CITY OF DOVER PLANNING COMMISSION
AGENDA
Monday, June 16, 2014 – 7:00 P.M.

City Hall Council Chambers
15 Loockerman Plaza, Dover, Delaware

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

ADOPTION OF MINUTES OF REGULAR MEETING of May 19, 2014
ADOPTION OF MINUTES OF SPECIAL MEETING of June 3, 2014

COMMUNICATIONS & REPORTS

1) Reminder: The next Planning Commission regular meeting is scheduled for MONDAY, July 21, 2014 at 7:00pm in the City Council Chambers.

2) Update on City Council Actions
   a. Adoption of Ordinance #2014-05 with Amendments - MI-14-02 Text Amendment: Revisions to Conditional Uses in RG-1/RG-2

3) Update on Planning activities

4) Education & Training Opportunities

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None Received

2) Pending Development Applications:
   A) SB-14-03 Lands of Robert & Kathleen Dunn at 276 Troon Road – Continuation of Review of a Minor Subdivision Plan to create two (2) parcels of land from an existing 26,997 S.F. +/- parcel, previously known as Lot 6 of Fox Meadows Subdivision. The parcel will be subdivided into a 12,803 S.F. +/- parcel and a 14,194 S.F. +/- parcel. The property is zoned R-10 (One-Family Residence Zone), located on Troon Road, north of Merion Road, northeast of Maple Dale Golf Course. The property owners are Robert & Kathleen Dunn. Property Address: 276 Troon Road. Tax Parcel: ED-05-067.09-02-06.00-000. Council District 1. *Waiver Requested: Elimination of Sidewalks. A Public Hearing and Review of this application occurred at the May 19, 2014 meeting of the Planning Commission and action was deferred.*

NEW BUSINESS

NEW DEVELOPMENT APPLICATIONS

1) C-14-03 Janaid's Hair Salon at 213 West Loockerman Street – Public Hearing and Review of Conditional Use Application to permit a hair salon in an existing two-story building on a 2,235 S.F. +/- parcel. The property is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone). The property is located on the north side of Loockerman Street mid-block between South New Street and South Governors Avenue. The owner of record is Sherie S. Vaughn, to be conveyed to Janaid Kareem. Property Address: 211-213 West Loockerman Street. Tax Parcel: ED-05-077.09-01-55.00-000. Council District 4.

2) C-14-04 109 East Division Street – Public Hearing and Review of Conditional Use Application to permit professional offices at an existing 1,689 S.F. structure on an 11,340 S.F. +/- parcel. 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. *Waiver Requested: Elimination of Upright Curbing Requirement*

3) S-14-12 Jolly Joe's Addition at 1160 White Oak Road – Public Hearing and Review of Site Development Plan to permit construction of a 2,400 S.F. +/- addition to an existing 1,927 S.F. +/- commercial building and associated site improvements on a 22,513 S.F. +/- parcel. The property is zoned C-1 (Neighborhood Commercial Zone), located on the southeast side of White Oak Road between Mitscher Road and Spruance Road. The owner of record is Kewal Singh and Harbhinder Kaur. Property Address: 1160 White Oak Road. Tax Parcel: ED-05-068.14-03-54.00-000. Council District 2. *Waivers Requested: Elimination of Opaque Barrier (Fence) Requirement, Elimination of Upright Curbing Requirement*.

4) MI-14-10 Text Amendment: Revisions to Commercial and Office Zones – Public Hearing Review for Recommendation to City Council on a Text Amendments to the *Zoning Ordinance*, Article 3 Sections 10-16 and 26 pertaining to District Regulations, Article 4 Sections 4.14 and 4.15 pertaining to Bulk and Parking Regulations, Article 10 Section 2 pertaining to Site Development Plan approval, and Article 12 Definitions. The proposed ordinance revisions are the result of numerous consultations with the business and real estate community to simplify zones, generalize certain use categories, and provide more flexibility in site design. Ordinance #2014-08. *The Parks Recreation and Community Enhancement Committee reviewed the Proposed Text Amendment on April 28 and May 12, 2014. The First Reading of this Proposed Text Amendment was completed by City Council on May 27, 2014. The Proposed Text Amendment is available on the City's website www.cityofdover.com under the "Government" heading, link to "Ordinances, Resolutions, and Tributes" or you may contact the Planning Office for a copy of the Proposed Text Amendment.*

ADJOURN

THE AGENDA ITEMS MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

Posted Agenda: posted June 6, 2014 at 4:30pm

CITY OF DOVER PLANNING COMMISSION
May 19, 2014

The Regular Meeting of the City of Dover Planning Commission was held on Monday May 19, 2014 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Tolbert, Mr. Holt, Ms. Still, Dr. Jones and Colonel Welsh. Mr. Baldwin and Mr. Ambruso were absent.

