CITY OF DOVER PLANNING COMMISSION
July 20, 2015

The Regular Meeting of the City of Dover Planning Commission was held on Monday, July 20, 2015 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Tolbert, Mr. Holt, Ms. Still, Mr. Ambruso and Colonel Welsh. Mr. Baldwin and Dr. Jones were absent.

Staff members present were Mrs. Townshend, Mr. Cook, Mr. Jason Lyon and Mrs. Mullaney. Also present were Mr. Rhett Ruggerio, Mrs. Erin Barrett and Mr. Michael Hynansky. Speaking from the public was Mr. Eric Czerwinski.

APPROVAL OF AGENDA

Ms. Still moved to approve the agenda as submitted, seconded by Mr. Cregar and the motion was unanimously carried 7-0 with Mr. Baldwin and Dr. Jones absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MAY 18, 2015

Ms. Still moved to approve the Planning Commission minutes of May 18, 2015, seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Baldwin and Dr. Jones absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, August 17, 2015 at 7:00pm in the City Council Chambers.

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop is tentatively scheduled for Wednesday, August 19, 2015 at noon. The Board of Adjustment at their meeting held last week expressed some interest in meeting with the Planning Commission to discuss some potential Code changes based on some of the variance applications that they have received. She suggested that this may be a venue and that she would bring that idea to the Planning Commission to see if there is an interest and if so, Staff will schedule accordingly.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on May 26, 2015, June 8, 2015, June 22, 2015 and July 13, 2015. Mr. Ambruso, Mr. Holt and Mr. Holden were reappointed to Planning Commission for three (3) year terms to expire June 1, 2018.

Mrs. Townshend stated that Central Delaware Habitat for Humanity completed a Builders Blitz during the week of June 8, 2015 where they completed two (2) homes on South Kirkwood Street. The third home is under construction on the unit block of South Kirkwood Street by Central Delaware Habitat for Humanity. They will complete five (5) houses by the end of 2015 on this block of South Kirkwood Street.

Restoring Central Dover was awarded an Implementation Grant in the amount of $750,000 over five (5) years from the Wells Fargo Regional Foundation. NCALL is administering that grant and they are currently searching for an Implementation Manager to oversee the implementation of the strategies identified in the Restoring Central Dover Plan. They have had three or four full days of interviews; she is on the Selection Committee and she thinks they are going to get a good person.

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

2) Re-evaluation of Conditional Use:

A. C-14-04 109 East Division Street: Professional Office – Re-evaluation Annual Review including a Public Hearing for a Conditional Use Permit to establish professional offices at an existing 1,689 S.F. structure on an 11,340 S.F. ± parcel. The application was reviewed by the Planning Commission on June 16, 2014 with approval of the professional office use conditional upon a one-year review among other conditions. The property is zoned RG-1 (General Residence Zone) and subject to the H (Historic District Zone). Planned interior renovations will convert the use from residential to office. The property is located at the north side of East Division Street between Pennsylvania Avenue and Maple Lane. The owner of record is Leg Hall, LLC c/o Rhett Ruggerio. Property Address: 109 East Division Street. Tax Parcel: ED-05-077.05-02-55.00-000. Council District 3.

Representatives: Mr. Rhett Ruggerio, Leg Hall LLC

Mr. Cook stated that this is a Re-evaluation Annual Review including a Public Hearing for a Conditional Use Permit to establish professional offices at an existing 1,689 S.F. structure on an 11,340 S.F. parcel. The application was reviewed by Planning Commission on June 16, 2014 with approval of the professional office use conditioned upon a one (1) year review among other conditions which were in the DAC Report at that time. The property is zoned RG-1 (General Residence Zone) and subject to the H (Historic District Zone). The planned interior renovations will convert the use from residential to office. The property is located on the north side of Division Street between Pennsylvania Avenue and Maple Lane. The owner of record is Leg Hall, LLC c/o Rhett Ruggerio. Property address is 109 East Division Street. Tax Parcel is ED-05-077.05-02-55.00-000. Council District 3.

