuPont Highway. There will also be two (2) interconnections into the site: one off of South DuPont Highway and one off of East Loockerman Street. Also provided will be the required dumpster and required lighting and also there is no loading space required.

Ms. Cornwell further stated that there are two (2) waiver requests. One is for a reduction in the arterial street buffer. South DuPont Highway is classified as an arterial street so a thirty (30) foot arterial buffer is required along South DuPont Highway. In the staff report, the reduction was nineteen (19) feet. Based on the variances granted by the BOA, the amount of landscaped grass area in the front of the building is now down to fifteen (15) feet. So the application would be asking for a fifteen (15) foot reduction in the arterial street buffer. The applicant is also asking for tree mitigation. Currently, there

is no grass on the site and the applicant will be providing some landscaping grass. However, trees located along South DuPont Highway within the arterial street buffer do not count against their overall tree planting requirement so they are a few trees short. Staff noted that there are a few trees on site that they may need to relocate or lose based on the location of underground utilities. They have asked for a tree mitigation waiver allowing them to plant at least one (1) or more trees off site, located within the City of Dover to meet their tree planting requirement.

Ms. Cornwell stated that the architecture of the building is a brick building with a green metal mansard roof. There is a tower feature at the corner of the building on South DuPont Highway and East Loockerman Street. The building will have storefront window systems on all sides of the building. The canopy is a flat roof with brick around the columns and it actually has a fiber cement board as a watertable feature for the columns for the canopy. Site circulation for the site, is that they will actually have an entrance off of South DuPont Highway. Currently they have two (2) entrances, they are closing the one closest to the intersection of East Loockerman Street and South DuPont Highway. They will be maintaining the entrance farther north on South DuPont Highway. They are also proposing to use an existing cross access easement off of East Loockerman Street that shares access between the Edgehill Shopping Center and Where Pigs Fly.

Ms. Cornwell further stated that other agencies have provided comments, including the Kent Conservation District, the Fire Marshal's Office, the Public Works Office and DelDOT.

Mr. Burchard suggested a couple of adjustments to the material types on the building. The material being used is not a full brick facade, it's a cementitious brick material. It's not a full masonry building but it has the appearance of brick. In addition to the landscaping around the building, if there are other utility conflicts they would like to extend the tree planting waiver to plant additional trees.

Mr. Glass pointed out that in trying to utilize this site, a small corner lot with two (2) existing accesses currently onto South DuPont Highway; they had to take several iterations about how the improvements of the site were going to fit. In reviewing the Comprehensive Plan, there are a couple of sections that are key to this. There is specific language about how infill and redevelopment, particularly on commercial sites in town, should be encouraged and to the extent that any new updates to the *Zoning Ordinance* might help that activity occur should be encouraged. Also with regards to the corridor, cutting down on entrances is an encouraged access management. Mr. Glass stated that because of the entrance being lost they have lost some flexibility in site access points, from two (2) down to one (1). To be able to affectively circulate traffic in and around the site safely, with an adequate distance between the canopy and the building itself resulted in what you see now.

Mr. Glass further stated that one of the things that he thinks is nice, as Ms. Cornwell announced is that right now there is absolutely no grass space on this corner. There are no tree canopies or landscape areas at this time and with this plan they are proposing a building closer to the street line. For more of an urban feel, they are proposing sidewalk connections and grass and green space that will be added around that corner. Mr. Glass believes that it will help from an architectural and streetscape prospective as well.

Mr. Holden questioned how stormwater management will be addressed? Responding to Mr. Holden, Mr. Glass stated that they have had conversations with the Kent Conservation District early on and because of the fact that the site is 100% impervious right now. The way to deal with the quantity is

going to be through a stormwater waiver request. The grading is not intended to change or move water off in any different directions that what is happening now. So as long as the existing drainage patterns are maintained and they are doing something to cut down that impervious lot coverage, then they will be eligible to pursue the stormwater waiver.

Mr. Holden also questioned if they expect to get a quality and quantity waiver. Responding to Mr. Holden, Mr. Glass stated that based on conversations, yes because they are adding so much green space and landscaping that the quality components of taking a site from more impervious and less green to less impervious and more green would satisfy the intent of quality treatment.