Staff members present were Mrs. Townshend, Mrs. Dawn Melson-Williams, Mr. Cook and Mrs. Harvey. Also present were Mr. Michael Hoffman, Mr. Cameron Llewellyn, Mr. Troy Adams, Mr. Gregg Moore, Mr. Herb Miller, Rev. Ruth Evans, Mr. Don Grower, Mr. Carl Krienen and Dr. Michael Thomas. Also speaking from the public was Mr. Adam Gerber.

APPROVAL OF AGENDA

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

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF APRIL 21, 2014

Mr. Tolbert moved to approve the Planning Commission minutes of April 21 2014, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Baldwin and Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the Planning Commission Quarterly Workshop that was scheduled for Tuesday, May 20, 2014 has been canceled. The next Planning Commission Quarterly Workshop is scheduled for Tuesday, August 19, 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, June 16, 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 April 28, 2014 and May 12, 2014.

Mrs. Townshend stated that information was provided on upcoming training provided by the Institute of Public Administration and the Delaware American Planning Association in the chapter Newsletter.

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) S-14-11 6 South State Street – Public Hearing and Review of Site Development Plan and Architectural Review Certification to add parking facilities and other site improvements at an existing 6,906 S.F. ± office/apartment building on a 15,051 S.F. ± parcel. The property is zoned RG-O (General Residence and Office Zone) and subject to the H (Historic District) zone. Concurrent interior renovations will convert the use from office/residence to all office. The property, known as the Dr. Henry Ridgely House, is located at the southwest corner of South State Street and West Division Street. The owner of record is Six South State, LLC. Property Address: 6 South State Street. Tax Parcels: ED-05-077.05-04-27.00-000, ED-05-077.05-04-27.01-000. Council District 3. *Waivers Requested: Parking Reduction, Elimination of Upright Curb Requirement. This application is associated with HI-14-03 heard by Historic District Commission on April 17, 2014.*

Representatives: Mr. Michael Hoffman, Baird Mandalas Brockstedt LLC; Mr. Cameron Llewellyn; Mr. Troy Adams, Mountain Consulting

Mrs. Melson-Williams stated that this application is a Site Plan application. It is also here for its Architectural Review Certification. The property at 6 South State Street which is the southwest corner of Division Street and State Street is located in the City's Historic District. This application was previously heard by the Historic District Commission at their meeting of April 17, 2014. The Planning Commission has been forwarded the recommendations of the Historic District Commission in regards to this Site Plan application. Specifically, the plan seeks to add parking facilities to this parcel and other site improvements. Currently, there are plans for interior renovations to the existing building on the site to take it from what was an office and residential use to strictly an office use on the interior. Tonight the Commission is focusing on the exterior site improvements specifically. These improvements consist of adding a ten (10) space parking lot to the rear of the property with access off the alley. The property has no access points directly to State Street or Division Street. The property does have existing street frontage sidewalks and their proposal allows for a walking area at the head of the parking spaces which leads to the ramp and sidewalk system to the rear of the building which will be the main access point into the offices.

Along with the site there are some improvements to landscaping. They have been evaluating the various trees on the site. There are a number that have in their maturity grown too close to the building and will be removed and others just the overall condition of the tree or its location will cause its removal. In any case there are approximately five (5) trees that are existing that will remain and several additional trees will be planted in order to meet the tree planting requirements for the property.

Other items of note on the site are an existing wrought iron fence along a portion of the Division Street frontage of the property. There is an existing metal gazebo that is part of the yard as well. For this project, the parking is based on the square footage of the office building and the size of the building would require a total of twenty-four (24) parking spaces. They are seeking a waiver to reduce the required parking for the site by 33% to a requirement of sixteen (16) parking spaces. As mentioned before they have the ability to provide ten (10) parking spaces on-site and then they own a parcel further south on the alley that can accommodate six (6) parking spaces. The *Zoning Ordinance* allows for this accessory parking location as long as it's within a certain distance of the subject parcel requiring the parking needs. The other waiver that they are seeking is for the

elimination of upright curbing for the new constructed parking area. They do have intentions to provide the required bicycle parking on the site.

The Planning Office provided a number of comments and they also note a series of recommendations related to the plan itself. They note that the Historic District Commission has provided a recommendation on the Architectural Review Certificate. Their specific actions are outlined in the separate report beginning on Page 2. They adopted a series of comments that Staff had made previously in taking their action with some exceptions. Specifically, the Commission recommended retaining the last northernmost parking space in the row of ten (10). Staff has expressed concerns and continues to express concerns about the viability of that parking space in order to access it and then exit the vehicle because of required landscape planting between that last parking space and the property line due to the property being located in the Historic District. The other agencies have also provided comments including the Department of Public Works, the Fire Marshal's Office, DelDOT and the Kent Conservation District. Some of those agencies have little or no comments related to the project because of the type of project.