Staff gave a Memorandum with an update on the property describing the actions that have occurred. As previously mentioned, this was approved last year in June with a condition of a one (1) year review of the occupancy of the use. There is a note in the memorandum that there was a subsequent decision by the Solicitor regarding a condition relating to the ownership of the property that the Commission decided at the time and that condition was struck. Actions to date regarding the property were a Plumbing Permit last year and Staff has been working with the landscape architect and the owner of the property to complete the details of the Final Plan. The details of the Final Plan were primarily some landscaping to screen a parking pad in the back; there was exterior landscaping on the front. There are plans to construct a brick sidewalk from the rear parking area to the rear entrance and that work has been scheduled. There is one (1) amendment that is not in the memorandum that they wanted to mention. This is a request from the applicant to amend the Final Plan to reduce the parking from four (4) spaces to three (3) spaces. The conditions of the DAC Report were for four (4) parking spaces. They had a garage in the back off of the alley and three (3)

parking spaces adjacent. The applicant has requested to change that count down to three (3) total parking spaces.

Mrs. Townshend stated that the reduction in parking is from the applicant due to some of the dialogue with neighbors and wanting to not have it look commercial and have it look more residential and reduce the amount of parking that they would have in the back.

Colonel Welsh questioned if the applicant could request amendments to the original application? Responding to Colonel Welsh, Mrs. Townshend stated that this is a little unique in that they are in the Check Print process so it was just in the last week that they looked at the plans that had that change in parking. Since they were bringing it back for a one (1) year review, Staff thought that they should mention it to the Planning Commission. The public was notified that this application would be coming before the Commission so she thinks that it would be appropriate for the Commission to make a decision on that this evening.

Mr. Ruggerio stated that last year they worked with the neighbors and the Commission was grateful enough to allow them so time to work on the issues that concerned the neighbors and he feels they did that.

Mr. Ambruso questioned if everything currently still in agreement with the original DAC Report? Responding to Mr. Ambruso, Mrs. Townshend stated yes.

Colonel Welsh opened a public hearing.

Mr. Eric Czerwinski – 34 Maple Lane Dover DE 19901

Mr. Czerwinski stated that he did receive a notification of this meeting. He has nothing to oppose what's been done to the exterior of the house or to the property. He and the neighbors have talked amongst each other and have been very happy with what they have seen. It states that he is continuing to convert this property from residential to an office. The Conditional Use of these residential houses, it's his understanding that they should be able to be readily reverted back to residential use. Does that mean that the internal modifications can't be made to remove kitchens and bathrooms or does that not stop somebody from doing that? Responding to Mr. Czerwinski, Mrs. Townshend stated that bathrooms are required regardless of what occupancy. The Code doesn't specifically state that you can't take out a kitchen. The idea is that you don't break up the space so much that you wouldn't be able to restore a residential use. She thinks it has more to do with how you deal with walls because if you take out the kitchen appliances, they can always be reinstalled at a later date but if you make it so that there are not bedrooms then it will be harder to convert back to residential.

Mr. Czerwinski stated that his concern is also the removal of plumbing. He understands what Mrs. Townshend is talking about because they now have a second house that's being used as an office on that street. He was just curious about how far it could be modified internally from its original use. Other than that they are really happy with the way things are going.

Colonel Welsh closed the public hearing.

Mr. Cregar stated that he works in this area and he goes by this place ten (10) to twelve (12) times a day at different times. What he has observed is that you would hardly know that there is activity going on in this building at all. He hasn't seen any parking issues. Would the Commission not have concern if he wanted to reduce the number of parking spaces as long as he had the appropriate number of spaces for his employees? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Holt stated that the report states something about the Conditional Use being invalid. Responding to Mr. Holt, Mrs. Townshend stated that when this application came to the Planning Commission last year, Planning Commission approved the Conditional Use but tied it to the ownership of the property being under Mr. Ruggerio's ownership. They received an inquiry following the Planning Commission action and consulted with the Deputy City Solicitor who said that a condition that is based on ownership of the property not use of the property would not be a valid condition so that condition was not to be applied.

Mr. Holt questioned if Mr. Ruggerio moves out would the property revert back to residential? Responding to Mr. Holt, Mrs. Townshend stated that her recollection is that the motion was for the government relations office so if Mr. Ruggerio moved out and another government relations office that employed the same number of people moved in then that would be okay but you couldn't turn it into a medical office or change the nature of the use; it would still need to comply with the conditions regarding the use that were set by the Commission.

Mrs. Townshend stated that the motion would need to state if the Commission needs to see it back again or is the one year review sufficient enough to see if it's compatible.

Mr. Cregar stated that Staff was in the Check Print phase so once that's approved by Staff and they are in compliance with all of the other conditions, with other Conditional Uses they would not necessarily have to see that again. Responding to Mr. Cregar, Mrs. Townshend stated that was correct.

