CITY OF DOVER PLANNING COMMISSION
July 21, 2014

The Regular Meeting of the City of Dover Planning Commission was held on Monday July 21, 2014 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Cregar, Mr. Tolbert, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still, Mr. Ambruso and Colonel Welsh. Mr. Holden was absent. (Mr. Holden arrived at 7:05pm.)

Staff members present were Mrs. Townshend, Mrs. Dawn Melson-Williams, Mr. Cook and Mrs. Mullaney. Also present were Mr. K.C. Sheth, Mr. Greg Scott and Mr. John Paradee.

APPROVAL OF AGENDA

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

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 16, 2014

Mr. Holt moved to approve the Planning Commission minutes of June 16, 2014, seconded by Mr. Tolbert and the motion was unanimously carried 8-0 with Mr. Holden absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting will be held on Monday, August 18, 2014 at 7:00 PM in the City Hall Council Chambers.

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop will be held on Tuesday, August 19, 2014 at 12:00 noon in the City Hall Conference Room.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on June 23, 2014 and July 14, 2014.

Mrs. Townshend stated that several weeks ago there was a workshop for the Restoring Central Dover Plan that was held at the Wesley Fellowship Hall. They are expecting the draft document from that to come out shortly. That is the planning effort for the Downtown Area that's being funded through the Wells Fargo Foundation. The planning is being led by NCALL. Obviously, they will make sure that when that is available they will share it with the Commission and at some point have a presentation on it. That will be a key component to the City's Downtown Development District Application which they will be working on in the fall. Those application deadlines will be in the fall; that will be a big project for Planning Staff. It will probably be discussed at the August Quarterly Workshop.

Mrs. Townshend stated that the APA Regional Conference will be held in Newark. Delaware is hosting; they take turns hosting with Maryland. Delaware is hosting the Regional Conference during the last week of October. If anyone is interested, the registration materials aren't out yet but if they can let staff know so that they can plan accordingly. There is probably some funding available.

Colonel Welsh stated that the Regional Planning Meetings are very informative. He attended one

when he first came on the board and he learned a lot. If anyone is interested, please let Mrs. Townshend know. Responding to Colonel Welsh, Mrs. Townshend stated that if they get a lot of people interested in going then they will have to come up with a way of figuring out how the cost gets divvied up. Too much interest is not a bad thing.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

NEW BUSINESS

NEW DEVELOPMENT APPLICATIONS

1) SB-14-04 Lands of Kalpkish, LLC at 348 North DuPont Highway – Public Hearing and Review of a Minor Subdivision to create two (2) parcels of land from an existing 3.35 acre ± parcel, on the site currently occupied by Super 8 Motel. The parcel will be subdivided into a 2.55 acre ± parcel and a 0.80 acre ± parcel. The property is zoned C-4 (Highway Commercial Zone), located on the southwest side of DuPont Highway northwest of Oak Lane and abutting Silver Lake. The property owner is Kalpkish, LLC, c/o Kishor C. Sheth. Property Address: 348 North DuPont Highway. Tax Parcel: ED-05-068.13-01-79.00-000. Council District 3. *This application is associated with V-14-06 heard by the Board of Adjustment on May 21, 2014 regarding a variance from the rear and front setback requirements.*

Representatives: Mr. John Paradee, Prickett, Jones & Elliott; Mr. Greg Scott, Scott Engineering; Mr. K.C. Sheth, Owner of Record

Mr. Cook stated that application SB-14-04 is a Minor Subdivision to create two (2) parcels of land from an existing 3.35 acre ± parcel at 348 North DuPont Highway. The property is zoned C-4 (Highway Commercial Zone). The existing lot is currently occupied by Super 8 Motel, a restaurant and a retail store in two (2) structures. The proposed subdivision creates two (2) parcels. Lot 1 would be the parcel with frontage on Route 13. The rear of the existing property is called residual parcel which would be created from the rear portion of the existing parcel and would have frontage on Oak Lane. The proposed new line runs between the existing buildings on the property. The front building has a restaurant and store. The rear structure has sort of a U-shaped hotel structure. The lot line would run between the two (2) primary structures.

On June 18, 2014 the Board of Adjustment approved Variance Request V-14-06 to reduce the rear yard setback requirement for Lot 1 to one (1) foot and to reduce the right side yard setback for residual parcel to ten (10) feet. At present, there is no vehicular access to the current property from Oak Lane. The applicant is establishing utility and cross access easements between Lot 1 and the residual parcel. A cross access easement is also being established between the subject properties and the adjacent property at 318 North DuPont Highway, which currently has a Friendly's restaurant.