Mr. Hoffman stated that he is here on behalf of the applicant, Six South State Street, LLC. Mrs. Melson-Williams did an excellent job of summarizing their plans and their requests for this evening.

He introduced the project general contractor, Mr. Cameron Llewellyn and the project engineer, Mr. Troy Adams.

Colonel Welsh questioned if they accepted the DAC comments and the comments and recommendations from the Planning Staff? Responding to Colonel Welsh, Mr. Hoffman stated yes.

Mrs. Townshend stated that one of the recommendations was to reduce to fifteen (15) parking spaces. So if they want to keep sixteen (16) parking spaces then they probably want to make it part of the record.

Mr. Hoffman stated that the one difference they have is that the applicant's preference is to retain the ten (10) parking spaces on-site.

Mr. Cregar stated that in one report from Planning Staff they talked about the sidewalk from the parking area up to the building to be different than concrete; it was going to be pavers. Responding to Mr. Cregar, Mr. Hoffman stated that as far as the concrete leading up, they are okay with it.

Colonel Welsh stated that the recommendation from Planning Staff says pavers.

Mrs. Melson-Williams stated that on Page 6 of the DAC Report, Item 2G under "Recommendations Suggested as Conditions". Planning Staff notes that the developer should consider the use of brick paving materials. This is in reference to areas of asphalt sidewalk and then the concrete sidewalk leading from the parking area to the rear of the building. Staff notes that it does have limited visibility from the public way which is the true test in the Historic District. But the use of brick paving materials may be more compatible overall with the character and features of the building.

Mr. Llewellyn stated that their intention is that it is not visible from the street. They have salvaged a significant number of bricks that were on the site as they have cleaned up and gone through the

brush. They would like to propose doing some brick accents or ribbons across the sidewalk as you walk through so that it can retain that historical element yet still allow the client to be able to afford the things that they want to do inside the building.

Colonel Welsh stated that it would be a hybrid sidewalk paver or a concrete paver. Responding to Colonel Welsh, Mr. Llewellyn stated yes.

Mr. Holden questioned if that included the head of the parking area that on the Site Plan was indicated to be asphalt? Responding to Mr. Holden, Mr. Hoffman stated that regarding the head of that parking, they have talked to Mr. Adams and they have a grading issue there so they don't have any other choice but to make that a concrete sidewalk that will step up six (6) inches so that they can establish the grades they need to get to the building.

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

Mr. Holden stated that there was initially a request for a waiver for curbing and it seems like due to some grading they are going to place some curbing back in the parking. Is the curbing waiver still standing? Responding to Mr. Holden, Mr. Hoffman stated that they were still requesting a hybrid waiver on the north and south ends of those parking areas. They prefer not to have to establish a curbed area there. But they will have the sidewalk as control so that a car can't enter the landscape areas.

Mr. Holden stated that instead of parking bumpers they were going to do curbing. Responding to Mr. Holden, Mr. Hoffman stated yes, it would be a monolithic curb and sidewalk in one with a six inch reveal.

Colonel Welsh stated that there are actually two actions to this application. One is Historic District Architectural Review Certification and the second is the approval of the proposed Site Plan.

Mr. Holt questioned how many apartments would be upstairs? Responding to Mr. Holt, Mr. Hoffman stated that there won't be apartments in the building. It will just be office space.

Mr. Holt further questioned how many people would be in the office space? Responding to Mr. Holt, Mr. Hoffman stated that they expect twelve to fifteen (12-15) people.

Mrs. Townshend stated that the offices will be on all floors of the building, not just on the downstairs so it won't be undeveloped upstairs. There will be office space that's utilized upstairs as well.

Dr. Jones questioned if they have addressed the six (6) additional parking spaces at this time or are they going to be in compliance with the character of the other parking spaces? Responding to Dr. Jones, Mrs. Townshend stated that those six (6) parking spaces are across the alley and further south so they have no view from the street or the sidewalk areas. All of that would be paved and striped as they make these improvements.

Mr. Cregar questioned the one (1) parking space that seemed to be an issue with DAC. With the most northerly parking space, it seems to him if there was pull in parking there that backing out in that location could also be a problem. It would make sense to divvy that up differently. Is the Planning Staff still feeling the need to reduce the parking by one space in that area? Responding to Mr. Cregar, Mrs. Townshend stated that their concern is that it's going to conflict with the landscaping. Obviously, if the parking spot is constructed it's more a practical issue as the property's used; it's not as much of an issue from their standpoint. They just see that it could be potential conflict between doors and landscaping.