Mr. Cregar moved to approve C-14-04 109 East Division Street Professional Offices regarding the Conditional Use since it is meeting the conditions that the Commission had set and established and it's meeting the DAC requirements, to include an amendment to reduce four (4) parking spaces to three (3) parking spaces as part of this re-conditional approval, seconded by Ms. Still and the motion was unanimously carried 7-0.

NEW DEVELOPMENT APPLICATIONS

1) Z-15-03 Lands of Barrett at 35 and 39 North New Street: Rezoning from RG-1 to RG-3 – Public Hearing and Review for Recommendation to City Council for a rezoning application for two (2) parcels consisting of 0.137 acres and 0.089 acres for a total of 0.226 acres ± (9,844 SF ±). The properties are currently zoned RG-1 (General Residence Zone). The proposed zoning is RG-3 (Group Housing Zone). The properties are located at the southeast corner of North New Street and Fulton Street. The owners of record are Robert & Erin Barrett and Erin L Cooper. Property Addresses: 35 North New Street and 39 North New Street. Tax Parcels: ED-05-076.08-05-39.00-000 and ED-05-076.08-05-40.00-000. Council District 4. Ordinance #2015-12.

Representatives: Mrs. Erin Barrett, Owner

Mrs. Townshend stated that this application is a rezoning request at the southeast corner of New Street and Fulton Street. The properties are 35 and 39 North New Street. The current zoning classification is RG-1 (General Residence Zone); the applicant has requested RG-3 (Group Housing Zone). Just a clarification, the *Zoning Ordinance* says Group Housing Zone. What they mean by that is a townhouse zone. The RG-3 (Group Housing Zone) reads: any use that is permitted in the One Family Residence Zone which would be everything that's permitted in the RG-1 (General Residence Zone) as well and one family group dwellings such as townhouses and row houses. This is the kind of scenario where they need to clean up the language because she doesn't think townhouses are called group houses and it creates some confusion but that's for another date.

This is a property that is within the Downtown Development District; it is within the Restoring Central Dover study area where the City is working to try to promote homeownership and residential re-development. In this case, Staff is working on some ordinance changes that they would have to bring forward that would allow townhouses and duplexes within the RG-1 (General Residence Zone). Those ordinances are not in place yet so given that set of circumstances; Mr. and Mrs. Barrett have requested their re-zoning to RG-3 (Group Housing Zone) so that they could build townhouses on the lots.

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

Mr. Tolbert moved to recommend approval to City Council for Z-15-03 Lands of Barrett at 35 and 39 North New Street: Rezoning from RG-1 to RG-3, seconded by Mr. Holden.

Mrs. Townshend stated that she would like the motion clarified to state for the reasons stated in the DAC Report including that it's consistent with the *Comprehensive Plan*, the Restoring Central Dover Plan and the Downtown Development District.

The motion was amended to include the reasons stated in the DAC Report including that it's consistent with the Comprehensive Plan, the Restoring Central Dover Plan and the Downtown Development District, seconded by Mr. Holden and the motion was unanimously carried 7-0 by roll call vote. Mr. Holden voting yes, for the reasons stated in the motion and no resident displeasure with the action. Mr. Cregar voting yes, for all reasons previously stated comments. Mr. Tolbert voting yes, in concurrence with what's been previously stated and that the petition is consistent with the Comprehensive Plan. Mr. Holt voting yes, it's consistent with the Comprehensive Plan. Ms. Still voting yes, as it's consistent with the Comprehensive Plan according to the DAC Comments and she thinks it will be an improvement. Mr. Ambruso voting yes, it's consistent with what the City is trying to do in that area concerning the RG-1 (General Residence Zone). Colonel Welsh voting yes, for all of the reasons previously stated.

2) US-15-01 Winner Volkswagen and Subaru: Comprehensive Signage Plan – Public Hearing and Review of a Unified Comprehensive Signage Plan application to permit the construction and implementation of signage for the 5.505 acre parcel to include illuminated freestanding signage and illuminated wall signage on two (2) showroom buildings. The property is zoned C-4 (Highway Commercial Zone) and a portion is subject to the SWPOZ (Source Water Protection Overlay Zone). The property is located on the east side of North DuPont Highway and northwest of the entrances to