Dr. Jones questioned if there is any concern for rear access and traffic? Mrs. Townshend stated that in the DelDOT comments, DelDOT has indicated that they will require a traffic impact study. The three (3) locations that DelDOT wants studied are the entrance off of East Loockerman Street into the shopping center, the entrance off of Route 13 and the intersection of Route 13 and East Loockerman Street. Mrs. Townshend further stated that she has met with DelDOT and they are onboard with getting a scoping meeting fairly soon.

Mr. Burchard stated that they have a traffic engineer in contact with DelDOT to setup that follow up and discuss those issues.

Mrs. Townshend further stated that these issues will be addressed. If the City needs to address them, then they will have the Public Works Department work on that through the TIS.

Mr. Tolbert questioned if the building facade material, fiber cement board will look like brick? Responding to Mr. Tolbert, Mr. Burchard stated yes, it will look like brick. The fiber cement board comes in panels and latches together. It's a lighter weight construction so that it gives the appearance of brick and the seams blend together fairly well so that it has the appearance of brick.

Mr. Tolbert opened a public hearing.

Mr. Jack Richter – 733 Oak Dr Dover DE 19901

Mr. Richter stated that he was a resident of Dover and that he represents the Richter Family Partnership that owns the adjacent properties to the north and east of this property. He stated that he and his associates applaud the desire to redevelop the property. He stated that they want the business to succeed, but they want it to succeed safely. Mr. Richter pointed out that the gasoline pumps and canopy that are located along the east side of the property are very close to his property line. He believes that there is something on the plans or in the staff report stating that the property just across that line was a cross access alley. Mr. Richter further stated that the Richter Partners own this property. He stated that they constructed the pavement, they maintain the pavement, and have a liability for that pavement. Richter Family Partnership has access agreements with the rest of the shopping center owners. Mr. Richter stated that they do not have an access agreement with this developers about a cross access. He stated that he was unsure as to how they would operate the proposed gas pumps without crossing their property lines. Mr. Richter stated that they want to enter into a formal agreement during the developmental process for this cross access.

Mr. Richter further stated that he and his associates are concerned for safety. There is a considerable amount of traffic on this pavement. There is short cutting that going between Division Street and East

Loockerman Street, in order to avoid the congestion on South DuPont Highway and to avoid the lights at Division Street and East Loockerman Street. He believed that his brother counted just fewer than 200 per hour during the peak hour. There is an access point shown on the plans that is very close to East Loockerman Street. He is unsure of how that will operate with all of the traffic congestion located there. Additionally, the site plan shows a curb that is constructed on their property. He again pointed out the need for a cross access agreement. Next, with the location of the gas pumps, they are unsure how that will operate with the tanks but that may exasperate the problem at this time.

Mr. Richter closed by stating that he and his associates love the redevelopment of this property. They want it to succeed. They have concerns for safety on their property and again they believe that a cross access agreement is necessary and they would like to work with the developers to get this agreement in place.

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

Mr. Ambruso stated that he understands what Mr. Richter was saying, that they would like to enter into an agreement in order to iron out possible problems ahead of time. But does that fall into our area of performance? Responding to Mr. Ambruso, Mrs. Townshend stated that in the DAC comments it does specify that a cross access easement is required on page five (5) of the staff report: 10. Provide a copy of the cross access easements for the property to access the property from the Shopping Center. Mrs. Townshend stated if there is not a written easement, this will need to be documented as part of the plan approval following Planning Commission.

Mr Ambruso questioned if it would be better for staff to know that is in place before making a decision? Responding to Mr. Ambruso, Mrs. Townshend stated that this is simply a requirement that the developer provide that documentation in order to access the site from the neighboring property.

Mr. Ambruso questioned if that agreement should be intact before the Planning Commission makes a decision? Responding to Mr. Ambruso, Mrs. Townshend stated that was not necessary at this time. If the application is approved with the DAC comments, then the Planning Office will not sign off on it unless that access agreement is in place. So if the access agreement is not in place, then this application will be back to Planning Commission to make sure there is access to the site.

Mr. Ambruso moved to approve S-13-01 7-Eleven at 127 South DuPont Highway and the waiver requests as long as all DAC requirements and recommendations are met, seconded by Dr. Jones and the motion was unanimously carried 6-0 with Colonel Welsh, Mr. Holt and Mr. Baldwin absent.

Meeting adjourned at 7:49 PM

Sincerely,

Kristen Mullaney
Secretary