CITY OF DOVER PLANNING COMMISSION
November 17, 2014

The Regular Meeting of the City of Dover Planning Commission was held on Monday, November 17, 2014 at 7:00 PM with Vice-Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Holt, Mr. Baldwin, Ms. Still, Mr. Ambruso and Mr. Tolbert. Dr. Jones and Colonel Welsh were absent.

Staff members present were Mrs. Townshend, Mr. Cook and Mrs. Mullaney. Also present were Mr. Garth Jones, Mr. Larry Thompson, Mr. Souleymame Dious, Mr. Kevin Minnich, Mr. Zac Crouch and Mr. Wayne Irwin. Speaking from the public was Ms. Connie Meyers and Mr. Patricia Stanley.

APPROVAL OF AGENDA

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

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF SEPTEMBER 15, 2014

Ms. Still moved to approve the Planning Commission minutes of September 15, 2014, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Holden and Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop will be held on Tuesday, November 18, 2014 at 12:00 noon in the City Hall Conference Room.

Mrs. Townshend stated that the next Planning Commission meeting will be held on Monday, December 15, 2014 at 7:00 PM in the City Hall Council Chambers.

Mrs. Townshend 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.

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:
   a) SB-14-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan – Request for a six-month extension of the Planning Commission approval granted on May 19, 2014 for a Minor Subdivision Plan to create three (3) lots from an existing parcel totaling 149.3225 acres ± of land. The lots proposed are Lot 1 of 53.1704 acres, Lot 2 of 30.7046 acres, and remaining residue land of 65.4475 acres. The property is zoned SC-3 (Regional Shopping Center 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. The owner of record is Dover Mall, LLC. Property Address: 1365 North DuPont Highway. Tax Parcel: ED-05-057.00-01-14.00. Council District 3.

Representatives: Mr. Garth Jones, Becker Morgan Group

Mrs. Townshend stated that this application is for an extension under the Subdivision Ordinance. After the hearing, there is six months to file the Plat. At this point, they are continuing to work on some of the details. In particular, details that they need to work through with DelDOT so they have requested an extension.

Mr. Jones stated that they were the project engineers working on the Minor Subdivision Plan and they are asking for a six month extension. As Mrs. Townshend stated, they are working through some issues with DelDOT to provide them with a recorded easement. They have also addressed the comments from the City and they are also waiting to get easements to them as well. They have no objection from the other agencies.

Mr. Holt moved to approve SB-14-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan for a six month extension, seconded by Ms. Still and the motion was unanimously carried 6-0 with Mr. Holden recused and Dr. Jones and Colonel Welsh absent.

NEW DEVELOPMENT APPLICATIONS

1) Z-14-03 603 West Division Street – Public Hearing and Review for Recommendation to City Council on a Rezoning Application of two parcels consisting of 16,538 SF ± and 14,465 SF ±. The properties are zoned M (Manufacturing Zone) and are subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is C-3 (Service Commercial Zone) and to be subject to the COZ-1 (Corridor Overlay Zone). The property is on the north side of West Division Street just west of the railroad tracks. The owner of record is West Division Holdings, LLC. Property Address: 603 West Division Street. Tax Parcel: ED-05-076.08-01-19.00-000 and ED-05-076.08-01-19.01-000. Council District 4.

Representatives: Mr. Larry Thompson, R&R Commercial Realty; Mr. Souleymame Dious

Mrs. Townshend stated that this application is for rezoning of two parcels of land located at 603 West Division Street. Currently, it is a vacant property. There is a structure on the parcel to the west. The current zoning classification is M (Manufacturing Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning classification is C-3 (Service Commercial Zone) and it would remain subject to the COZ-1 (Corridor Overlay Zone). The Comprehensive Plan shows this area as industrial and public utilities. The C-3 (Service Commercial Zone) zoning classification is consistent with this land-use classification. They have actually seen quite of few parcels of property in this general area and other areas of the city re-zoned from M (Manufacturing Zone) to C-3 (Service Commercial Zone). In their recent work with the business community, they have actually discussed eliminated the M (Manufacturing Zone) and looking to re-zone properties within the M (Manufacturing Zone) to either C-3 (Service Commercial Zone) or IPM (Industrial Park Manufacturing Zone) depending on what is surrounding it and what the use is. The re-zoning from M (Manufacturing Zone) to C-3 (Service Commercial Zone) is actually consistent with the way they have been looking at things and the way they have been moving in recent years.