Dover Mall. The owner of record is 1387 DuPont Highway LLC c/o Michael Hynansky. Property Address: 1387 North DuPont Highway. Tax Parcel: ED-05-057.00-01-15.00-000. Council District 3. *This application is associated with V-15-05 approved by the Board of Adjustment on March 18, 2015 and S-14-05 approved by the Planning Commission on April 21, 2014.*

Representatives: Mr. Michael Hynansky, 1387 DuPont Highway, LLC

Mr. Cook stated that is was a review of a Unified Comprehensive Signage Plan to permit the construction and implementation of signage for the 5.505 acre parcel to include illuminated freestanding signage and illuminated wall signage on two (2) showroom buildings. The property is zoned C-4 (Highway Commercial Zone) and a portion is subject to the SWPOZ (Source Water Protection Overlay Zone). The property is located on the east side of North DuPont Highway and northwest of the entrance to Dover Mall. The owner of record is 1387 DuPont Highway LLC c/o Michael Hynansky. Property address is 1387 North DuPont Highway. Tax Parcel: ED-05-057.00-01-15.00-000. Council District 3.

There are copies of a Site Plan and the Map Plan Book in tonight's packet. The Map Plan Book is just like other plans that the Commission might receive. There are some minor corrections and Staff has been in contact with the sign company but otherwise it's pretty close to complete.

The Commission reviewed the Site Plan in April 2014 and the Site Plan was for the addition of a new Dover Volkswagen showroom building which is going to be slightly south of the existing showroom building. The application is also associated with a Variance which was heard in March of 2015 and that relates to one of the freestanding signs.

There is an existing showroom building that has subsequently been renovated extensively so it has a totally different look than what is being seen in the previous picture. There are two (2) freestanding signs existing: a Subaru sign and a Volkswagen sign. Those are considered non-conforming by today's Code because they are rather close together. Today's Code would require those to be fifty (50) feet apart; however, those are being replaced. There will be three (3) freestanding signs and thirteen (13) wall signs altogether distributed amongst the two (2) buildings. On Site Plan, the locations of the three (3) are as follows: one (1) is located just north of the new re-aligned entrance to the property; it's going to be a Subaru pylon sign. That's the sign that required a variance due to the setback. The property there is a little bit tight because of the pre-existing building so in order to make that work the applicant requested a Variance from the normal setback requirement which is fifteen (15) feet. He believes the Variance was to bring that setback down to nine (9) feet. The second proposed freestanding sign is going to be farther south in the corner of the property and that will be the Volkswagen pylon sign. It will be located near the new Volkswagen showroom building. There is another sign, a small post and panel monument sign, that's going to be near the potential future re-aligned entrance to the property. If the Dover Mall access entrance is ever re-aligned then there will be access from that road. The two (2) pylon signs are less than thirty (30) feet in height and both of them are less than one hundred (100) square feet in area so they would comply as a pylon sign. The differences by bringing this before the Planning Commission is that they have the ability to increase the number, area or the height of signs. For the overall total package, they would only be allowed to have one (1) freestanding sign because the number of freestanding signs is determined by the entrances and they only have one (1) entrance. The Commission has the ability to allow the one (1) additional pylon sign.

Mr. Cook presented a slide show of what each sign would look like.

Mr. Cook presented a slide showing the façade of the Subaru Building which was the renovated building. Due to the way the City's Sign Regulations work, this would be considered four (4) signs because there is a sign that's over the garage entrance and then three (3) on the top. The way that the City counts the area and groups it together, it counts as four (4) signs. Under the standard Sign Regulations they would only be allowed two (2) signs per building. The total number of signs for this building was included with the Variance request for the setback for the pylon sign. The reason for that was due to constriction phasing. The applicant had to get the Setback Variance for the pylon sign and they elected to request for the number of wall sign increase at that time and the Board of Adjustment decided to grant that as well. They are including them in this overall Sign Plan because the way that a Comprehensive Sign Plan works for the total area that's added up when you are approving it. The applicant can increase to a certain percentage in the future without having to come back to the Planning Commission. It's all included here so that they have a baseline.

The next slide shows the Volkswagen Building. Again, there is signage on the front and some signage on the side that will be facing the north bound traffic. This one is a little unique in that it does actually have signage on the back as well and that would be facing the ring road around the Dover Mall.

Mr. Hynansky stated that the reason for the semi-drastic change from what is existing to what he is doing now is when he contracted the previous owner to buy this business, he had to negotiate sales and service agreements with both Volkswagen of America and Subaru of America to become a dealer there. They have requirements whenever there is a change of hands, to bring the building and the representation up to the then current standard of their facility. That's basically the reason for the request for this number of signs to make them consistent with both Volkswagen of America and Subaru of America.

