CITY OF DOVER PLANNING COMMISSION
QUARTERLY WORKSHOP
February 17, 2016

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Wednesday, February 17, 2016 at 12:00 noon with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Holt, Mr. Baldwin, Dr. Jones (arrived at 12:15pm), Colonel Welsh and Mr. Tolbert. Mr. Cregar, Ms. Still and Mr. Ambruso were absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Mrs. Harvey, Mr. Cook, Mr. Diaz and Mrs. Mullaney.

PLANNING COMMISSIONER COMMENTS AND CONCERNS

Mr. Tolbert stated that at last night's meeting he wore a shirt and tie. He did that because ever since he's been on the Planning Commission he has noticed that the applicants walk in appropriately and respectfully dressed. Staff does the same thing but the Commissioners do not. So after he became Chairman, he is looking at Mr. Cook and Mr. Jason Lyon, both with suit and ties on and he is sitting there very casually dressed. Yesterday he put a stop to that and it's his intention to come appropriately dressed to the Planning Commission meetings from here on out. Of course if any other Commissioners would like to, they can as well. He thinks the applicants are more appreciative of it when they come before an official body and the official body is dressed appropriately.

Colonel Welsh stated that when he first started on the Planning Commission everybody wore coat and ties except for the women.

Mr. Tolbert stated that he has had people mention to him why the official body is not appropriately dressed as everyone else is. He thinks the applicants get a better feel for the Commission if they are dressed appropriately.

Colonel Welsh stated that is probably a good point. He thinks a shirt and tie would certainly be an upgrade.

Dr. Jones arrived at the meeting.

Mrs. Townshend stated that Mr. Tolbert was talking about making a better appearance to the public if we attend the meetings in more professional attire.

Colonel Welsh questioned if they should talk about last night? He agrees with Mrs. Townshend; he still thinks that the Commission did the right thing but how they got to that point is questionable. He thinks they were victims of two smooth talkers.

Dr. Jones stated that her problem was that they weren't smooth talkers. They were trying to be.

Colonel Welsh stated that Mr. Anderson at least seemed to be sincere but he thinks in retrospect he was not. He kept getting contradicted by Mr. Sigler. There was discussion after the meeting and the fact that it's represented as a philanthropic endeavor he finds pretty amazing. Up until the time the applicant mentioned the contract with the State then he is looking at the paperwork and he is realizing that this is for profit.

Mrs. Townshend stated that it's kind of an interesting web there because you've got a church which she guessed Mr. Anderson is somehow involved in the church or the ownership of the property. What Mr. Anderson said was that it was a non-profit.

Dr. Jones stated that she doesn't think the property is sold unless Staff has record of it being sold. Responding Dr. Jones, Mrs. Townshend stated that she could check with the Tax Office.

Dr. Jones stated that she thinks the property belongs to the original owners of that entire complex. The owners were initially owners of the smaller church. Then there was some transitioning of some family members and by the time the new church was there so it's a family endeavor. The building in the back is Because We Care.

Mrs. Townshend questioned if it was a school? Responding to Mrs. Townshend, Dr. Jones stated that she wished she could remember the dates but probably in the early 90's, there was no program in this area for middle school aged children who were having disciplinary issues. This was the alternative school approved by the Department of Education. But along the lines as she understands it, there were not individuals who truly were certified educationally so they lost the contract. By this time, the State began to pick up and provide alternative education for kids. Now, when children get in trouble in school they are sent to a place that used to be called P.E.A.K. and now it's something else but it's above the Duncan Depot.

Mrs. Townshend stated that program took the place of Because We Care. Responding to Mrs. Townshend, Dr. Jones stated not immediately because that place is fairly new. She thinks what happened is that it's been under the umbrella of the school system so they lost that lucrative contract. She thinks the building on McKee Road has been vacant since that time but the building still belongs to the family. She also brought up the question about the vacant house because one of those houses in this area is Mr. Joe Burden's house. She knew that she could depend on her seasoned colleagues to vote and do what they need to do but for her, the applicants were talking out both sides of their mouths. When you come to a presentation for a rezoning or whatever the case might be, even if they don't like each other, they should still respect each other during the presentation.

Mrs. Townshend stated that Mr. Anderson's comments when he initially got up kind of indicate where she and he started. He said that he just wanted to go in under the prior use and she said no and there are a number of reasons. It's been vacant so it has not been consistently used under that Conditional Use so it's expired. The second reason being that the type of services are not the same thing. Mr. Anderson kept saying "technicality, technicality." She explained to him that it's not a technicality and that he needed to describe what he is doing because it wasn't entirely clear to her. They did get into the discussion of Psychotherapeutic Services Inc. being for-profit. Mr. Anderson indicated on the application that he is the equitable owner under a non-profit.

Dr. Jones questioned what equitable owner meant? Responding to Dr. Jones, Mrs. Townshend stated that it means that it's under contract for purchase.

Dr. Jones stated that she believes that this is not the first time that Mr. Anderson has been to the Planning Commission. She remembers him when there was some concern about opening those places on Forest Street. Responding to Dr. Jones, Mrs. Townshend stated that it's the same

company that opened the places on Forest Street.

Dr. Jones stated that there certainly is a need for those types of services but how can you vacillate from there being a serious need with veterans. We know how many are around in this area. Now we are going to talk about females and we are going to start bringing in children. She knows what the Planning Commission's task is but for her; she couldn't handle her task because they were just inconsistent and the presentation was very poor.

Colonel Welsh stated that Mr. Anderson was not very forthcoming. All of the information that he finally came up with was extracted by the Planning Commissioners.

Mr. Holt stated that he asked Mr. Anderson if there was going to be a fee and he got his lawyer up there right away.

Colonel Welsh stated that at first he thought that relationship and the way the lawyer jumped in was the typical lawyer and client relationship. Responding to Colonel Welsh, Mrs. Townshend stated that Mr. Sigler is not Mr. Anderson's attorney. There is a contractual relationship between Mr. Anderson and Mr. Sigler.

Colonel Welsh stated that he didn't understand that initially but it became apparent afterwards.

Dr. Jones stated that PSI apparently has a contract with the State and then PSI is contracting with those who claim can deliver the services. It wasn't the Commissioner's task but the young man who got up to answer the question about describing their services didn't do anything in terms of describing their services specifically. The service is need very much but they should just do what they are supposed to do. She thinks the Planning Commission members are reasonably intelligent people. These were her issues last night and especially knowing there is profit in non-profits.

Mrs. Townshend stated that Mr. Anderson tried to challenge that they needed to come back to the Commission and then in accepting that, tried to leave it somewhat open. So while PSI is saying this is the type of contract that they have and it's for women, Mr. Anderson wanted to keep it open so if that population changes or if the nature of the service changes that they don't have to come back to the Commission. That was also part of the rub there. Staff can't tell the applicant what they can ask for. She doesn't know that Mr. Anderson quite grasped the understanding of why he needed to come back to the Commission.

Colonel Welsh stated that Mr. Anderson didn't grasp it; he seemed a little flustered and he thinks the attorney also did a lot to make him feel that way. He has been thinking about it since last night and he still thinks the Commission did the right thing. When Mr. Anderson originally stated that he wanted to change from veterans to allow non-veterans that would be fine. Now they find out that it was never used as a veteran's home. Responding to Colonel Welsh, Mrs. Townshend stated that it was approved and they got a Certificate of Occupancy and they maintained their Lodging Permit so that they were continually licensed to provide that service. Typically, if we look at a non-conforming use or a conditional use expiring, they are going to look at things like the utilities and licensing. It's harder for Staff to say that it's expired if the applicant has maintained their Lodging Permit. There's been a little bit of let's keep all of our paperwork up to date so they know we exist but then last night it was stated on the record that they had been vacant for years.