The M (Manufacturing Zone) does not allow an automobile dealership; the new zoning classification would. There are a number of advisory comments to the applicant once the re-zoning

application is complete, whether it's approved or not. In order to open the business the applicant will have a number of things that they will need to do both on the City's end and with DelDOT. The applicant is aware of those requirements.

Mr. Cregar questioned that once the zoning that the Commission will be recommending to City Council takes place the applicant will still have to do site planning for whatever they want to put on the property? Responding to Mr. Cregar, Mrs. Townshend stated yes, it may end up being an Administrative Site Plan but there would still be Site Plan requirements.

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

Mr. Cregar moved to recommend approval to City Council for Z-14-03 603 West Division Street given the area and the look of how that area is changing, C-3 (Service Commercial Zone) seems to make a lot of sense for rezoning, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Dr. Jones and Colonel Welsh absent.

2) S-14-21 Mini-Storage at 200 Weston Drive – Public Hearing and Review of Site Development Application to permit the development of three (3) mini-storage buildings totaling 16,800 SF on a site of 5.36 acres ±. The property is zoned IPM (Industrial Park Manufacturing Zone). The property is at the terminus of Weston Drive, northwest of the intersection with West Division Street. The owner of record is All Safe Mini Storage, LLC. Property Address: 200 Weston Drive. Tax Parcel: ED-05-076.08-01-11.01-000. Council District 4. *Waivers Requested: Partial Elimination of Curbing and Reduction in Parking Requirement. A Previous Site Development Plan S-11-07 was approved by the Planning Commission in May 2011; however, the Site Plan expired in May 2014 prior to the commencement of authorized construction.*

Representatives: Mr. Kevin Minnich, Minnich Engineering

Mr. Minnich stated that he was representing Mr. Henry Mast. They here to get a re-approval for this project. The project was approved and Mr. Mast went to pull permits for the project and was a month short of the expiration of the project.

Mr. Cook stated that this application is a Site Plan review to permit construction of three (3) mini storage building at 200 Weston Drive. The total square footage is 16,800 SF. There are three (3) metal self-storage structures located on the Site Plan at the northeast corner. There are a total of one hundred twenty-five (125) units proposed. The zoning is IPM (Industrial Park Manufacturing Zone). The existing property has a 6,000 SF office and warehouse structure which is on the west side of the property. Also located on the property is a stormwater retention pond as well as a cell phone tower which is in the lower right section of the property shown on the plan.

As the applicant mentioned, there was a previous Site Development Plan for this project, S-11-07 from 2011 for construction of the three (3) mini storage buildings. The plan has expired since construction did not take place and that's the primary reason why the applicant is here tonight to renew the Site Plan.

Some comments in the DAC Report regarding usual considerations. There are two (2) waivers requested from the applicant. One is for a parking reduction of three (3) spaces from the required total of sixteen (16) parking spaces. They are asking for a reduction of three (3) for a total of thirteen (13) parking spaces. There are existing parking spaces at that office and warehouse space currently which was constructed about a decade ago. There is a provision in the *Zoning Ordinance* that requires parking spaces for self-storage facilities to be located outside of the gated area of those self-storage facilities. In this case, the applicant intends to have that office space in the existing office and warehouse structure that's there and feels that existing parking is sufficient around that existing office area.

In addition to the parking waiver, there is a waiver request for the upright curbing requirement for part of the property. There is an upright curbing to the west of where the proposed self-storage structures are and there is also upright curbing on the west of where the stormwater retention pond is. The previous Site Plan applications also had waivers for the curbing and the rationale was to allow for stormwater flow from the storage facility area to flow freely into the stormwater retention pond. The applicant is again requesting that waiver.

Some other issues on the site that were also included in the Staff Report would be the tree planting requirement. There are existing plantings on site that are noted in lower case letters and the proposed new plantings are noted in uppercase letters. A lot of the new plantings are near the stormwater retention pond and around the existing building. They are adding a mix of evergreen shrubs and trees as well as deciduous trees so that code requirement is met. There is one required bicycle parking space, so Staff has recommended that it be a condition of approval. Also, there was a Revised Site Plan that was recently received. Much of the comments in the DAC Report came from the Fire Marshal's Office. The issue was with the spacing of the buildings to allow for fire lanes to be in between the buildings. The fire code regulations have changed since the first time this application came to Planning Commission so there had to be some revisions to make those structures work. The Revised Plan moves the property line on the east out about thirty (30) feet. Since the applicant owns the adjacent property, this was determined to be the easiest way to satisfy that requirement.