Mr. Cregar questioned if the parking on the south lot was deed restricted to be part of that as parking but they don't control deed restrictions, then how do they make sure that the parking is always there? Responding to Mr. Cregar, Mrs. Townshend stated that it would be controlled through a deed restriction and ultimately they wouldn't have a whole lot of leverage to enforce it. The Code does allow for off-site parking as long as it's within one hundred fifty (150) feet.

Mrs. Melson-Williams stated that the Code does actually make reference to a deed restriction.

Mr. Cregar stated that they really have no leverage at that point. The extra parking area could be sold and then there would be nine (9) parking spaces which would really be inadequate parking. Responding to Mr. Cregar, Mrs. Townshend stated that unfortunately when there are deed restrictions, the City is not in a position to enforce them.

Mr. Cregar questioned if they did sell the extra parking area and they became in non-compliance, would they be able to do something about it? Responding to Mr. Cregar, Mrs. Townshend stated yes, especially because there is a parking reduction so they wouldn't be in compliance with the parking reduction that's part of the approved plan.

Mr. Holden moved to approve S-14-11 6 South State Street and Architectural Review Certification HI-14-03 to include Staff and DAC comments and to clarify that the motion approves the northern parking space and the curbing waiver and the waiver for parking reduction to sixteen (16) spaces, seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Baldwin and Mr. Ambruso absent.

2) SB-14-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan – Public Hearing and Minor Subdivision Plan Review 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. *Waiver Requested: Subdivision Waiver of Requirement for Lot Frontage on a Public Street.*

Representatives: Mr. Gregg Moore, Becker Morgan Group; Mr. Herb Miller, Dover Mall Partnership

Mr. Holden recused himself from this application. His employer is the engineer of record.

Mrs. Townshend stated that the Minor Subdivision is proposing to take what is one (1) larger parcel, the Dover Mall and create three (3) parcels. Lot 1 would be the northernmost piece east of the Mall and Lot 2 would be the southern parcel east of the Mall. The caveat is that Sears, JC Penney's and Boscov's are already on their own parcels and there is a piece of the mall ring road and parking area that is on the State Police parcel. The larger purpose is that they are looking at taking the one large parcel and creating three (3). Lot 1 would be 53.1704 acres, Lot 2 would be 30.7046 acres and the Mall parcel would be 65.4475 acres. The property is zoned SC-3 (Regional Shopping Center Zone) and in order to create these two (2) parcels in the rear, they are requesting a waiver of the requirement for lots to have frontage on a public street. In 2007, the Planning Commission saw a Site Plan to do some clearing of the woodland in what would be Lot 1. At this point the woodland that they cleared is the maximum that can be cleared without doing mitigation. So at the point in time where Lot 1 is developed, if they are proposing expanding the clearing they would have to do a Woodland Mitigation Plan.

This had originally been scheduled to come to Planning Commission in March but thanks to the weather that didn't happen. Last month the applicant asked that it be delayed until this month. When this originally was scheduled in March, they had through the DAC process comments from the Fire Department and the Police Department sharing concerns and with some recommendations. Following the release of the DAC Report and the applicant DAC meeting, they held a meeting that included DelDOT, the Police Department, the Fire Department, the Fire Marshal's Office and the applicant. At that point in time they discussed a number of options for access. The idea is that the primary access would be from the Dover Mall ring road. Therefore, in order to create these parcels a condition of any approval of the waiver of street frontage should include that easements be provided from the main parcel to the two (2) rear parcels to allow for vehicular access and utility access if needed. There was also discussion about potentially pulling Rustic Lane further east into the parcel to provide emergency access. The discussion was that it could be a gated access that would only be accessed by emergency vehicles. The other piece of the equation is that in the North 13 Study, DelDOT has the idea of a service road that would parallel Route 1 along the rear of these parcels and connect to Leipsic Road and to Scarborough Road. That is another potential access point but at point in time, the access would be through the Mall property so they would need to make sure that there were easements in place. Planning Commission members also have a letter from the Fire Department dated April 21, 2014 where they somewhat amended their comments from the end of February 2014. On May 9, 2014 she verified that their comments still stand.