Dr. Jones stated that she wonders how many years Mr. Anderson has been in this area. Responding to Dr. Jones, Mrs. Harvey stated that she thinks at least 10-15 years. Mrs. Townshend stated that it's more than ten years because she has been working with him since she has been with the City.

Dr. Jones asked if anyone picked up on as he was pushed for answers about the veterans, he in essence said there was some complications and some problems with VA. Her guess is that the VA is another one of those bureaucratic mazes but the State may be less of one because Mr. Anderson was expecting payment from the VA. Responding to Dr. Jones, Mrs. Townshend stated that Mrs. Harvey has been involved with the Mayor's challenge to end veteran's homeless. One thing that she learned in the first couple of meetings held is that VA funding is a nightmare to deal with. It could be that the way they had things set up did not qualify because it's not easy to qualify for the VA funding.

Mr. Tolbert questioned if the VA funds directly or does the VA funds go through the State? Responding to Mr. Tolbert, Mrs. Townshend stated that the VA funds directly.

Mr. Tolbert stated that what bothered him was that they started off just treating veterans and then the stated that they were just going to treat females and then they said at some point they were going to treat everybody. Responding to Mr. Tolbert, Mrs. Townshend stated that the only reason that veterans were included in the discussion at all was because that's what they had previously been approved for not because they were changing the nature of a program that's there.

Colonel Welsh stated that he was under the assumption that it had been used as a veteran's shelter. Responding to Colonel Welsh, Mrs. Townshend stated that she doesn't know if it was.

Mr. Holden stated that they certainly didn't make it clear that it had been used as a veteran's shelter. His challenge was that they were wrestling with the fact that they all agree it's needed and it's a good service and there isn't enough of that service around but he feels like in order to meet the hurdle of a Conditional Use the applicant needs to be honest and transparent and clear. Their information provided before the fact was not and their performance was clearly evasive at times so for him they didn't get over the hurdle simply because of that. Even if the treatment program was sufficiently descriptive so that the public had the information but they were evasive about the information. They were evasive about why they couldn't provide it but they were providing it. There are two things that came out of last night that he is curious about. With the two hundred (200) foot notification distance, are there different categories that push different notification distances or is that something that they could consider? Also, when they go to a meeting with DelDOT they have to tell them if they are bringing a lawyer and if we show up with a lawyer and haven't told them the meeting gets cancelled. He thinks it puts us in a difficult position at times, especially last night where Mr. Sigler was trying to hold over our heads a Code of Federal Regulations as to why this has to be. It's inappropriate and the Commission is not tasked to be knowledgeable in that advocacy. He would love for the City to take the standpoint that if the applicant is bringing along a lawyer to represent the project, they have to notify Staff ahead of time or their hearing is postponed. Responding to Mr. Holden, Mrs. Townshend stated that they do ask at DAC meetings if they will be bringing a lawyer but in this case Mr. Sigler was at the DAC meeting as well. He has been involved in everything.

Mr. Holden stated that DelDOT's form has a question that states "Are you bringing a lawyer?" and "If you don't notify us and show up with one, your hearing is cancelled." He thinks that it should be that clear. Responding to Mr. Holden, Mrs. Townshend stated that is something that the City could do and if they know somebody is going to be represented by counsel that they have legal counsel here as well. We need to figure out who that is because Mr. Bill Pepper has a conflict on the nights of Planning Commission meetings.

Mr. Holden stated that it will then spark a discussion on the applicant's side of whether or not it's needed. It brings up other discussions of bearing the cost. But it's challenges like the Commission faced last night, with Mr. Sigler trying to impart that pressure on them. Responding to Mr. Holden, Mrs. Townshend stated you are being bullied by somebody throwing the Code.

Mr. Holden stated that it was almost as if Mr. Sigler were saying "I've given you the information but you are not allowed to make it part of the public record because then you are breaking the law."

Mr. Tolbert stated that he didn't exactly buy that and he had a problem when Mr. Sigler said that because he had problems believing what he was saying.

Mr. Holden stated that he was clearly bullying.

Mr. Tolbert stated that it was a fiasco but the services are needed.

Mr. Holden stated that they would be sad to not have the services but are we going to be dangled and bullied into approving the application. The counter to that is that they have the one year review and the conditions so at the end of the day he thinks the process worked okay but there were a lot of wrinkles that he thinks they should work to mitigate. Responding to Mr. Holden, Mrs. Townshend stated that some of that is in the Code and she doesn't want to jump around too much but she did hand out a paper showing that Staff met to develop their 2016 work plan. One of their big projects for this year is a re-write of the residential zones. This whole idea of philanthropic uses to her is a loop hole that you can drive a truck through. She thinks pretty much by saying that any non-profit can come in as a Conditional Use. It would be easier if they had a clear Code that said these are the approved types of uses, independent of what type of organization owns the property.

Dr. Jones asked for Mrs. Townshend to explain the terminology "equitable owner." She knows the meaning of philanthropic but what does this mean in this context? Responding to Dr. Jones, Mrs. Townshend stated that it means it's a non-profit charitable type use.

Mr. Holden questioned if it had to be a 501c3? Responding to Mr. Holden, Mrs. Townshend stated that it's not clear. The other thing is that there are non-profits that do things that would be absolutely incompatible with a residential zone. So it really should be about the type of use and not the type of organization that is providing it.

Mr. Tolbert stated that you can be non-profit and not have 501c3 status.

Mr. Holden questioned why provide the loop hole for lack of a word, for an appropriate philanthropic? Where is that appropriate? Responding to Mr. Holden, Mrs. Townshend stated

that she can't think of anywhere that it hasn't left her a little anxious. She is trying to think of where they have used it. They have used it with the House of Pride.

Dr. Jones questioned what philanthropic means in this context? Does it mean that somebody has a property and they are allowing someone to use it for this type of program? Responding to Dr. Jones, Colonel Welsh stated that to him philanthropic means not-for-profit, for the good of the community.

Mrs. Townshend stated that the definition reads "dispensing or receiving aid from funds set aside for humanitarian purposes." To her, that's wide open.

Mr. Holden questioned why they would not remove that? Responding to Mr. Holden, Mrs. Townshend stated that she thinks in the updates that Staff will be working on in residential zones that it will come out and if there are uses that need to replace it then changes will be made. Churches and schools are already in the Code and day cares are Conditional Uses anywhere; so you already have those basic services that are allowed in the residential zones.

Dr. Jones questioned if for the day care center under the alspices of Solid Rock Baptist Church, was the same terminology used? Responding to Dr. Jones, Mrs. Townshend stated no, because day care is a Conditional Use in the zone. She thinks that's the problem. A philanthropic use is nebulous, it's hard to define; and it's hard to put your finger on so you could really cast a pretty broad net and come up with things that you could characterize that way that are not necessarily something that you want in the residential zone.