Mrs. Townshend stated just to clarify, that's shown on the 11"x17" plan sheet that was on the desks of the Commissioners and stamped Revised.

Mr. Cook stated that's the one change from the big plans that were originally distributed to the Commissioners; the applicant is just bumping out that lot line in order to provide more space for the buildings. The size of the buildings will remain the same.

Mr. Holden stated that they are showing a dumpster pad and he suspects that this would be worked out during the administrative portions of the Site Plan but he would be concerned that a truck couldn't actually maneuver into the twenty-four (24) feet that's shown in order to empty that dumpster. Is that something that will be picked up during the administrative portion of the Site Plan? Responding to Mr. Holden, Mr. Minnich stated that with the old plan before shifting the lot line over thirty (30) feet, the dumpster pad lined up with the aisle. Now the easternmost aisle has now been shifted thirty (30) feet. Before on the old Site Plan, the truck would be able to come right down the aisle so that will have to be addressed.

Mr. Holden questioned if that was something that needed to be addressed here or is that something that will be addressed later? Responding to Mr. Holden, Mrs. Townshend stated that it would typically be addressed as it gets to Final Plan approval. Typically as it gets to Final Plan, they are working with their trash service providers to ensure that the layout meets their needs. This would be a private collection.

Mr. Cregar questioned if they needed any further renderings as far as what the buildings themselves will look like? Responding to Mr. Cregar, Mr. Cook stated that there is a rendering; it looks like a self-storage building. A metal structure and metal roof with roll up doors.

Mr. Cregar further questioned that there was a notation on one of the comments about the Clean Hands Ordinance, is there anything regarding that? Responding to Mr. Cregar, Mrs. Townshend stated that she believes at this point that the majority of the taxes have been paid. There is a property that is the subject of legal action and because it's a legal action that has prevented the payment. The remainder of the taxes she believes have been paid, if not will be before any further action.

Mr. Holt questioned in the storage units would be all air conditioned units or will there be some not air conditioned? Responding to Mr. Holt, Mr. Minnich stated that he is not sure. He can't speak for Mr. Mast; he doesn't know if he is going to have climate controlled storage units or not.

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

Ms. Still moved to approve S-14-21 Mini-Storage at 200 Weston Drive inclusive of the waivers requested for partial elimination of upright curbing and the reduction of parking requirement, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Dr. Jones and Colonel Welsh absent.

3) S-14-22 Seskinore Development - Public Hearing and Review of Revised Site Development Application to permit a total of 18 dwelling units on a 5.047 acre ± site to be known as Seskinore Court. The project proposed construction of ten (10) duplex units and four (4) townhouse units in addition to the existing four (4) multiplex units. The property is zone RM-1 (Medium Density Residence Zone). The development is located on the southwest side of McKee Road and north of Meadow Drive. The owner of record is Artisans' Bank. District 1. *A previous Site Development Plan S-04-20 was approved by the Planning Commission in June 2004. Building permits were issued and construction completed for four (4) dwelling units in two multiplex buildings. Seskinore Court is an existing street previously constructed to serve the development; the City has accepted dedication of this street. The Site Plan expired due to lack of continual activity.*

Representatives: Mr. Zac Crouch, Davis, Bowen and Friedel; Mr. Wayne Irwin, Artisan's Bank

Mrs. Townshend stated that this application was a Site Plan for Seskinore. This has been to the Planning Commission before as Site Plan S-04-20 which was approved by the Planning Commission in June 2004. Final Site Plan was approved administratively in July 2005. The project in its initial form consisted of eighteen (18) residential units, age restricted and they were condominium style maintenance in ownership which has not changed. However, they were over

under units. Two (2) structures (four (4) units) were constructed on the site under that Site Plan. The construction ceased after that.

The road Seskinore Court was dedicated to the City and is now a City street. The City now owns the infrastructure associated with that. That dedication took place in January 2010. Also in 2010, the City of Dover Planning Commission moved to grant the approval of the request to remove the age restriction condition for the housing. When this initially came through the Planning Commission in 2004, it was brought forward as an age restricted community but it was not brought forward as a Senior Citizen PND. It did not require that it be an age restricted community; however, since it was part of the record they did bring it back when they wanted to lift that restriction.