The property was subject to review by the Silver Lake Commission as required by *Zoning Ordinance* Article 5, Section 11.251. Comments from the Commission are provided in the DAC Report.

The applicant is requesting a waiver of the sidewalk requirement for the proposed Oak Lane frontage, noting that new construction or re-development of the property is not proposed at this time. Any future proposals would be subject to Planning Commission review per the requirements of the *Zoning Ordinance*.

The DAC Report contains comments from the Planning Office, the Department of Public Works, the Fire Marshal's Office, DelDOT, Kent Conservation District as well as Silver Lake Commission. These agencies have been in regular communication with the applicant in order to address issues related to fire protection, utility provisions and transporation access.

Mr. Paradee stated that he thinks it's helpful for the Commission to understand the background and why the applicant is here tonight. The principal reason for proposing this subdivision presently is in order to facilitate a refinancing of the property. As it's currently composed, the hotel with the retail attached at the front doesn't quite appraise as well as it would if it were separated. That is the reason why the applicant is pursuing it. There is no intention presently to change anything about the operation of the property or change the ownership in any way. He doesn't think the Fire Marshal has any problem with the way the property is being operated currently,: however, the DAC comments offered by the Fire Marshal indicate that they would like to see a number of issues relating to utilities and fire protection addressed at such time as any changes are made. In looking at the DAC comments from the Fire Marshal, there are six (6) of them and he wants to mention briefly numbers 2, 3, 4 and 6. Number 2 reads, "Currently the two parcels/buildings are connected by a covered walkway. It appears that an I-Beam is a part of the covered walkway connecting the two parcels/buildings. Contact the Chief Building Inspector prior to any work being conducted to separate the parcels/buildings." There is no intent to separate those buildings currently so they, are asking that that condition be enforced at the time that either the ownership or the uses of the property change. Likewise with regard to Requirements 3, 4 and 6 which are essential legitimate concerns by the Fire Marshal should the use or the ownership of these parcels change in any way. What he suggested to Mr. Sheth was that he signs a written commitment that he would implement each of these recommendations at the time that he makes in either the ownership or the current uses of the properties. As he understands it, the Fire Marshal has no issue with the way the properties are currently being operated. He has a document that he would like to present that does that and if there are any other technical questions, Mr. Scott can address those. (Document submitted.)

Mrs. Townshend stated that obviously the Fire Marshal will have to review this document. She thinks that the idea probably needs to be recorded with the Subdivision so that if there is a property transfer, these things would have to happen. The challenge that they have is while the applicant is simply striking a lot line for business reasons and not with the intent of selling, once there is a lot line the property can be legally sold. If you sell one property and they are tied together in any way, it can create real problems. If there is something recorded that addresses those issues, it would make sure that the property would not transfer without this being addressed.

Colonel Welsh questioned if this was something that the Planning Office could handle internally? Responding to Colonel Welsh, Mrs. Townshend stated yes.

Colonel Welsh further questioned if this would be predicated on the Fire Marshal's approval? Responding to Colonel Welsh, Mrs. Townshend stated yes.

Mr. Paradee stated for the record, they want to make sure that it's clear that Mr. Sheth is not trying to escape any of those comments. He agrees with all of them. It doesn't make any sense to implement them under the present arrangement but he understands if the use of the property changes or the ownership changes then they must be implemented at that time.

Colonel Welsh questioned if the applicant accepted all of the DAC comments? Responding to Colonel Welsh, Mr. Paradee stated yes.

Mr. Cregar questioned if the added supplemental statement that was just presented would be on the final Check Print also? Responding to Mr. Cregar, Mrs. Townshend stated that she believes that it would need to be on the plat.

Mr. Cregar stated that right now there are no changes being made. Supposing at some point from a parking standpoint, how would that change if the ownership changed and they had different uses? He knows that they have cross easement on the property and there is combined parking but how would the parking be on an individual parcel? Responding to Mr. Cregar, Mrs. Townshend stated that they did not evaluate the per parcel parking. They would need to probably look at it in terms of whether each parcel has the parking to satisfy its requirements.

Mr. Paradee stated that they did submit to the Planning staff copies of cross access and utility easement documents. Those documents would be recorded and would be enforceable; they would just need to make sure that the parking is adequate.

Mrs. Townshend stated that staff can make sure that in the final version everything is there.