Mr. Holden stated without a good definition you could be forced legally to accept something so it either needs to be more defined or if there's not a driver than take it out. Let the tree shake for the uses that should be and they could be put in the Code by name or by clearer definitions. Responding to Mr. Holden, Mrs. Townshend stated again, they already have nursery schools, elementary schools, churches and the things that you would typically expect to be the non-profit type.

Colonel Welsh questioned if shelters were considered non-profit? Responding to Colonel Welsh, Mrs. Townshend stated that shelters are not; shelters are in the IO (Institutional and Office Zone). This is where as Staff looks at the residential zones, one of the things that they need to deal with is "transitional housing." How do we allow the "transitional housing" for people that are moving from potentially a homeless situation to being fully integrated into society? She did a lot of research on this in looking at some of the legal aspects of it and "transitional homes" are not protected from a fair housing standpoint the way group homes for people with disabilities are. This came up after everything that was happening with the House of Pride where they literally had two (2) City blocks where no one wanted to buy a home because it was such a transient population that they don't have a neighborhood anymore. Because of all of those challenges that they had, she started looking at the potential requirements for "transitional homes." Again, with the idea that they know that Interfaith is trying to do transitional homes. They saw on the news last night that there's a family who owns a home on Queen Street and the use is not really permitted so the City will have to reach out to them. They need to get their hands around this issue of "transitional homes" by making sure it's allowed and it doesn't over take a neighborhood. Maybe they could have a permitting process for it and a distancing requirement. Everything that she has read says that the purpose of "transitional housing" is to

help people transition back into the community. If you have saturation of "transitional housing" they are no longer doing that. It doesn't benefit the residents of the "transitional homes" and it doesn't benefit the community. Before Mr. Michael Albert left the City she had started doing this research and got side tracked with other things but now it is on the front burner again.

Dr. Jones stated that technically this place on McKee Road is a "transitional home."

Mrs. Townshend stated that you could do something that would be transitional housing for four (4) or fewer people or something of that nature that you could do in a residential zone. Part of the challenge is that they need to make sure that it's tightly defined enough so that it doesn't turn into somebody renting rooms and they've got the flat warming trays and crock pots, microwaves and all of these things that become fire traps.

Dr. Jones stated that it was not their task. When she asked the question about the ninety (90) days, there is no way that they are going to provide the in depth kind of service that they say in ninety (90) days. Responding to Dr. Jones, Mr. Holden stated that the Commission was asked to believe that they were because they had provided the contract.

Dr. Jones stated that there is no way that they are going to do it because it's too complex.

Colonel Welsh questioned if that was a State requirement? Responding to Colonel Welsh, Mrs. Townshend stated that the State will only do it for ninety (90) days and then you are out of the streets.

Mr. Tolbert stated that it's a State requirement but it doesn't make sense.

Mr. Holt questioned what happened at the end of the ninety (90) days? Responding to Mr. Holt, Dr. Jones stated that the client has to leave.

Mr. Tolbert stated that they did say last night that they would find some other program for the client to go to. That may be reality or it may not because people can only stay at shelters for a certain length of time.

Colonel Welsh stated that it isn't the applicant's responsibility; it's a State responsibility. The State is driving the whole thing and they have to meet the requirements of the State.

Mr. Tolbert stated that when the Commission reaches the one year requirement to review the application, they need to make sure that all of their concerns are brought up and looked into. The clientele that they are going to deal with can be very problematic and they are not an easy group of people to deal with.

Mr. Holt stated that nothing about the Clean Hands Ordinance came up last night. Responding to Mr. Holt, Mrs. Melson-Williams stated that the City of Dover has what's called a Clean Hands Ordinance meaning that approvals, final approvals or authorizations can be withheld if you are delinquent to the City in any way. Meaning if you owe us taxes, any unpaid code enforcement citations or if you actually have violations the City can withhold approvals. Mr. Anderson has some of those obligations that have not been satisfied with the City so in order to grant final approval; last night's approval from the Commission was a conditional approval. The plan has to

be revised and updated meeting all of the conditions that were established last night for Staff to grant final approval. She believes they can withhold that final plan approval if there are delinquencies or other obligations to the City. It's in the main part of Dover Code. Most commonly it gets utilized for someone when they owe taxes and they apply for a Building Permit. They will not get a Building Permit issued until the delinquent taxes are paid.

Mr. Tolbert questioned if the applicant from last night is aware of that? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that was why it's in the DAC comments.

Mrs. Townshend stated that they can't say that the applicant is aware of it but it's in their report so they have been notified. It will also be in the Notice of Decision letter. In this case it's not just money owed. There is money owed associated with fines but there's also code violations that haven't been corrected. Mr. Anderson is going to have to provide documentation and come up with an agreed upon schedule with Code Enforcement Staff for making repairs to the property.

Mrs. Melson-Williams stated that it's not just the subject site, it's any property that the own in the City.

Mr. Tolbert stated that he asked a question last night regarding the day care center application. He wanted to know the relationship between the day care and the church. He asked if it was a separate entity and the answer was yes. Responding to Mr. Tolbert, Mrs. Townshend stated that was correct.

Mr. Tolbert questioned that the church does nothing and it's not a non-profit business? Responding to Mr. Tolbert, Mrs. Townshend stated no.

Mr. Holden stated that it's more of a business and landlord set-up.

Mr. Tolbert questioned if they have to pay the church something? Responding to Mr. Tolbert, Mr. Holden stated the applicant has mentioned paying rent.

Mrs. Townshend stated that's between the owner and tenant, the City doesn't get involved in that relationship.

Colonel Welsh stated that the question was asked last night and the answer was not initially but eventually he looks for the church to probably start charging a nominal fee if in fact it's a viable operation. Responding to Colonel Welsh, Mrs. Townshend stated that the church is very community minded and has very generous in allowing the use of their facilities for things that benefit the community.

Dr. Jones stated that Ms. Bullock mentioned that the fee was going to be a nominal fee but probably what is happening is that she is getting Purchase of Care. The children going there, the mothers probably are meeting the requirements for Purchase of Care for the babies meaning they have to be engaged in looking for work. She thinks it's a smart move for Reverend Grimes on behalf of the church but she did want to clarify that issue about not having any services during the day while the day care is in session. Responding to Dr. Jones, Mrs. Townshend stated that she was thinking about funerals but she assumes that they would have them in the community center or at night.

Dr. Jones questioned if there was any variation in that two hundred (200) feet distance perimeter? Responding to Dr. Jones, Mrs. Townshend stated no.

Dr. Jones stated that they have to do what they have to do but she can just imagine that facility being in one of their backyards. Responding to Dr. Jones, Mr. Holden stated that not all conditional uses are similarly impactful.

Mrs. Townshend stated that this came up a number of years ago and the problem with altering the notification distance is that there becomes this degree of arbitrariness to it. Back in maybe 2010 Staff evaluated a number of options. One option was expanding it on a whole to three hundred (300) feet. The challenge is that there is always going to be somebody right on the other side of that that has interest. That's why they went with the physical posting. She thinks people are familiar enough with the signs that they kind of know what it means. If you see a yellow sign in an area that you feel impacted by, you can contact the City.

Dr. Jones questioned if a person could still speak during the public hearing even if they are not within the two hundred (200) feet notification area? Responding to Dr. Jones, Mrs. Townshend stated yes, anybody can speak.

