CITY OF DOVER PLANNING COMMISSION
December 15, 2014

The Regular Meeting of the City of Dover Planning Commission was held on Monday, December 15, 2014 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Tolbert, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still, and Colonel Welsh. Mr. Ambruso was absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Mr. Cook and Mrs. Mullaney. Also present were Mr. Edward Centofante and Mr. Tolano Anderson.

APPROVAL OF AGENDA

Mr. Holt moved to approve the agenda as submitted, seconded by Mr. Tolbert and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF NOVEMBER 17, 2014

Mr. Tolbert moved to approve the Planning Commission minutes of November 17, 2014, seconded by Ms. Still and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF NOVEMBER 18, 2014

Ms. Still moved to approve the Planning Commission Quarterly Workshop minutes of November 18, 2014, seconded by Mr. Baldwin and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Planning Commission meeting will be held on Tuesday, January 20, 2015 at 7:00 PM in the City Hall Council Chambers.

Mrs. Melson-Williams stated that included in tonight's packet is the schedule of meeting dates and deadlines for 2015.

Mrs. Melson-Williams provided an update on the regular City Council and Utility Committee meetings held on September 22, 2014, October 13, 2014, October 27, 2014 and November 10, 2014.

Mrs. Melson-Williams stated that they are awaiting the outcome of the Downtown Development District Application. Those designations will come in January 2015.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

NEW DEVELOPMENT APPLICATIONS

1) Z-14-04 Lands of Faithwork, LLC – Public Hearing and Review for Recommendation of a Rezoning Application for three parcels of 15,505 S.F. ±, 9.515 S.F. ±, and 8,276 S.F. ±. The properties are zoned C-PO (Commercial and Professional Office Zone) and are subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is IO (Institutional and Office Zone) and to be subject to the COZ-1 (Corridor Overlay Zone). The properties are located near the northeast corner of Forest Street and Saulsbury Road. The owner of record is Faithwork, LLC. Property Addresses and Tax Parcels: (Parcel A) 21 Saulsbury Road, ED-05-076.07-01-38.00-000, (Parcel B) 27 Saulsbury Road, ED-05-076.07-01-39.00-000 and (Parcel C) 983 Forest Street ED-05-076.07-01-36.00-000. Council District 4.

Representatives: Mr. Edward Centofante, Psychotherapeutic Services; Mr. Tolano Anderson, Faithwork, LLC

Mrs. Townshend stated that this application is for rezoning of three (3) parcels: two (2) on Saulsbury Road and one (1) on Forest Street. The addresses are 21 and 27 Saulsbury Road and 983 Forest Street. This is located at the northeast corner of Forest Street and Saulsbury Road. There are two (2) parcels that on the corner between the Saulsbury Road pieces and the Forest Street piece. Those two (2) parcels are the Subway Restaurant. The parcel identified as Parcel A is 21 Saulsbury Road. That is the largest of the parcels. It was formerly a doctor's office; currently, there is no active Business License. The other two (2) parcels are active residences with Rental Permits. The properties are currently subject to the COZ-1 (Corridor Overlay Zone) and if the rezoning is approved, they would continue to be subject to the COZ-1 (Corridor Overlay Zone).

Staff reviewed the application in accordance with the *Comprehensive Plan* and the surrounding land-uses. The IO (Institutional and Office Zone) zoning classification is consistent with the commercial land-use classification so it is consistent with the *Comprehensive Plan.* On Page 3 of the DAC Report, after the summary of uses for the IO (Institutional and Office Zone), they included the table that summarizes the bulk standards. The bulk standards that are highlighted are those in which at least some of the properties do not comply with. In the Staff recommendation, they point out the non-conformities that would be created by the rezoning. Parcels A & B when put together would create a continuous block of IO (Institutional and Office Zone) that would meet the requirements of the bulk standards. Parcel C being a stand-alone property that's only fifty (50) feet wide would not meet the requirements because it isn't in that block. What the Commissioners have in terms of Staff recommendation is a recommendation in favor of rezoning 21 and 27 Saulsbury Road but not in favor of rezoning Parcel 3 located at 983 Forest Street because it would create non-conformities as it relates to the bulk standards and would create a stand-alone property that doesn't conform to the *Zoning Ordinance* and would be a spot zoning.