Mr. Tolbert questioned if the Board of Adjustment has preapproved some of the signs as he understands so is the action that the Commission is taking this evening redundant or will it impact what the Board of Adjustment has done? Responding to Mr. Tolbert, Mrs. Townshend stated that it will not impact what the Board of Adjustment has done, in some ways it's redundant which was actually part of the reason that Staff had recommended against it at the Board of Adjustment but again there was a timing issue and they did act in that regard. She thinks the main thing is that anything that the Board of Adjustment has already granted, the Commission can't change. In some ways the Commission's action will solidify what the Board of Adjustment has done but again they want to make sure that the Comprehensive Sign Plan has all of the signage in it even if it's already been granted by the Board of Adjustment because it does affect signage in the future. It's important that the plan that the Commission approves includes everything.

Mr. Tolbert further questioned what impact that would have on any motion that the Commission would make? Responding to Mr. Tolbert, Mrs. Townshend stated that she didn't think it would have an impact.

Colonel Welsh stated that he didn't think it would have an impact and that he should also point out that Staff is in support of all of the recommendations and approvals by the Board of Adjustment. There is no additional verbiage required.

Mr. Holt stated that he didn't have any questions, it looks fine and it looks like it's going to be a good package. People will certainly be able to find their way to the showroom.

Mr. Ambruso questioned if the applicant was happy with what was coming out of the City in regards to their requests? Mr. Hynansky stated yes, the City has been very helpful in the process. There's been a lot of work with the manufacturer but they are happy with the results.

Colonel Welsh stated that he was impressed that Mr. Hynansky would show up tonight as the owner and represent his application. It shows dedication and he appreciates that.

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

Mr. Holt moved to approve US-15-01 Winner Volkswagen and Subaru: Comprehensive Signage Plan, seconded by Ms. Still and the motion was unanimously carried 6-0 by roll call vote. Mr. Holden abstained from the vote; his employer has worked on the overall project. Mr. Cregar voting yes, believes that the package that's presented will be a plus for the size and complexity of this automobile campus for sales. It will be a positive for safely getting the public in and out and to identify the areas where they need to be. Mr. Tolbert voting yes, the plan that was submitted is a well thought out plan and it will add something to the overall appearance in Dover. Sometimes they can get signs all over the place that makes the City look a little ugly and tacky; this Sign Plan is well thought out and it's beautiful. Mr. Holt voting yes, he feels like it's a well thought out plan and will definitely aid Volkswagen and Subaru with their sales. Ms. Still voting yes, in concurrence with the comments made previously by Mr. Cregar and Mr. Tolbert. Mr. Ambruso voting yes, for all of the reasons previously stated. Colonel Welsh voting yes, it's a very well thought out plan, it's very attractive and he thinks it's certainly an enhancement to the existing property.

NEW BUSINESS

1) Nomination and Election of Officers (Chairman and Vice-Chairman)

Nominations for Chairman were opened to the floor.

Mr. Cregar nominated Mr. Tolbert to serve as the Chairman.

Mr. Ambruso moved that the nomination for Chairman be closed on the said name, seconded by Mr. Cregar. Mr. Tolbert will serve as Chairman.

Nominations for Vice-Chairman were opened to the floor.

Mr. Tolbert nominated Ms. Still to serve as the Vice-Chairman, seconded by Mr. Cregar.

Mr. Cregar moved that the nomination for Vice-Chairman be closed on the said name, seconded by Mr. Holden. Ms. Still will serve as Vice-Chairman.

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

Mrs. Townshend stated that the current two (2) Planning Commission members are Ms. Kathy Still and Mr. Dean Holden. In addition, Ms. Sarah Kiefer, Director of Planning Services for Kent County and Dr. R. G. Chandler, Director of Architecture at Del-Tech Community College as the outside design professional.

Colonel Welsh questioned if they are willing to continue? Responding to Colonel Welsh, Mrs. Townshend stated that they have not talked to them but since they have never met she is sure that they would gladly meet if they needed them.

Colonel Welsh moved to approve that Ms. Still, Mr. Holden, Ms. Sarah Keifer and Dr. Chandler continue on the Committee for the next year, seconded by Mr. Tolbert and the motion was unanimously carried 7-0.

Meeting adjourned at 7:49 PM.

Sincerely,

Kristen Mullaney
Secretary