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

Mr. Holden stated that he noted that the sidewalk waiver came in after Staff comments were produced. Were there any additional comments from staff on the July 13, 2014 letter from Scott Engineering? Responding to Mr. Holden, Mrs. Townshend stated that there were not any additional comments. For instance with the Minor Subdivision at the former Sheraton, they tied the sidewalk construction to the change of use so that if there were a change of use, before a Certificate of Occupancy could be issued that would need to be done. The Commission could do the same here so that if there is a development activity that doesn't necessarily bring it to Planning Commission that could be a requirement.

Colonel Welsh questioned if the applicant was requesting a waiver for the sidewalk on Oak Lane? Responding to Colonel Welsh, Mr. Paradee stated yes.

Colonel Welsh stated that that would need to be part of the motion as well.

Mr. Holden questioned how that would be worded to ensure that when there is a potential change in use that the sidewalk waiver be re-evaluated? Responding to Mr. Holden, Mrs. Townshend stated that things only require a sidewalk if they come to the Planning Commission. If it's a change of use that does not require Planning Commission approval, it would be done administratively. In the case of the other application that was done very similarly, the motion included the requirement that the sidewalk waiver was not required for the Subdivision but would be required before a Certificate of Occupancy could be issued for a change of use of the property.

Mr. Holden further questioned if the person implementing the proposed change in use had issues with that requirement, what recourse would they have at that point? Responding to Mr. Holden, Mrs. Townshend stated that typically if somebody wants to get out of something that was a motion of the Planning Commission, first they would come back to the Planning Commission.

Mr. Holden questioned with regards to the Fire Marshal comments, how would they be incorporated onto the plat to ensure that they were addressed? Responding to Mr. Holden, Mrs. Townshend stated that they would have to work with the Fire Marshal's Office. The Fire Marshal comments are under the State Fire Prevention Regulations and the NFPA Regulations so they are kind of beyond the scope of the Planning Commission to alter. She thinks what Mr. Paradee submitted was something to put on the record to say that those comments would be addressed but it will be with the Fire Marshal. He will need to make sure that before it's recorded that the language is sufficient to meet his code requirements.

Mr. Holt moved to approve SB-14-04 Lands of Kalpkish, LLC at 348 North DuPont Highway to include the waiver of the sidewalk requirement on Oak Lane until there is a change of use.

Mr. Cregar questioned if they should also include the added notes of that request? Responding to Mr. Cregar, Mrs. Townshend stated that she thinks they could include it with the DAC comments.

Mr. Holt moved to approve SB-14-04 Lands of Kalpkish, LLC at 348 North DuPont Highway to include the waiver of the sidewalk requirement on Oak Lane until there is a change of use and with the DAC comments, seconded by Mr. Holden and the motion was carried by roll call vote 9-0. Mr. Holden voting yes, per staff comments and that the Subdivision plans comply with the regulations. Mr. Cregar voting yes, the application is incompliance with the City's regulations for Subdivision and per the DAC comments. Mr. Tolbert voting yes, since he received clarification on the Fire Marshal comments and requirements. Mr. Holt voting yes, based on all comments made by Mr. Paradee. Mr. Baldwin voting yes, based on the requirement of the agreement for the intended use. Dr. Jones voting yes, based upon all of the previous comments in terms of compliance. Ms. Still voting yes, the DAC comments have been addressed and all of the discussion has met all concerns. Mr. Ambruso voting yes, there is no reason to vote no. Colonel Welsh voting yes, the application meets all requirements of the City code and all associated requirements.

NEW BUSINESS

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

Nominations for Chairman were opened to the floor.

Mr. Tolbert nominated Colonel Welsh to continue as the Chairman, seconded by Mr. Holt.

Mr. Cregar moved that the nomination for Chairman be closed on the said name, seconded by Ms. Still and the motion was unanimously carried 9-0. Following an unanimously vote, Colonel Welsh will serve as Chairman.

Nominations for Vice-Chairman were opened to the floor.

Colonel Welsh nominated Mr. Tolbert to continue as the Vice-Chairman, seconded by Mr. Cregar.

Ms. Still moved that the nomination for Vice-Chairman be closed on the said name, seconded by Mr. Ambruso and the motion was unanimously carried 9-0. Following an unanimous vote, Mr. Tolbert 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)

Colonel Welsh moved to approve that Ms. Still and Mr. Holden continue on the Committee for the next year, seconded by Mr. Holt and the motion was unanimously carried 9-0.

Colonel Welsh moved to approve that Ms. Sarah Keifer and Dr. R. G. Chandler continue on the Committee for the next year, seconded by Mr. Holden and the motion was unanimously carried 9-0.

Meeting adjourned at 7:34 PM

Sincerely,

Kristen Mullaney
Secretary