This application is subject to Public Hearing. The Planning Commission is making a recommendation to City Council and ultimately City Council will take the recommendation and make the final decision.

Mr. Centofante stated that he works as the Director of Programs in the state of Delaware as Psychotherapeutic Services Inc. His organization has presented here before but this is his first time. They are working with the Department of Prevention Behavioral Health Services to open up a

residential program for at risk children from ages 12-17. This is a population that is underserved here as well as in southern Delaware and DPBH is looking to rectify that. They are one of three companies that were awarded this contract and they are basically "the guys" for the Dover area. They have identified these three (3) sites as where they would like to put their campus. Parcel A was formerly a doctor's office and has a large parking lot in the back so it serves as a central campus. In this project, they are calling it Journeys. He wanted to emphasis beyond the population that they will be serving and how that helps the City of Dover as well as Delaware. They are also going to be bringing approximately forty (40) jobs into the City. They are good paying jobs; at a minimum of $13.50 per hour for a DCA and obviously the professionals making a lot more. This is not going to interfere with the residential atmosphere here; these are children who will be living here for extended periods of time. It's not going to interfere from a traffic perspective because they are all together. People will be moving back and forth inside the campus. Teaching services will be provided on the campus. They don't feel like there will be any logistical considerations that would make this a problem.

In order to make this project work, they do need all three (3) parcels. They do respect that this may create a non-conformity in respect to Parcel C because of the technical definition of how parcels are adjacent but he would like to emphasize that from a geographic perspective, these three (3) sites are all together. They are all flush against each other and they are all part of what they would like to become the same campus environment. They hope that the Commissioners consider this when making their decision.

Mr. Holden questioned if a Parcel Consolidation would be a potential path? If this was all one parcel, would that make it a conforming parcel? With that potential path, what would be the timeline? Responding to Mr. Holden, Mrs. Townshend stated that it would make it an awkwardly shaped conforming parcel, but yes it would. That fifty (50) foot wide parcel would be part of that larger piece.

Mr. Holden questioned what the timeline would be if the applicant chose to go that route? Responding to Mr. Holden, Mrs. Townshend stated that a Parcel Consolidation doesn't take very long. It just gets circulated through the agencies to make sure that everything is correct. She is thinking it would only take a couple months.

Mr. Cregar stated that beyond this being just a residential group, really it's a residential treatment facility. Will they be using the existing buildings on-site? Responding to Mr. Cregar, Mr. Centofante stated yes, they will be using the existing buildings. They are actually very well purposed for what they would like to provide.

Mr. Cregar questioned how many children would be on-site at any given time? Responding to Mr. Cregar, Mr. Centofante stated eight (8). For Parcels A & C, there will be eight (8) with an additional two (2), which is just wiggle room for the State. If they need to give the additional two (2) children, it will be for Parcel B.

Mr. Cregar further questioned the recreational area? Responding to Mr. Cregar, Mr. Centofante stated that they are excited about the recreational area plan. They are going to be using the existing large parking lot. They will be converting part of that into a basketball court. There is plenty of yard

space to do other activities. There is also a recreation center right around the corner. There are plenty of great opportunities for the children.

Mr. Cregar questioned if because this is an RTC (Residential Treatment Center) Program, is it in a locked facility? Responding to Mr. Cregar, Mr. Centofante stated that it will not be secured. It will be staffed but not secured.

Mr. Tolbert questioned if they had any other facilities in the Dover area that provide these services? Responding to Mr. Tolbert, Mr. Centofante stated no, not in City limits.