Mr. Holden stated that at times it works great. The project from last night is at a dead-end road so maybe no one sees it. He wonders if there some thought if three hundred (300) feet gives comfort for the applications that they have concern over and is that really too much of a burden for other applications. Responding to Mr. Holden, Mrs. Townshend stated that they could certainly look at that. She thinks the area where they are going to have a big impact is in the Downtown area where the lots are so tight that you are going to end up really expanding the list.

Dr. Jones stated that even though it's a dead-end street, one way in and one way out, there are people right on the front who probably are impacted. There are several houses right near the property.

Mr. Holden questioned if it was two hundred (200) feet from the structure or the property? Responding to Mr. Holden, Mrs. Townshend stated that it's two hundred (200) feet from the property line.

Mr. Holden stated he thinks there are times when two hundred (200) feet maybe isn't enough. In an area such as Downtown Dover, are there alternative notifications where it can be done via email and not all mail. How burdensome is that? Responding to Mr. Holden, Mrs. Townshend stated that based on the legal guidance that they've gotten, it has to be consistent across the board. It could be expanded. It used to be done by certified mail and giving Staff the green cards and that's really expensive. The certificate of mailing is not incredibly expensive. They had a packet come in yesterday and it wasn't done in the format that they are used to seeing but they verified it with the applicant. There is still kind of a learning curve for everyone. It certainly has reduced the cost of the public notice. If they were requiring certified letters at $5-$10 each and they changed from having twenty (20) to forty (40) property owners that need to be notified then that's a big deal. It's about $1 for a certificate of mailing.

Mr. Cook stated that if it were up to him he would prefer that the mailing be done internally like

they do for Board of Adjustment. That's his preference because he does Board of Adjustment and as part of that process, they do all of the public notice. He has all of it automated to the extent that it's easier for Staff to do it then having to explain to other people how to do it.

Mrs. Townshend stated that it could be done if they added a public notice fee.

Mr. Holden stated that a Conditional Use in a dense area that has more mailings is potentially a higher value project. He would think that three hundred (300) feet would be better than two hundred (200) feet and that having the City of Dover do the mailings instead of the applicant is a good direction as well.

Dr. Jones stated that one thing she noticed last night on that correspondence was that there was no address on it. Responding to Dr. Jones, Mr. Cook stated that he believed there was an address of Walker Road.

Mr. Baldwin stated that a lot of the Commissioners were surprised to find out that this project that they approved had not been in use. Is there anybody in the City that knows when a project is approved if it's in operation or not? Responding to Mr. Baldwin, Mrs. Townshend stated that typically the track it through the licenses but since they've kept their licenses current and had been getting their inspections it was hard to verify. She guesses that when the Fire Marshals have gone in to do their inspections they can tell if nobody is there. They probably have documentation somewhere that it was not being used.

Mr. Baldwin questioned if there was one person assigned to track it? Responding to Mr. Baldwin, Mrs. Townshend stated that Staff tracks vacant buildings but a lot of times with that they are looking at utility usage. If there is no or very little utility usage then they identify things as vacant but it's hard to tell if something is regularly used.

Dr. Jones questioned if there was utility usage there? Responding to Dr. Jones, Mrs. Townshend stated that she believed so. They kept all of the utilities and permits current. Her guess is that if they checked the utility usage it would not reflect fourteen (14) people living there.

Mr. Holden stated that he is curious about the Dover Downs rezoning and map change that Mr. Tolbert recused himself for. Towards the end of that discussion what guides Planning Commissioner's involvement, discussion and comments when there's a rezoning, ordinance, or other thing that impacts that person? He doesn't expect the map change financially has any sway one way or another but Mr. Tolbert lives close by and so it potentially impacts him or his quality of life. On the other side of that is that he may represent his neighborhood so how do they navigate that? Responding to Mr. Holden, Mrs. Townshend stated that the by-laws indicate "conflict of interest" but typically unless there's a direct financial conflict of interest, the Commissioners are not required to recuse themselves. She thinks obviously when your employer is representing the applicant that's a very clear line. They have had the discussion at the Historic District Commission as well and Mr. Joe McDaniel has recused himself on Downtown Dover Partnership projects and projects involving Christ Church. But she doesn't know that there's a clear rule saying when a Commissioner has to recuse themselves or not. The ethics section in the Dover Code pretty much says it's all about financial conflict of interest.

Mr. Holden questioned what Mr. Tolbert's personal drive was for recusing himself from the

Dover Downs rezoning. Responding to Mr. Holden, Mr. Tolbert stated that the number one reason was that his neighborhood's HOA is right next door to that piece of property. They have the HOA in Chancery Court right now because of things that have been going on that they have been doing and his vote would automatically be biased because of that. He thought it was better for him to recuse himself from voting on that particular application. They have been in court since 2013 and there will be another court date in the future that hasn't been scheduled yet. There are a lot of problems in the development because of what's going on with the HOA. He just thought it would be better to recuse himself from the vote because he did not want to be biased because of that reason.

Colonel Welsh stated that in his time with the Planning Commission he has probably recused himself twice and both times were because of bias not because he was within two hundred (200) feet of the property or because he had any monetary ties to it; he was just very opinionated and he knew nothing was going to change his mind. Responding to Colonel Welsh, Mrs. Townshend stated that where the opinion is related to something that's not revalent to the application itself. It's one thing if you are opinionated that they haven't met the Code requirements but it's another if your opinion is based on a personal experience or a prior business transaction. She guesses that the general rule of thumb should maybe be if you feel there's an outside factor that could cloud your judgment or create the perception that your judgment has been clouded then it's best to step out.

DISCUSSION OF BUILDING AND ARCHITECTURE DESIGN PROVISIONS: *ZONING ORDINANCE*, ARTICLE 5 §19 AND ARTICLE 10 §2

Mrs. Townshend stated that Mrs. Melson-Williams has provided a copy of Article 5 Building and Architectural Design Guidelines and the Site Development Plan approval information as it relates to that and the Historical District zone. It talks in Article 5 about the design guidelines which are very general and then if you go to Page 3 of the handout under Site Development Plan, it states in Section 2.540 what needs to be part of the application. This she thinks was added to the agenda because of some of the stuff with the Village of McKee Branch. There was a project where there was significant change to the architecture between when the Commission saw it and when the applicant applied for their Building Permits. She thinks that was an exception and not a rule because they were building on the existing foundations and didn't change anything. Typically, if there is a big change to the architecture it's also to the building footprint. She thinks by putting notes in the DAC Report and Notice of Decision they can work to control that and maybe have some internal check as the designs go forward.

Colonel Welsh stated that's what kind of happened. Staff alerted the applicant to the fact that they were going to have an issue. Responding to Colonel Welsh, Mrs. Townshend stated yes, but that was after they had submitted their plans. If they had been able to determine earlier in their process of value engineering, they would have been able to bring it to the Commission before the applicant finalized the plan. By the time that they apply for a Building Permit, they've spent thousands on architectural fees. The time to catch it is somewhere between when the Commission approves it and before they get to that point. Staff needs to have a way to make sure that if there are meetings in the interim and communications that they make sure that the architecture is part of the approval.

Colonel Welsh stated also that the architecture has not changed. He doesn't think there needs to be a degree of change; he thinks any change should come back to the Commission.

Mrs. Townshend stated that the other issue that came up last night was as it relates to things like the old Kmart. They could say anything that goes to the Planning Commission even if it's not the building, anything where Planning Commission review is triggered, then the Commission needs to see the architecture. She thinks that the Code doesn't say that you don't.