The property is zoned RM-1(Medium Density Residence Zone). The current housing styles proposed are: obviously keeping the four (4) units that are over under and there would be ten (10) duplex units and four (4) townhouses. They are maintaining the total of eighteen (18) units. The main thing that has changed at this point is the style of housing and the fact that the Site Plan had expired. There is a portion of the site that is within the Flood Plain. Based on the Flood Plain Regulations and the *Zoning Ordinance*, no construction can take place in the Flood Plain. Based on the way the FEMA maps show the Flood Plain, a substantial amount of construction would be in the Flood Plain; however, the owner has submitted a LOMR (Letter of Map Revision) that has been submitted to FEMA. Assuming that letter is going to be approved since it's going to be based on technical, more site specific data than the FEMA firm maps, the Site Plan would be consistent. At this point, they are waiting on that final approval from FEMA on the LOMR (Letter of Map Revision).

Of the acreage of the site, there is 2.44 acres that is woodland. A total of 1.47 acres of the woodland area will be preserved, 37% of the woodland will be cleared. They will be required to plant 16 (sixteen) new trees. The Active Recreation and Open Space Plan was originally part of the 2004 application and went through the full review at that point. A portion of that is constructed already so as they are bringing the application through; it didn't go back to through that Committee because it is an existing component that they will continue to construct.

Mr. Crouch stated that the property went in to foreclosure and the bank took it back over. The four (4) over and under structures that are already built, the problem was that there was no demand for those type of units. They were looking at something that can be easily built and more acceptable on the buyer's market so they came up with the duplexes and townhouses. Again, it's the same number of units. Wilkinson Builders has provided some elevations to show the type of architecture that's going to be provided for the site. There is a representative from Wilkinson Builders present in case there are any questions. Nothing has changed accept for the concept of the way the buildings are going to be built; instead of over and under they will be side by side. The applicant agrees with all of the recommendations and comments. They are working with FEMA for the Letter of Map Revision. He checked this afternoon and it's still pending. The change from when this was previously approved to now is that FEMA has new maps. Everything has been submitted for that map revision so they request that it be a condition upon final approval.

Mr. Holden stated they he thinks it's appropriate to have the FEMA action be a condition of approval. The flood plain lines got revised when the flood mapping was re-done. What was the basis for the Letter of Map Revision? Responding to Mr. Holden, Mr. Crouch stated that the flood

plain line actually extends across the whole property based on the new maps. They filled out the appropriate paperwork to submit to FEMA, the City has already signed off on it and it's just pending.

Mr. Holden stated that he knows they can get through revised flood lines in a multitude of different fashions. Responding to Mr. Holden, Mr. Crouch stated it was whatever the elevation is based on typography. There is a huge difference.

Mr. Holden questioned if they weren't showing the line correctly? Responding to Mr. Holden, Mr. Crouch stated that was correct.

Mr. Tolbert opened a public hearing.

Ms. Connie Meyers – 14 B Seskinore Court Dover DE 19904

Ms. Meyers stated that she was an owner of one of the condos. Neither she nor her neighbor received any notices about this meeting. Yes, there was a big sign out front of their development but they did not receive any notice in the mail. While she is happy that there is a builder who wants to build in this location, her only concern is how the townhouses and duplexes are going to with the current buildings. She wants it to be consistent and that is something that she can meet about with the proposed builder who is here. She wants it to look nice and she doesn't want the houses that are currently there to look out of place.

The second thing is that she just wants to make sure that the condo association which is currently not recognized be recognized to include their units as well. If somebody has a townhouse and they may be responsible for their roof, but she has a condo. There are four (4) condo units that the outside needs to be taken care of, roofs need to be replaced at that time, etc. Those are items that she has concerns with and she wants to make sure that it's a condo association that is put in place when all of this takes place. Not just their four (4) units being a condo association and the rest being a homeowner's association because that's not going to be monetarily feasible for the four (4) owners of a condo. Responding to Ms. Meyers, Mrs. Townshend stated that there is no subdivision requested as a part of this so it all remains on one parcel. It will need to have a condo association that includes all of the units. Incidentally, she believes that is why they did not get the mailed notice because it goes to the landowner.

Ms. Meyers stated when the owners were changing the development from 55+ to regular, they received a notice then. Responding to Ms. Meyers, Mrs. Townshend stated that she thinks it was probably a technical issue with their database.

Ms. Meyers stated that she is also speaking for her neighbor who is present as well but they are okay with this happening, they just want it to look proper. They have four (4) units that are all two (2) story and everything else is going to be one (1) story. It's going to need to look attractive.