Mr. Tolbert further questioned if there were any other facilities in the area? Responding to Mr. Tolbert, Mr. Centofante stated yes, in the geographical area but he did not come prepared with their exact name. He thinks that there is one other location in Central Delaware.

Mr. Cregar questioned if Dover Behavioral Health would be an in-patient location? Responding to Mr. Cregar, Mr. Centofante stated yes, that might be one.

Mr. Holt questioned how these children are selected? Are they sentenced to this home? Responding to Mr. Holt, Mr. Centofante stated that they are at-risk students that are going for a variety of reasons. It could be mental health; it could be a variety of things. They just can't be with their families for about a six (6) month period. It will be more productive for them to be in an environment like this.

Mr. Holt questioned if it's more of a structured environment so that they won't be so much at risk? Responding to Mr. Holt, Mr. Centofante stated yes, they are hoping to get them productive, get them out of the system and keep them out.

Mr. Cregar questioned if they would be providing intensive mental health services? Responding to Mr. Cregar, Mr. Centofante stated yes, there will be a doctor on staff, therapist, case managers, etc.

Mr. Baldwin questioned if approval for recommendation to City Council meant approval for permit or would they have to come back with the permit? Responding to Mr. Baldwin, Mrs. Townshend stated yes, they would have to come back for the permit approval. They would not come back to the Planning Commission; it would be an Administrative Review.

Dr. Jones questioned what will be the length of stay for the residents? Responding to Dr. Jones, Mr. Centofante stated that the old model was around 9-12 months for this type of service. Studies have shown that most gains were made in the first six (6) months. They are aiming with DPBH to provide a six (6) month stay for these children. They will be maintaining education services while they are in the program; the State is providing them with a very generous education package plus providing a teacher. They will be providing a teacher's aide.

Dr. Jones further questioned if they would be providing a teacher's aide with a teacher? Responding to Dr. Jones, Mr. Centofante stated yes, they would be providing a teacher's aide, the State will be providing the teacher.

Dr. Jones questioned if all of the identified educational needs being met within the residence? Responding to Dr. Jones, Mr. Centofante stated yes. He knows that the Department of Education is involved in this project with DPBH so they've got the curriculum set. The State is giving the teacher and the software; they are setting up the classroom environment. There may be some physical education needs that they will need to provide but based on the actual reading, writing and arithmetic, the State will be providing it.

Dr. Jones further questioned if there will be any cooperative relationship with the Capital School District? They are talking about 12-17 year olds and she doesn't understand how a teacher and a teacher's aide can meet those needs. Responding to Dr. Jones, Mr. Centofante stated that originally that was considered an option, to tie in with the school in the local district but they decided that was going to be too difficult. His organization was not part of those meetings and discussions so this is what was decided on.

Colonel Welsh opened a public hearing.

Mr. Tolano Anderson – Faithworks, LLC at 630 W Division Street Dover DE 19904

Mr. Anderson stated that he is the property owner. Just for information purposes, the three (3) properties in question are one (1) of ten (10) properties that Faithworks, LLC owns on this block. Faithworks, LLC has been involved in a lot of projects; things that they thought were beneficial to the community. When this opportunity was presented to them, they jumped at it and have been accommodating PSI up to this point. He knows that the State had to approve the site because they had to accommodate them for their inspections. They have a lot of checklists and criteria that they have to go through to make sure that something is suitable for them. One of the things for this particular site is that it does require because of their space requirements all three (3) parcels. He understands the Planning Department's concern over the bulk standard requirement; however, from his perspective it's kind of a technicality. They need 10,000 square feet but the property is 8,276 square feet. He understands these concerns; however, he hopes that the Planning Commission has enough discretion within its authority to help them move forward and not get caught with a technicality. Parcel C is absolutely critical to this whole project. As far as a Minor Lot Line Adjustment and it taking a couple of months to re-organize and create these as all one parcel, the timeline would actually kill the project, to have to push it out that far. The State's timeline is very precise so he would hope that there could be another solution. The Minor Lot Line Adjustment would certainly be a good idea to consider and they would not be opposed to in the future but in terms of stalling the project at this point, would be a show stopper.