The other piece that has changed as this project has evolved is that last month Commission members looked at a Zoning Text Amendment to the shopping center zones. When this project first came forward the idea was that there would be a residential component to it and a commercial component to it. At this point, residential is off the table. Emergency services comments when they first got involved were predicated on the idea that there would be residential. She thinks that this changes the nature of the comments now that there's not that level on concern. To try to make things easier, she issued a memo on May 9, 2014 that indicates residential is no longer part of the equation and that Text Amendment has been withdrawn; there is no intent to construct apartments. The Police had concerns about speeding on the ring road and they wouldn't be able to do speed enforcement. Now that residential will not be back there that changes the nature of that concern somewhat. On the memo of May 9, 2014, they go back to the initial conditions that they had recommended in the DAC Report. That would be if the Subdivision is approved and the creation of

lots without any road frontage is approved that the Planning Commission require cross access easements among all three (3) lots; from the mall to the rear lots and between the rear lots. Also that similar easements may also be required on the Boscov's lot, the JC Penney's lot and the lease plan so that the ring road can be used regardless of which parcel it's crossing through to access the rear properties. Also that the easements allow for owners of each lot to make improvements necessary to the internal circulation system specifically the ring road and the access drives that would be required to improve the access to the satisfaction of the Planning Commission at the time that the property develops and that the applicant be required to explore the feasibility of extending Rustic Lane. Again, it may not be something that they want to see and it would have to be a separate application but at least for emergency access it would provide a straighter emergency access to the rear property. If this service road develops that becomes less of an issue. The comments that were in the original DAC Report are reiterated in the letter of May 9, 2014 to the Planning Commission to try to resolve some of the confusion about the emergency service concerns given the change of residential proposal.

Mr. Moore stated that he thinks it's important to note, Mrs. Townshend made a comment about the ability to use the loop road that circle the entire Mall. Even though it is not a City street it is a public road because the Mall is a public facility and people use that road in transit. There are sophisticated agreements in place that provide for that road to be that access not only for the entire Mall but these parcels as well; that would stand even with the Subdivision. That's the way the agreements for that road have been done. He points that out because the parcels for Boscov's, JC Penney's and Sears were subdivided off as separate parcels and they use that same road as their access. Those parcels don't have frontage as traditionally planned and it is the public nature of that loop road that allowed them to be divided off because they continue access into those parcels from that road. It is that agreement that provides for these two (2) parcels to have that same access. Mr. Miller is with him tonight; he is the developer of the Mills Malls. There are about twelve (12) or fifteen (15) different Mills Malls and he has partnered with Simon Mall on this property. His goal here tonight is to try and separate this back piece of undeveloped parcel from the Simon holdings because Simon is going to be taking their properties into another contortion and Mr. Miller would like to be able to develop this as he has done the Mills Malls in other locations. There are a lot of players involved and Mr. Miller is here to answer any questions. He is a serious mall developer that understands retail. They are not here for a development proposal; they are here to simply subdivide the rear piece from the mall so that Mr. Miller can pursue funding and all of the things that go along with it. The mortgage is a big piece and he will let Mr. Miller explain that. He is in negotiations with DelDOT already for access; they are doing a traffic study that going to be framing how safe access gets in. He is all for the loop road coming from Scarborough Road and has been instrumental in pushing that at the State level. They understand that road access, whether it be from Rustic Lane or Scarborough Road that there has to be improvements and there's issues with safety. They are not opposing that. The fact that the subdivision has already occurred for Boscov's and Boscov's actually owns that piece of property and that the JC Penney's has also been subdivided is the comfort that the Commission members need to say that the loop road is providing access for a subdivision. Once there was discussion about apartment complexes coming in, which Mrs. Townshend said it was the fact that apartments and people living and staying overnight that heightened the concern of safety. They understand and they want to work with them. They are here tonight to take that first step so that Mr. Miller can pursue the funding and do the things necessary to make these upgrades that he's prepared to do.

Mr. Miller stated that this property is owned by a Simon and Miller entity. It has a mortgage on the whole property; they have the right to release it from the mortgage. They need to get it released from the mortgage through a subdivision before they can do anything. Simon actually restricted to spend any money on all of the work. They have now spent a year and a half trying to figure out what to do with and how to get access. It's going to be a couple more years of painful negotiation with DelDOT and others to get access to this land. The first thing they need to do is subdivide it out of the mortgage; it has to be out of the mortgage. Simon is not allowed to spend any more money; they have already spent several $100,000 dollars in the efforts and they can't spend more money through their laws. They are going to remain partners with Simon.