Mr. Holden stated also in case where they plan to change the façade of the building. Responding to Mr. Holden, Colonel Welsh stated or to not change the façade of the building. He has beaten this drum for years and he thinks they are still not where he would like to be. He thinks they should be stricter than they are.

Mr. Holden stated that he thinks that the project last night should have been required to bring architecture because of the proximity to the public right-of-way. Responding to Mr. Holden, Mrs. Townshend stated that they can do that, similar to anything that goes to the Planning Commission has to have tree planting. Even with the residential treatment center, there was question if they really needed to go through the process since they were only changing the use and not the site but the Code says it doesn't matter, you have to demonstrate that you are meeting the tree planting requirements.

Mr. Holden questioned if the Kmart project did not have tree mitigation as an option. Responding to Mr. Holden, Mrs. Melson-Williams stated yes; they have that as an option but they haven't requested it.

Mrs. Townshend stated that part of it is that that's pretty large expanse of asphalt so if they could break it up with landscaping it would definitely improve the site. The preference would be to show us what you can do and if you can't get it all on the site then they would talk about tree mitigation.

Mr. Holden questioned how strongly do we want to incentivize that? It's going to cost them money to chop up the parking lot and create viable landscape beds instead of just planting tree for tree somewhere else, is that appropriate? Responding to Mr. Holden, Mrs. Townshend stated that if they are trying to improve the appearance of the Route 13 Corridor project by project then she thinks that they have to somehow get some landscaping.

Mr. Holden stated that he always gets a little uncomfortable about the arterial street buffer and they set it but they don't ever hold anybody to it. Responding to Mr. Holden, Mrs. Townshend stated that's one of the things that they will probably be looking at.

Mr. Holden stated that he's still a bit remiss about the sidewalk waiver on Kings Highway, it's needed there. There is no place for people to get across the sidewalk there. Just because it's hard doesn't mean that they shouldn't make people do it. Hard is different from "not possible".

Mr. Tolbert stated that with respect to the Kmart application, they just approved the building that is going to be retro-fitted and they would have to come back to the Commission for the approval of the tenants (of the pad sites)? Responding to Mr. Tolbert, Mrs. Melson-Williams stated yes, because of the type of process that they chose.

Mr. Tolbert questioned if Staff anticipated any problems with that project regarding parking? Responding to Mr. Tolbert, Mrs. Townshend stated that she didn't think so.

Mrs. Melon-Williams stated that she thinks they are going to be okay on parking.

Mr. Holden questioned why they chose to do that? Responding to Mr. Holden, Mrs. Melson-Williams stated that they don't have tenants for the out-pad sites stuff right now.

Mr. Holden stated that they didn't want to confine themselves. Responding to Mr. Holden, Mrs. Melson-Williams stated that they didn't want to do that and she would say that if you don't know what that building it going to look like, they are going to have to take the architecture back to the Planning Commission anyway.

Colonel Welsh stated that was his issue last night. They're going to renovate an existing building. they don't have to provide elevations the way that they are going to have to do for the two out-pad buildings because that's going to be a full blown Site Plan. What is it that exempts them from having to provide an architectural rendering or elevations that are going to identify building materials, finish materials, windows, entrances and all of that stuff? What drove this architectural review issue and the architectural standards years ago was that they are Dover; the capital of the First State. If you drive down Route 13 it's gotten a little bit better but it's still a hodgepodge of crap. When they have the opportunity on a highway like Kings Highway or Route 13 to upgrade a facility so that it's something that you can look at and be proud of, not something that you look at and think that you wished these changes were made when they had the opportunity. He is thrilled to death with what was done to the old Walmart. It's very attractive.

Mr. Holden stated that with that building, Staff pushed them on some of those issues and so they got there.

Colonel Welsh stated that there is no reason why they shouldn't be able to do the same for the renovation of the old Kmart. What was it that exempts them from having to provide architectural elements? Responding to Colonel Welsh, Mrs. Melson-Williams stated that it wasn't proposed as a new building. The Dover Towne Center project was a new building. They basically left one and a piece of another wall of the Walmart building. there are parts of that building that are totally new. They basically pushed the front wall back on that property.

Mr. Holden stated he agrees that project last night, even though it was only façade improvements not building tear down or re-build, what needs to be changed so that they get architectural elevations? How is it written so that they won't run into the instances of them proposing to build one thing and actually building another? Responding to Mr. Holden, Mrs. Townshend stated that she thinks that the first answer is that they can simply say that any project that goes to Planning Commission and if there's an alteration to the architecture; the applicant would have to bring renderings.

Mr. Holden questioned what that would scoop up? Responding to Mr. Holden, Mrs. Townshend stated that she doesn't think that it scoops up anything because the applicants are already coming to the Planning Commission; it's just a matter of now they have to bring a drawing.

Mrs. Melson-Williams stated that the Code reads "proposed building and/or building additions." So the language there would probably have to be changed.

Mr. Tolbert stated that when the question was asked last night, the applicant said that they didn't have the architectural rendering. He didn't believe that; they've already spent a lot of money and he is pretty sure that architectural renderings have been done.

Colonel Welsh stated that it was strange that when the Commission pressed the applicant, they had it.

Mr. Holden took that differently because they don't have a tenant that they can announce, they don't have tenant signs so they probably haven't done what they feel is an architectural rendering. That's probably what they are putting in front of their tenant to say "we are thinking something like this" and then they are going to work through everything. His sense was that they were too concerned that it was too far from what they thought it might end up at.

Colonel Welsh stated that he can be a little more cynical than that. He would like to think that's the case but it could be if we don't show them our hands aren't tied and we can do whatever we want with the building and not change it at all because that's money.

Mr. Tolbert stated that he can't believe that they have expended all of the money that they have expended thus far and not know what the architecture will look like.

Colonel Welsh stated that he thinks it should be standard that any time we have even a new use for a building; we know that they are going to renovate it to a degree. Responding to Colonel Welsh, Mrs. Townshend stated that a lot of that is done administratively. For instance, Grotto's didn't come to Planning Commission; they did some minor site reconfiguration and renovation. It was all done under a Building Permit.

Dr. Jones questioned what was at that location before Grotto's? Responding to Dr. Jones, Mrs. Townshend stated that it was Atlantic Book Warehouse.

Mr. Holden stated that he thinks they would have brought architecture for their project if they knew it was a requirement. He saw the quality of what they had and seeing that with the work that he does, it wasn't to the point that he would have said it was kind of schematic, not even conceptual, not even a draft construction graphic. He doesn't think it's an imposition to say bring a little more. In that example, if they knew that was a requirement they would have dressed that up.

Colonel Welsh stated that he agrees and if they go back to Atlantic Books Warehouse and Grotto's, what would be wrong with having them come before the Planning Commission? Other than it maybe creates more work for Staff. Responding to Colonel Welsh, Mrs. Townshend stated that it delays things significantly and adds costs to the project.

Mr. Holden stated that it's a variety of business plans and the economics of it.

Colonel Welsh stated that what Mrs. Townshend is saying is that Staff has a pretty good handle on what the Planning Commission would want to see and not want to see and Staff can approve a re-design administratively. Responding to Colonel Welsh, Mrs. Townshend stated that for an Administrative Site Plan the Code allows us if there's something about it that they are not comfortable with to refer it to the Planning Commission. It doesn't mean that it gets a public

hearing; it just gets a referral. They can look at the language in the Code to see if that pertains to architecture and Staff could do that. That way they can still do things administratively but if they get an applicant who wants to renovate an existing building and really doesn't want to do it right and doesn't want to do what the Planning Commission expects, Staff could refer the application.