The other thing that he wanted to put an emphasis on is that there is no one here tonight who is opposed to this project. Besides the fact that Faithworks, LLC owns most of the block, there's no opposition to this. He thinks it's actually a good fit; it's a mix of residential and business. As it stands right now with the size of these yards and the size of that parking lot and all of the requirements from the State walk-through, although the bulk standards are kind of an issue this is actually ideal for this project and he thinks it's beneficial for the community. Faithworks, LLC is certainly in favor of the application, he thinks it's a benefit across the board.

Colonel Welsh closed the public hearing.

Mr. Cregar stated that they are talking about mostly Kent and Sussex County children, they would probably stay with their original school districts and the teacher would work with the school districts for their education? Wouldn't most of these have these have IEPs? Responding to Mr. Cregar, Mr. Centofante stated that was true. He wants to say that the State was planning for the kids to also come from outside of Kent and Sussex County but obviously Kent and Sussex Counties would be the primary domain but if there is overflow from southern or northern some of those kids could come to this location also.

Mr. Cregar questioned stated that this application goes to City Council in January 2015; could they not be working on a lot consolidation while the public hearing process is taking place? Could that be part of the motion or can they not condition a rezoning? Responding to Mr. Cregar, Mrs. Townshend stated that they can't condition a rezoning application but it could be something that could be part of their recommendation to Council, that progress in that arena would help when it gets to Council to know where they stand with that.

Mrs. Townshend stated that Colonel Welsh asked what it accomplishes by consolidating. The main thing that it accomplishes is that if that one parcel is zoned IO (Institutional and Office Zone) and sold off on its own, there's very little that can go there. Outside of the structure that is there now, there's very little that they could do with that property in the IO (Institutional and Office Zone). That's really the only downside of not doing it. It creates challenges and they could end up in front of the Board of Adjustment later because someone is trying to do something when it doesn't fit. When a rezoning is approved, it's approved for all of the uses in that zone it's not for one specific use.

Colonel Welsh stated that to him it would just tidy it up but he doesn't know if operationally it makes a difference, particularly if it's going to put the project at risk. Can the Commissioners bless it without a consolidation? Responding to Colonel Welsh, Mrs. Townshend stated they can. They would be acknowledging that it would create non-conformities that could create challenges for that one parcel in the future if it were under separate ownership and trying to do something on its own.

Colonel Welsh questioned if this was something that they could approve tonight with the stipulation that the applicant continues working towards a lot consolidation? Responding to Colonel Welsh, Mrs. Townshend stated that they can't condition a rezoning on it but they can make the recommendation that be a consideration when it gets to Council. If the Commission makes that recommendation and the applicant starts that process and then they get to Council on January 12, 2015, Council will see that they are trying to address that issue. It may not be complete at that point but it's underway.

Colonel Welsh questioned if that would be an obstacle for Council to approve it? Responding to Colonel Welsh, Mrs. Townshend stated no.

Mr. Cregar stated that in talking about the timeline for the State. What is the timetable for an open door? Responding to Mr. Cregar, Mr. Centofante stated that they have already by this process, been pushed a little bit past where DPBH would like them to be. He thinks that the saving grace for that is that their sibling organizations that are doing similar projects are running into some of the same stuff. If they could by that January 12, 2015 meeting have a definitive answer, that would allow them to finalize with Child Care Licensing and hopefully get started on February 1, 2015.

Mrs. Townshend stated that because they are doing a change of use and it needs review from the Building Inspector and the Fire Marshal and there could be requirements. They will need to provide a floor plan and architectural plans. If they are looking for a February 1st start date, they should be working on that information.