They are in agreement with the comments of the Fire Department. They will deal with the requirements that they have to make it safe and to create access to the ring road. They must have ten (10) different alternatives with DelDOT. One alternative that DelDOT came up with was getting access off of Route 1. Until they go through a detailed study, they won't know which alternative will be the best choice. The first thing they want to do tonight is Step 1 which is to get it separated from the mortgage so they can spend the money necessary and what will be a couple years of effort with DelDOT to figure out the access. It's not going to be cheap to get access in the location. Dover Downs would love to see a second means of egress because they seem to be having more events. Those things back up 2-3 hours to getting onto Route 13. There needs to be a second way of getting into Dover Downs. Solving this also solves some of the second access issues for Dover Downs. Everybody wins on that approach. They just need to get it subdivided. The Fire Department wants some conditions put on the plan. He doesn't want any problem with that because they are going to give adequate access. There were some improvements done to the ring road near Macy's to make the ring road work well. Until they know where the major traffic is going to come from, they don't know what part of the ring road to upgrade. Those are things that will be answered once they get to the Site Plan. Right now, they are guessing at a lot of things. They have had plenty of meetings with DelDOT and they are going to have more meetings with DelDOT.

Mr. Holt questioned why there is no access from Route 1 into some of those areas especially for Dover Downs? It would be a lot quicker moving traffic in and out of that area if people could jump onto Route 1. Would this be a time to really explore that possibility? Responding to Mr. Holt, Mr. Moore stated that there have been discussions about access to Route 1 with Mr. Miller and the group that owns this property. There have always been issues with access to Route 1 because Route 1 was built to have no access so that it didn't turn out to be Route 13 and the volume of level of service was dropping. It is also his understanding that Route 1 has Federal funding and that there are limitations as to how much access can be made because the Federal funding dictated the design of it. It's not a simple thing but there have been discussions about the traffic study that is ongoing about Route 1 access. He can't rule it out but he also can't say that it's achievable.

Colonel Welsh stated that Route 1 is a limited access road which means that they can't just add entrances and exits. That's really not applicable to what they are here to do tonight. The Commission is looking at the subdivision tonight and then the applicant is going to have to work out the appropriate egress and ingress processes and satisfy the City of Dover Fire Department and emergency services to ensure that there's adequate safety with whatever is proposed.

Mr. Tolbert questioned if at this point they were only considering the subdivision of the two (2) lots? Responding to Mr. Tolbert, Colonel Welsh stated yes.

Mrs. Townshend stated that they are also considering the waiver of the requirement for street frontage.

Mr. Cregar stated that the fact of the matter is the zoning would allow for development of this property in a commercial way. Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar further stated that if Mr. Miller wanted to present a Site Plan in the next six (6) months regardless of the subdivision, the Planning Commission would review all the necessary issues regarding safety and ingress and egress at that point in time. Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar stated that the creation of this line does nothing to the fact that the development of that property under the SC-3 (Regional Shopping Center Zone) could still take place. Responding to Mr. Cregar, Mrs. Townshend stated that it's more an issue of making sure the easements are in place so that they don't have landlocked parcels.

Mr. Cregar stated that the ring road would still be the main egress and ingress for those properties in the back. Responding to Mr. Cregar, Mrs. Townshend stated yes.

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

Colonel Welsh questioned if the applicant accepts the DAC comments? Responding to Colonel Welsh, Mr. Moore stated that the only concern is that Mr. Miller is willing to make some upgrades to the ring road but the way that the comments have been presented is almost like it would be cutting off access to some of the tenants. That's where Mr. Miller is then unable to agree because if Sears doesn't have adequate access into some of their parking they have an action because they have the right to that loop road just as Mr. Miller does. It's a fine line between how much access is enough for the City staff.

Mrs. Townshend stated that the issue is more making sure that whatever easements and agreements are in place as a part of the recorded Subdivision allows those details to be worked out at the Site Plan. The concern is that if the easements aren't in place to be able to upgrade the ring road then they come forward for Site Plan with different ownership in the future and suddenly it's said that they can't upgrade the neighbor's property. They just need to make sure that the easements are in place to allow upgrades as needed to support the Site Development Plan. The details of that would be worked out under a Site Plan.

Mr. Moore stated that they agree with that; it would be worked out at Site Plan and because of the amount of property at this location in the scale of development that Mr. Miller is able to pursue with the Mall being so large, DelDOT is going to control access because of the Traffic Impact Study. They are going to be dictated by DelDOT and the Traffic Impact Study. There will be intersection improvements, lights to change and other things that they don't know yet. They can't agree to things that they don't know; they are just trying to take the first step.

Mr. Cregar moved to recommend approval to City Council for SB-14-01 Dover Mall at 1365 North DuPont Highway: Minor Subdivision Plan to include the waiver of requirement for lot frontage on a public street and the necessary easements listed in the DAC Report be in place for the two parcels of land, seconded by Ms. Still and the motion was unanimously carried 6-0 with Mr. Holden recused and Mr. Baldwin and Mr. Ambruso absent.