Mrs. Melson-Williams stated that there's an exemption in the Code for building additions which is typically what Staff would see in Administrative Site Plans. Responding to Mrs. Melson-Williams, Mrs. Townshend stated that they might need to change the Code.

Mrs. Melson-Williams stated that they would have to do some work to that section of the Code because there is an exemption from having to submit any architecture. If it's going to match the existing building.

Colonel Welsh stated in the administrative review of the Building Permit that Staff is doing, we have individuals who are designated on the Planning Commission as members of the Architectural Review Committee. Maybe they could be a part of that review. Responding to Colonel Welsh, Mrs. Townshend stated that that would probably require Code amendments, so let's look and see what that it would take in the Code to do so.

Mr. Holden stated that it's viable commercial development. A lot of these corridors are seeing development so they've got the opportunity to make it better. He thinks that they are talking about the size of the process and avoiding the Route 13 Corridor through Saulsbury Road. Things happen but they don't want to go in that direction, they want it to be visually appealing and cleaned up, which costs but also adds value.

Colonel Welsh stated that what triggered him a long time ago was Gaithersburg, MD and their architectural requirements. Everything is red brick, everything ties in and it's a beautiful facility. If you own a McDonald's and you want to locate there, that's the way you build your building and if you're not happy with that then go someplace else. If there's a market there, they are going to do whatever they have to do to comply with the building codes and requirements.

Mrs. Townshend stated that one of the things in the recent years and the recent Code amendments that they have done is moved more toward administrative. Part of that is that sometimes the process will stifle the economic activity especially on a smaller venture. Is there a way to make sure that the architecture is maintained to a standard even if it doesn't go to the Planning Commission and if it doesn't go and Staff can't get that standard administratively do they then refer it to either the Architecture Committee or the Planning Commission? Her preference would be the Commission. If they treat it the way they do Historic District Commission, Staff can refer a Building Permit to the Historic District Commission for their input and they don't have to do the public notice and all of those things. From a bureaucracy standpoint, there's less process involved but it still allows it to be done.

Mr. Tolbert stated that what they are saying is that architecture is not just the building structure itself but it's the appearance and they need to take a look at it or make sure that when they are talking about the appearance of the building as much as the structure itself.

Dr. Jones stated that the question was asked last night about the appearance of the building and if the residents asked about the appearance of it; the applicant said yes but not one of the

Commissioners asked for them to elaborate. As she is listening and learning, Grotto's was an easy one; Grotto's has a brand. They know that if they see a Grotto's, a Grotto's is a Grotto's but for something like this she was even a little concerned with the conceptual rendering. She agrees that they should set some type of standard, maybe for the benefit of Staff they formalize some general guidelines for Staff regarding elevations for an existing building so when they sit down to review a Building Permit they have guidelines to follow. She thinks that anything that is going to come before the Planning Commission they should have something to let the Commission see what it's going to look like.

Colonel Welsh questioned if this was the first time that this particular firm has done work in the City of Dover? Responding to Colonel Welsh, Mrs. Townshend stated yes, in recent years. They did a subdivision on Jefferson Terrace. It was the five (5) lot subdivision off Wyoming Avenue.

Mr. Holden described the location that it was south on Governors Avenue, you would take a right onto Wyoming Avenue and then the first left.

Dr. Jones stated that there were only a couple of houses there. Responding to Dr. Jones, Mrs. Townshend stated yes, but they did the subdivision plan for that but that wasn't a Site Plan with architecture.

Mr. Tolbert stated that his experience on the Commission so far is when these large operations come in, they have a design that they want to use. If it's contrary to what the Commission wants they are adamant about getting the building to look like what they want it to look like. He has been through some communities in New Jersey and Pennsylvania and there are whole shopping centers where the buildings are absolutely beautiful and they look nothing like additional McDonald's. We back away from them when they are adamant about wanting to build how they want to and he doesn't think that the Commission should.

Mr. Holden questioned if TD Bank when it was Commerce Bank came through the Planning Commission? He remembers discussion that they were pushed into adding some colonial sense to their design. Responding to Mr. Holden, Colonel Welsh stated that that was a real success for the Planning Commission.

Mrs. Townshend stated that they then did it voluntarily at the location on Route 8.

Colonel Welsh stated that it was like pulling teeth for the location on Route 13. That's a major intersection and the Commission was absolutely adamant, they stuck to their guns about certain things that that applicant had to do. It looked absolutely horrible when it was first presented. They then came back with this design; sat it catty corner, lots of glass, lots of red brick and it tied in more with what you would perceive Dover, the capital of the First State.

Mr. Holden stated that they need to do more of that. They are talking about a step away in that just bring them the plan versus having a tight set of guidelines that really ties the community together. They have got to be able to move that direction and have those tools.

Colonel Welsh stated that if you go to Freeport, Maine, the McDonald's there is a white two story colonial building. The only thing that identifies it as being a McDonald's is a sign with the golden arch that is an emblem on the side of the door of the front entrance.

Mr. Holden stated that they don't have a framework, a feel or design that they are after but we have to take a step and move in that direction.

Mr. Tolbert stated that when you drive down Route 13 it can look like tacky mess when you get all of these different signs and building designs. It's just like a tacky little town and this is the capital; we should like very nice.

Dr. Jones questioned if the Kmart facility is an unusual request meaning that most of the buildings are not Kmart's? Responding to Dr. Jones, Mrs. Townshend stated that it's also rare that you have a project that only comes to the Commission because of the site work that they are doing not because of the building. Staff can ask applicants to start submitting an architectural rendering and then change the Code so that it's very clear that it's required. They can make it so that any façade renovations on something that's coming to the Planning Commission have to include renderings.

Colonel Welsh stated that even if there are not going to be doing a façade renovation maybe they need to.

Mr. Tolbert stated that if the applicant can't tell the Commission what they want to know then they are ready to come to the Planning Commission.

Dr. Jones stated that if the elevation is not more appealing then it might be the same old Kmart; it wasn't very nice. Responding to Dr. Jones, Mrs. Townshend stated that it was the epitome of 1960's junk of architecture.

Dr. Jones stated that the gentleman who sat all night to ask a question, it didn't take much to please him. He represented the gas station and she thought that was very interesting. He probably should have gone home because nothing has changed at that gas station. Responding to Dr. Jones, Colonel Welsh stated that he wasn't from US Gas.

Mrs. Townshend stated that it was the Valero.

Mr. Holden stated that he was worried about a competitor.

Dr. Jones questioned why it appears to here that there's so many requests for waivers if in fact the standards say that there must be curbing? Responding to Dr. Jones, Mrs. Townshend stated that is another change that is on Staff's work plan. The requirement for the six (6) inch upright curbing and the waiver for stormwater kind of pre-dates the rise of green technologies. She thinks that there should be provisions where it doesn't require a waiver so that you can do it. The other thing that they have had is some Administrative Site Plans that are really simple plans but because they are not proposing curbing, it needs to come to the Commission for the curbing waiver. They want to in the next year, draft an ordinance that would fix that. The other waiver that they need to look at is arterial street buffer. Maybe they look at what the width is and then don't waive it.