Mr. Centofante stated that the two (2) options that he has heard tonight would be either merging the parcels together and the other is approving it as is and accepting the risk that Mr. Anderson obviously wouldn't later on sell that individual parcel. They definitely would prefer the second option.

Mr. Holden stated that talking about the parcel consolidation; it would potentially make this a conforming rezoning if it was consolidated. What would that do in terms of what could be done on what is currently Parcel C? Responding to Mr. Holden, Mrs. Townshend stated that currently the IO (Institutional and Office Zone) residences are not a permitted use so this would be an intuitional use. All of these properties are fine as long as it's this use but they could not go back to a residential use if this use were to cease without a subsequent rezoning.

Mr. Holden questioned if Mr. Anderson understands that? Responding to Mr. Holden, Mr. Anderson stated yes.

Dr. Jones questioned if they were applying for a Child Care License? Responding to Dr. Jones, Mr. Centofante stated yes.

Dr. Jones questioned where the children were coming from? Are these the 12-17 year olds? Responding to Dr. Jones, Mr. Centofante stated that Child Care Licensing is the organization that they are working with.

Dr. Jones further questioned if they had received a grant? Responding to Dr. Jones, Mr. Centofante was unsure of that information.

Mrs. Townshend stated that Mr. Centofante has a contract with the State.

Dr. Jones questioned what is the period of the contract? Responding to Dr. Jones, Mr. Centofante stated that the contract is for five (5) years. They have been providing services throughout the State for over twenty (20) years now.

Dr. Jones further questioned if after five (5) years they would have to re-apply? Responding to Dr. Jones, Mr. Centofante stated that after five (5) years, if the State would like to continue and they would like to continue they would keep going. There is no automatic renewal.

Mrs. Townshend stated that the issue with Parcel C is under the IO (Institutional and Office Zone) the uses are things like churches, schools, offices, or institutional uses. There's really not the room on the site to accommodate that type of use. If it was turned into an office there probably wouldn't be sufficient parking. It's those types of things that make it difficult to do something in the IO (Institutional and Office Zone) other than what the applicant is asking for connected with this specific application. That's the challenge that's created by individually rezoning the parcels.

Mr. Anderson stated that if there was any other use for that parcel it really wouldn't meet the need of any other use other than what they are actually planning at this time. It's a two (2) bedroom house, it's relatively small, there is no finished basement and it's a really basic house on a relatively small parcel. In conjunction with the contiguous parcels it works really well for this but if someone wanted to do anything else that's authorized or allowed in that zone, it wouldn't meet the requirements. It just does not have enough space as far as he can see for reasonable use. Secondarily, it has taken them eleven (11) years to accumulate these parcels and Faithworks LLC has no intention in the future of ever selling or parting with them or separating them. There whole point was to consolidate them; it's taken over a decade to do so. As far as picturing it as a separate parcel for separate use in the future, at least while he is breathing that is not going to happen. Finally, can the Planning Commission actually recommend approval to City Council of this application even though it would create non-conformity? Is there anything keeping that from happening and if it does happen other than the fact that it could be used for something else in the future, what does it really hurt? Responding to Mr. Anderson, Mrs. Townshend stated that the Planning Commission can make whatever recommendation that they see fit. Ultimately, City Council has the final decision.

Colonel Welsh stated that he was trying to make this point earlier. It's non-conforming for IO (Institutional and Office Zone). If the Commission overlooks that and recommends approval of the application and worst case sometime down the road the owner decides to split the property up. There is no reason that they can't apply for a rezoning again and it would become CPO (Commercial and Professional Zone). He doesn't see the purpose in going through bringing it up to conformity when there's always a way out. What are they gaining?

Mr. Anderson questioned if Colonel Welsh was saying that as far as making the recommendation and even with City Council approving the recommendation from Planning Commission, basically means no harm no foul?

Colonel Welsh stated that he was saying what is being gained by delaying anything?