3) SB-14-02 Lands of Union A.M.E. Church at 222 West Reed Street – Public Hearing and Minor Subdivision Review to create two (2) parcels of land from an existing 5,385 S.F. ± parcel in order to place the existing church building and house on individual lots. The parcel will be subdivided into a 1,447 S.F. ± parcel (Parcel A), and 3,938 S.F. ± parcel (Parcel B). The property is zoned C-2 (Central Commercial Zone), located at the southwest corner of West Reed Street and South New Street. The owner of record is Union A.M.E. Church. Property Addresses: 222 West Reed Street and 101 South New Street. Tax Parcel: ED-05-077.09-01-36.00-000. Council District 4. *This application is associated with V-14-03 heard by the Board of Adjustment on February 19, 2014.*

Representatives: Rev. Ruth Evans, District Superintendent for Union AME Church

Mrs. Townshend stated that this application was a Minor Subdivision. The applicant is requesting to take one (1) parcel that is 5,385 S.F. and to divide into two (2) parcels. Currently, there are two (2) buildings on the parcel. Parcel B is a church building. The proposed lot size would be 3,938 S.F. Parcel A contains a house and the proposed lot size would be 1,447 S.F. This is located at the southeast corner of South New Street and West Reed Street. The property is zoned C-2 (Central Commercial Zone) so it doesn't have the minimum lot size; however, the applicant did go to the Board of Adjustment and had a variance approved on the setbacks and the lot depth. They are looking to strike a lot line between the two (2) buildings so that they can sell Parcel A which is a residential parcel and maintain the church on Parcel B. There are a number of code violations existing on the house at Parcel A which is part of the reason that the applicant would like to sell it because the maintenance of the house is significant. The residential use is not a permitted use in the C-2 (Central Commercial Zone). That could potentially change with proposed ordinances that will come to the Planning Commission next month. At this point, this is a non-conforming use that has expired so the applicant may need to go to the Board of Adjustment to re-establish that use but it does not affect the ability to strike the lot line.

Rev. Evans stated that they would like to get it done. They wanted to get it done because they don't like the way the house looks. Unfortunately, the cost factor is a lot of them to handle right now so that's why they want to sell it and have someone fix it the property up.

Mr. Holt questioned if anyone was living in the house? Responding to Mr. Holt, Rev. Evans stated no, the house is vacant.

Mr. Holt further questioned if they could sell the house and get it off their back, it would give the church a breather? Responding to Mr. Holt, Rev. Evans stated yes, they do have interested parties looking at the property.

Mr. Holt questioned if there were a lot of improvements needed on the house? Responding to Mr. Holt, Rev. Evans stated yes.

Mr. Holt questioned if the new buyer would be made aware of the improvements needed on the house? Responding to Mr. Holt, Rev. Evans states yes, they would be made aware. She has all of the paperwork from the City.

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

Mr. Tolbert questioned if the property was not sold what disposition will they make of the property? Responding to Mr. Tolbert, Rev. Evans stated that they would have to go back to the table to figure out how they could make the improvements themselves or demolish the house.

Mr. Cregar questioned if the house was on the Dangerous Building list for the City? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar further questioned how long before it would have demolished or repaired? What is the timetable? Responding to Mr. Cregar, Mrs. Townshend stated that Staff has held off taking it to City Council knowing that this process is going on. Unfortunately, there were other buildings that the City was able to focus on. As long as they are moving forward, if they get to the point where there is a lot of vandalism or there is a fire that may change the priority on the Dangerous Building list. But because they are actively trying to do something to ultimately get it improved, Staff is monitoring the property. It's not as high as other properties on the Dangerous Building list.

Mr. Cregar questioned if at some point someone demolishes the house, it can be used as a C-2 (Central Commercial Zone) property and a commercial use established on that property? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Colonel Welsh stated that what he is hearing from Rev. Evans is that they have a buyer for the property. They just need to subdivide it so that they can sell it. If it's someone that's going to purchase the property and fix it and relieve the church of their financial responsibility he thinks it's a win-win for everybody.

Ms. Still moved to approve SB-14-02 Lands of Union A.M.E. Church at 222 West Reed Street to create new parcels of land, seconded by Dr. Jones and the motion was unanimously carried 7-0 with Mr. Baldwin and Mr. Ambruso absent.

4) SB-14-03 Lands of Robert & Kathleen Dunn at 276 Troon Road – Public Hearing and Minor Subdivision Review to create two (2) parcels of land from an existing 26,997 S.F. ± parcel, previously known as Lot 6 of Fox Meadows Subdivision. The parcel will be subdivided into a 12,803 S.F. ± parcel and a 14,194 S.F. ± parcel. The property is zoned R-10 (One-Family Residence Zone), located on Troon Road, north of Merion Road, northeast of Maple Dale Golf Couse. The property owners are Robert & Kathleen Dunn. Property Address: 276 Troon Road. Tax Parcel: ED-05-067.09-02-06.00-000. Council District 1. *Waiver Requested: Elimination of Sidewalks*.