Mr. Holden questioned why ever set it to thirty (30) if they are never going to require thirty (30)? He thinks the only one who did that was the drug store there and he thinks probably because it

was being designed out of state and they didn't think the Commission was so soft about it. Responding to Mr. Holden, Mrs. Townshend stated that was where their stormwater is so it was easy.

Mr. Holden stated that the curbing should flow into a filter strip or some stormwater thing that pushes a lot of those and may be less expensive to not build the curbs and put parking bumpers up. What concerned him about the Kmart is if you are leaving a flush edge of paving that people are driving over then you get paving that is broken up and it's a degradation of the site. He thinks that some options for Staff to be able to handle the sheet flow conditions but not in an area where you are concerned that there's going to be traffic. Responding to Mr. Holden, Mrs. Townshend stated that it could be done in a way that doesn't require a waiver every time.

Dr. Jones questioned otherwise why have the regulation? It's like saying you are not getting but two (2) cookies, and they say but I really want another one so you give them one more this time.

Mr. Holden stated another thing that he was curious about was the bicycle parking counts. He doesn't know that he has ever seen a bicycle parking facility that has anywhere near 10% use. Responding to Mr. Holden, Mrs. Townshend stated that part of the challenge is that they are working to improve the bicycle infrastructure in the City. They have had a lot of support from DelDOT in that regard but if we don't make sure that they are building the bike racks so that when you get to a destination you have a safe place to put your bike then they can build all the trails and bike lanes that they want but they are not going to get there. The bike racks are a pretty inexpensive piece of infrastructure and before there was a requirement they would voluntarily get they if they asked anyway. Sometimes they're used and sometimes they're not but she thinks that they have also seen a lot of places where people have their bikes chained to things that are not intended to have bikes chained to them because they haven't provide bike racks.

Colonel Welsh stated that before we get away from what they were talking about with the architectural review through the Planning Commission, have they come up with any resolution for what they are going to look at or do? Responding to Colonel Welsh, Mrs. Townshend stated that she thinks they can do things administratively until they get the Code changed as it relates to buildings, renovations, building facades or anything that comes to the Commission. The other thing is more involvement of Staff as these projects unfold.

Mr. Holden questioned if there was a way to have the rendering that was approved in the hands of the person who is approving the Building Permit? Responding to Mr. Holden, Mrs. Townshend stated that she still thinks that it's too late at that point. They want them before they have their final engineered plans.

Mr. Holden stated in terms of bringing Site Plan stuff that has some architectural concerns to the Planning Commission, forcing the renderings to be amended maybe the exception for building additions. He thinks that they need to push that way so that they have the opportunity to make things better. Responding to Mr. Holden, Mrs. Townshend stated that one thing could be when they do their Check Print letters to be very clear that just like with a Site Plan, if there are any changes to their architecture that they should submit it with their Check Prints.

Mrs. Melson-Williams stated that it's in the advisory comments of the DAC Report and some of the recent Notices of Decision have statements as well.

Dr. Jones stated that maybe use the terminology "if there are any changes," the applicant may then say that they aren't making any changes.

Colonel Welsh stated that that may not be a good thing. Responding to Colonel Welsh, Mrs. Townshend stated that they will look at the wording in their letters.

Colonel Welsh stated that where he was going earlier was that they have designated people to be representatives on the Architectural Review Committee so if there is conflict, they can resolve it and they are representing the Planning Commission in that function. Maybe if Staff requires elevations or architectural renderings for a Building Permit then that person or those people on the Architectural Review Committee can simply come into the office, review them and say that looks good to them. That's taking the heat off of Staff and if they come in and think something wouldn't float with the Planning Commission then the application could be taken before the Commission. He thinks that would put a little more teeth in it. He hates to keep going back but it's his frame of reference, there was a point where people would come to the Planning Commission with a Site Plan and no architectural rendering, no artist conception and no elevations and the Commission would approve it. He thought that was crazy because it's basically like signing a blank check and saying that they can build whatever they want. What improvement are they making to the City's skyline or architecture? So he started asking the applicant for their rendering and elevation plans. Pretty soon the engineering firms around here knew that they were going to be asked for it when they came to the Planning Commission so they started providing it and then it became a requirement. Responding to Colonel Welsh, Mrs. Townshend stated that she thinks they need to probably go back and get back to the Commissioners on how they do this. Instead of waiting until the next Quarterly Workshop, Staff can provide an update at the next meeting.

Mr. Tolbert stated that the more information that they have as a Commissioner, the better decisions that they can make.

Colonel Welsh stated that his fear last night was that they were being asked to approve a Site Plan without benefit of any rendering; basically they are signing a blank check. They can do whatever they want and nobody can hold their hands to the fire.

Mr. Tolbert stated that the bottom line is if they don't have a rendering then they don't know what they are really approving.

Dr. Jones questioned if there is a standard for the Historic District zone? Is there a vision? We have talked about how Dover should look. She doesn't really know if she is suggesting anything like the Historic District but is there any benefit to somewhere along the line, brainstorming about how new construction or renovated construction should look like on Route 13 Corridor in the City of Dover and then that would be sort of a template for the administrative review. For instance, she heard someone mention something about a flat roof last night. If we don't want flat roofs in Dover then why can't they develop a vision statement or have something that allows a kind of a parameter of standards so that they won't have as many issues? This is going to come up over and over again and she knows that they don't want to back themselves into a box.

Mr. Tolbert stated that during Colonel Welsh's time as Chairman, he did push hard for doing away with flat roofs. Responding to Mr. Tolbert, Dr. Jones stated that they should say that they

don't want flat roofs.

Mr. Holden stated that it's a set of design guidelines. He was saying earlier that they are asking for plans so that they can have some input but the next step once you have that ability is then how can the Commission help guide before the plans come, what they would like to see. That's a notable effort to undertake that not a quick and easy process. Responding to Mr. Holden, Colonel Welsh stated that is a great idea and maybe it's something that they should get started with now but he doesn't think that they have evolved to that point yet. This has really been a slow process; much slower than he thought it would be.

Dr. Jones questioned how the process could be expedited? What creates the barriers? What are the problems? Responding to Dr. Jones, Mr. Holden stated that one big hurdle is the time and money to develop a set of architectural guidelines and then push them through a public review process so the City can incorporate them. He would expect that the City might say that they don't have the Staff to do it in-house so they would have to go out of house and they have to have the money to process that.

Mrs. Townshend stated that they can look and see what other places have. The bulk of the design guidelines that they have looked at recently have been the Historic District stuff because that's what they have been really kind of looking at. But they can look at what Gaithersburg, MD has and what other places have and see if even they could develop a check list or a list of preferred practices.

Colonel Welsh stated that they have had a relatively soft handed approach with this and he thinks it might be time to start, particularly as the economy picks up to start being a little more heavy handed with it and requiring a little bit more from them.

Mr. Tolbert stated that it's going to take time. If they start being a little heavier handed, it's going to take years to get the kind of finish that they want in the City so they might as well start now.

Mr. Holden stated that you can have all the rules in the world but you have to be able to say "no more cookies."

Dr. Jones stated that as a fairly new Commissioner, having so much to learn and understand if when Site Plans come through and there's not an understanding of some kind of standard, what is does for her is to have to depend on the other Commissioners who may have varying opinions. She thinks the small steps are good.