Mr. Tolbert questioned if they had seen a picture of what the proposed townhouses and duplexes are going to look like? Responding to Mr. Tolbert, Ms. Meyers stated no, they have not seen the revised plan.

Ms. Patricia Stanley – 7 Niblick Court, Dover DE 19904

Ms. Stanley stated that she lives in the development that abuts up to theirs so her yard is adjacent to this property. She has two (2) questions. Are they going to build the homes before they are sold or before they have any intent to sell? For example, when the built the first homes, they left them there half built and people weren't buying them and they had kids in them, people coming in and out; just a constant flow of people who didn't belong there. Her concern is are they going to build all of these houses before they know if they are going to sell? Responding to Ms. Stanley, Mr. Irwin stated that the plan is to let Wilkinson Builders buy the remaining lots, Artisan's Bank will still own the land and they are standing behind the builder with construction financing for the houses. Typically what they do is put up two (2) units, sell one (1) then put up two (2) units and sell one (1). There is no intention to build out the project and leave it vacant. They also have a property management company and they are giving mortgages to all of the people who are buying houses because the condo association isn't put together; no bank will fund it until at least 75% of the houses are built. Artisan's Bank is going to stand behind that and the intention is to get this project finished and it's a win-win situation. The owners get revenue and Artisan's Bank gets a loan off of their books. The project will not be vacant; the property manager is going to be watching it. Also, Wilkinson Builders has their own site people and it's not going to be built as a spec project. It's going to be two (2) house built, sell one (1) and put two (2) more houses up. That's what they did during a project in Newark, DE. They bought a four (4) pack, they sold three (3), they financed four (4) more and now they've got those under contract and they have four (4) more lots taken down. It's not going to be a spec project at all.

Ms. Stanley stated that it's a concern because there is a unit that still isn't sold and it's been ten (10) years. Responding to Ms. Stanley, Mr. Irwin stated they know because they own it. The reason they didn't sell it was because they didn't know if it was going to be a condo. Now that they know it's a condo, the project actually is listed for sale with Harrington Realty. Debbie Webb is the realtor.

Ms. Stanley also questioned if there were going to be children living there? She knows that they took away the 55+ age restriction. Responding to Ms. Stanley, Mrs. Townshend stated that the City can't preclude that they have children.

Ms. Stanley stated that when they were first proposed it was a 55+ community which they were okay with. They weren't okay with it being changed but they had no decision in that. She just wants to make sure that it doesn't get out of hand.

Mr. Tolbert closed the public hearing.

Mr. Cregar questioned if the driveways, lanes and the parks and recreation area will all be part of the condo association? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Tolbert questioned if the streets will be dedicated? Responding to Mr. Tolbert, Mrs. Townshend stated that the street is dedicated. There's one street; it's a cul-de-sac. The other what you would consider street is a driveway and that's covered by the condo association. The street is the cul-de-sac.

Mr. Tolbert further questioned how long the driveway was? He questioned if during inclement weather would the condo association be responsible for clearing that driveway as well as the maintenance of it? Responding to Mr. Tolbert, Mr. Crouch stated yes, that's correct.

Mr. Irwin stated that the streets were dedicated; however, for the first period of time when Artisans Bank was involved they cleared the whole street because no one ever came to do it. Doing that little driveway is a lot easier than doing the whole Seskinore Court. In fact, he already has the snow removal company setup for this year.

Mr. Tolbert questioned who was responsible for maintaining that driveway? Responding to Mr. Tolbert, Mr. Irwin stated the condo association that is going to be formed. Right now the bank is responsible because they own the land.

Mr. Holt moved to approve S-14-22 Seskinore Development Site Development Plan inclusive of the DAC comments and inclusive of the condition that the LOMR is approved, seconded by Mr. Holden and the motion carried by roll call vote 7-0 with Dr. Jones and Colonel Welsh absent. Mr. Baldwin voting yes, it fits the area and it had also been approved previously. Ms. Still voting yes, due to the fact that's it looks to be well planned and it's in keeping with the zoning requirements. Mr. Ambruso voting yes, predicated on the fact that the neighbors seem to be content with what's being proposed. Mr. Holden voting yes, due to Staff comments and the other comments that the Commissioners have offered. Mr. Cregar voting yes, for reasons previously stated. Mr. Holt voting yes, based on comments of the neighbors. Mr. Tolbert voting yes, his main concern was the long driveway being taken care of and the applicant has assured him that it will be taken care of during inclement weather.

Meeting adjourned at 8:00 PM

Sincerely,

Kristen Mullaney
Secretary