Mr. Holden stated that there's not a strong driver to consolidate it; it doesn't resolve any issue.

Colonel Welsh stated that he thinks the common sense thing to do is approve it as applied for. If something happens ten (10) years down the road and the owner wants to put a gas station at this location then they would come back and request a rezoning.

Mr. Anderson stated that they met with the Fire Marshal and the Building Inspector on-site and went through all of their requirements as they went through the property. They know that there are additional requirements coming once they get through this process. What they did not anticipate at the beginning of this process is that a rezoning would be required. They knew that there would be changes necessary by the Fire Marshal and the Building Inspector. They didn't actually realize until after that meeting that they were going to have to rezone the property. That's what threw them behind the State's timeline. They didn't realize this process was going to take place.

Mr. Cregar stated that he was still struggling with this individual lot that's being considered as IO (Institutional and Office Zone) on its own. He is worried that in five (5) years when the State

decides that they don't want this service anymore, we are stuck with an IO (Institutional and Office Zone) piece of ground that the Planning Commission said would be okay and it's not. That's why he is saying that it needs to be a part of the same property because it's going to be used as that property. In regards to the State's time table, that's not the Commission's fault. He thinks that the properties need to be consolidated. It's going to be used for that particular use and he feels comfortable saying that it needs to be part of the same property if they are going to make that piece IO (Institutional and Office Zone).

Colonel Welsh questioned if they close doors in five (5) years, what's to keep Mr. Anderson from coming back in and asking for a rezoning to change it to CPO (Commercial and Professional Zone)? Responding to Colonel Welsh, Mr. Cregar stated nothing.

Mr. Holden stated that in order to subdivide a consolidated parcel, it would be a separate and potentially more challenging process. Responding to Mr. Holden, Mrs. Townshend stated that they wouldn't be able to re-subdivide a non-conforming parcel. If it's all one parcel and that use goes away, they would not be able to break off Parcel C.

Mr. Holden stated that he hears Mr. Cregar's concern that it's not conforming but he also views the risk there for the property owner. He is going to limit his potential use of the parcel by rezoning it and he thinks that the owner acknowledges that risk or those pitfalls that might come in the future if that occurred versus the Commission creating a situation that the City might then have a potential use come in that they and the neighbors might not want or have expected because of the Commission's action. He is more inclined in this case to recommend approval than have that issue occur in the future.

Colonel Welsh stated that perhaps a compromise could be that the Commission approves it with the understanding that they are going to try to bring it into conforming standards for IO (Institutional and Office Zone). As Mr. Holden stated, the owner's hands would be tied if the properties were joined together for the future. They would have to rezone the whole property.

Mr. Holden moved to recommend approval to City Council for Z-14-04 Lands of Faithworks, LLC, cognizant of the non-conforming area to include all three (3) parcels be zoned IO (Institutional and Office Zone) and subject to COZ-1 (Corridor Overlay Zone) as requested by the applicant, seconded by Ms. Still and the motion carried by roll call vote 7-1. Mr. Holden voting yes, cognizant of staff comments and the fact that there was no public opposition and he feels that it's a needed service in this area. Mr. Cregar voting no, for previously stated reasons. Mr. Tolbert voting yes, with the understanding regarding the non-conforming use of the area for the reasons previously stated. Also, the services are needed in Dover. Mr. Holt voting yes, for reasons stated by Staff. Mr. Baldwin voting yes, realizing that they are creating a non-conforming area but the parking fits for that area. Dr. Jones voting yes, due to the fact that there is no public opposition and certainly services are very much needed. Ms. Still voting yes, for the reasons previously stated as far as the non-conforming parcel and the fact that there's no objection from any of the neighbors. She agrees that it's a great use of the property. Colonel Welsh voting yes, for reasons previously stated and his previous comments even though it's non-conforming.

Meeting adjourned at 7:54 PM

Sincerely,

Kristen Mullaney
Secretary