Colonel Welsh stated that recently in the past five (5) years or longer, Mrs. Townshend and her Staff have done a good job of letting the applicants know what's going to fly and what's not going to fly. So by the time the elevations and renderings get to the Commission they've already told them. Responding to Colonel Welsh, Mrs. Townshend stated that it's nice having the Commission's backing because they could tell the applicant that they need to do better than what they have but not if the Commission rolled over every time someone brought junk in. She thinks it's worked well because Staff knows that the Commission is going to demand something so they are able to demand it. They are able to tell the applicant that they can take the application to the Commission but it's not going to go well.

Dr. Jones stated that it is always good to have something to fall back on or even if you just use your judgement based on the guidance of this Committee until they get to a point. But if she were in Staff's shoes, she would not want to be in that position.

Colonel Welsh stated that they all agree that Route 13 is a mess and it's a mess that was started back in the 1950's or before. If they have the opportunity to improve properties on Route 13, they are remise in not taking advantage of it.

Dr. Jones stated that it is our community and some of those who are developers it's not their community; they are looking at the all mighty.

Colonel Welsh stated that it's their job to make money. Responding to Colonel Welsh, Dr. Jones stated that it's the Commission's job to hold them accountable to that.

Colonel Welsh stated that it's the Commission's job to make sure that it complies with the design standards. He hates to beat a dead horse but there aren't many capitals of the First State and there's no reason why Route 13 should look the way it does.

Dr. Jones questioned if there was an approximate date on when the Kmart project is supposed to start? Responding to Dr. Jones, Mrs. Townshend stated that they have Building Permit stuff in for the shell so she thinks that they are looking to start relatively soon.

Colonel Welsh stated that he drove by there on his way out to the Base this morning at 7:20am and there were lights on in there and that's the first time that he has seen lights on inside the Kmart so he thinks they are going to be moving along pretty quick.

Mr. Tolbert stated that last month there were people in and out of that building and he knew something was going on there.

Dr. Jones questioned when the minutes of the Planning Commission meetings are made public? Responding to Dr. Jones, Mrs. Townshend stated the morning that the packet goes out.

Dr. Jones stated that ideally those minutes can be visited on the website? Responding to Dr. Jones, Mrs. Townshend stated yes, ten (10) days prior to the Planning Commission meeting.

DEPARTMENT OF PLANNING AND INSPECTIONS UPDATE

Summary of 2015 Applications

Mrs. Townshend stated that the application volume didn't really pick up last year. It seems to be picking up this year based on last night's meeting and next month's meeting.

Research Activities

- **Update on Research for Ordinance Amendments**

Mrs. Townshend stated that they are working on updates to the residential zones and also the manufactured housing zone and regulations regarding manufactured homes.

1. **Manufactured Homes**

2. Residential Zones

Current Studies and Projects

- **Transportation Improvement District**

Mrs. Townshend stated that they are still working with DelDOT on the Transportation Improvement District; the ball is in their court.

- **Division Street/Forest Street Design Charrette**

Mrs. Townshend stated that they had the design charrette for Division Street/Forest Street through the Downtown area. They are waiting for something from the consultant on that.

- **Bradford Street Streetscape Enhancement Project**

Mrs. Townshend stated that there is a Bradford Street streetscape project that is going to go from Division Street to Loockerman Street. They are still waiting on design stuff for that.

Updates of Program and Plan Activities

- **Downtown Development District Program/Restoring Central Dover Community Plan**

Mrs. Townshend stated that they have been working with NCALL and the Downtown Dover Partnership and other partners on the Downtown revitalization stuff so hopefully they start seeing more stuff related to that.

Planning Staff Priorities for 2016

Mrs. Townshend stated that the Commissioners have a copy of Staff's work plan for the coming year. That has some short term tasks, a long list of ordinance updates that need to be worked on, projects that are continuing that have started previously, and new projects. One that is certainly worth making everyone aware of is at the request of City Council; they are going to be doing an evaluation of non-conforming uses. They are going to be looking at extent of what they have in terms of non-conforming uses beginning with residential zones. They will look at anything that is a non-conforming use in the residential zones, look at whether it's just truly non-conforming or non-conforming but permitted as a conditional use and figure out where to go from there.

Dr. Jones stated that conditional use means might not be permanent; it might change. Responding to Dr. Jones, Mrs. Townshend stated that conditional use means that the Commission is allowed to put conditions on it. They can approve it, deny it or approve it with conditions. Typically, it's approved with conditions. There are non-conforming uses that just aren't allowed and then there are a lot of things that are considered non-conforming uses that are like churches. They are non-conforming because they never went through the conditional use process because they existed before zoning. There are other non-conforming uses such as a liquor store in a residential zone; it would not be permitted as a conditional use.

Dr. Jones questioned if a daycare center in a residential area where the person doesn't live there would be permitted? Responding to Dr. Jones, Mrs. Townshend stated that it would be a conditional use.

Dr. Jones questioned if there was some type of guideline if there's a day care center in a residential area and the car giver or person in charge must live there? Responding to Dr. Jones, Mrs. Townshend stated no, it goes as a conditional use if they don't live there. The whole idea is

to get an inventory to see what's out there and see if there are things that they need to do to sunset some uses. What she said to City Council is that they need to be careful and deliberate in how they do it because what she doesn't want to do is address every church in the Downtown area as a non-conforming use. It really needs to be let's inventory what we have and then figure out the best way to deal with things that are incompatible.

Dr. Jones questioned if this is done by reviewing the files to see whether permits have been requested? Responding to Dr. Jones, Mrs. Townshend stated that the starting point is going to be putting two (2) people in a car with a tablet using a tablet based application so that Staff can drive through the residential zone, identify any non-conforming uses, indicate what the use is and then they can start to see if they have a lot of non-conforming uses or just a few and which ones are the ones that they need to look at transitioning out and which ones are the ones that they need to make sure they don't impede.

Mr. Tolbert stated that just that process will take some time.

Mrs. Townshend stated that there are a bunch of procedures that they need to develop. They kind of lost a little ground after Janelle left on keeping their digital mapping files current so they are working with the City's GIS Staff on that. They want to update application forms and develop work flow checklists for all of their application types and just improve and streamline processes where they can.

Colonel Welsh questioned if this strategic plan was something that Staff has been doing? Responding to Colonel Welsh, Mrs. Townshend stated that they were but the last couple years she isn't sure that they did. She thinks after Janelle left and for a while it was just herself, Dawn and Tracey, a lot of their effort was more staying afloat. Since they are now fully staffed, now is the time to get caught up because there is a lot that was put on the back burner.

Dr. Jones questioned if there were any complaints about the transition of stuff from McKee Road to State College Road? All of the cars back by the church where there were problems with Mr. Burden? Responding to Dr. Jones, Mrs. Townshend stated that they get complaints and there are active code enforcement cases. It's very slow moving. Part of the problem with the College Road property is that things spill over onto the neighboring property which is owned by the State of Delaware

EDUCATION AND TRAINING OPPORTUNITES

- **Delaware Planning Education Program by UD-IPA: Workshop Series**

Mrs. Townshend stated that the University of Delaware has their workshop series; the next one is on March 11, 2016 from 9:00AM to 12:00PM on "Land Use Development Administration." If anyone is interested, let Staff know and they will get you registered.

OPEN DISCUSSION – No items
Meeting adjourned at 2:02 PM

Sincerely,

Kristen Mullaney
Secretary