Representatives: Mr. Don Grower, Donald G. Grower Professional Land Surveying Services

Mrs. Harvey stated that the Plan application is the review of a Minor Subdivision Plan to create two (2) parcels of land from the existing parcel located a 276 Troon Road on the north side of Troon

Road, north of Merion Road and northeast of the Maple Dale Golf Course. The property is zoned R-10 (One-Family Residence Zone). The proposed lot appears to meet the setback and lot dimensions of the R-10 (One-Family Residence Zone) zoning district. The existing land identified as Lot 6 will be subdivided into Lot 6 and Lot 6A. The parcels to be created are Lot 6 at 12,803 S.F. and Lot 6A at 14,194 S.F. The applicant has submitted a waiver request to be considered by the Planning Commission to eliminate the required sidewalk on both lots. Staff recommends approval of the request to eliminate the sidewalks for the proposed two (2) parcels finding that this area is isolated with respect to the sidewalks and that the Fox Meadows Subdivision does not included sidewalks.

Mr. Grower stated that the applicant essentially would like to divide this property feeling that it's going to be easier to sell the lots at that small size.

Mr. Cregar questioned if the applicants have been the owners of this particular property? Responding to Mr. Cregar, Mr. Grower stated yes.

Mr. Cregar further questioned if they knew that the property was part of that subdivision at that point in time when they purchased this land? Responding to Mr. Cregar, Mr. Grower stated yes.

Mr. Holden questioned how the proposed lot sizes compared to the lots that surround them or in general within the development as a whole? Responding to Mr. Holden, Mr. Grower stated that in general as they go down the left side of the road, the average lots are 0.4 acres to almost 0.5 acres. Directly across the street from these lots, they are in the 0.35 to 0.4 acre range with some getting bigger once getting into Phillip Court cul-de-sac.

Ms. Still questioned the swing set that is over the proposed property line? Responding to Ms. Still, Mr. Grower stated that the swing set was being dealt with. The present owner and the adjoining neighbor are aware of that situation.

Colonel Welsh questioned if Lot 6A abutted the driveway for the other house that is located behind these two (2) lots? Responding to Colonel Welsh, Mr. Grower stated no, it comes very close both at Troon Road and in the rear but the driveway does not contact.

Colonel Welsh stated that the neighbor's house that the driveway extends to is actually behind these lots. Responding to Colonel Welsh, Mr. Grower stated yes.

Colonel Welsh opened a public hearing.

Mr. Adam Gerber – Hudson, Jones, Jaywork and Fisher at 225 South State Street Dover, DE 19901

Mr. Gerber stated that he is an attorney with Hudson, Jones, Jaywork and Fisher and he represents a group of thirteen (13) homeowners in this community who oppose approval of this request for a subdivision; a number of them who are present tonight. His client's primary objection is that this request exceeds the bounds of a Minor Subdivision and in reality is a request for a Major Subdivision. They are concerned also about the practical effects of approval of this Minor Subdivision. The City Code sets forth the application procedure for Minor Subdivision and states in part that these Minor Subdivisions shall include only subdivisions where no improvements, dedications or easements are required. This application however will require certain easements. In

the recorded plot plan, Note 11 requires that there be a 7.5 foot easement along any side or rear property lines. So to divide this property will obviously create a new middle line and two (2) side boundaries which will require easements. They may also require improvements such that in that there are certain utilities that go to Lot 6 that would be required to be split and run to the second lot. Therefore, this request really is a material change to an approved Major Subdivision and not really a Minor Subdivision.

His clients also object to approval of this subdivision request because of the adverse impact that it will have on development of the property and on the surrounding properties. In fact approval of this request would create conflicts with the deed restrictions that apply to this property. Minor Subdivisions are defined as any subdivision fronting on an existing street not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provisional portion of the development plan, official map or *Zoning Ordinance*. His clients oppose this subdivision because they believe that it will have an adverse effect or impact on the development of this parcel and the surrounding properties. There was some discussion already about the other adjoining properties and the location of the driveway. The review of the map shows that the homes on either side of this property are already very closely set. One driveway comes very close to going over the property line. On the other side, the home is built very close to the property line such that already it would be difficult to place a home that would compare in size to the other existing homes in the neighborhood. His rough estimate is that the homes in that area are probably well over 3,000 SF on average. The restrictions that apply require at least a 2,500 SF two story home. It would be very difficult if this lot was subdivided to place two (2) homes of that size on the lots without having to come back to the City for a variance of some sort. In essence this would really be creating a hardship that has to be remedied later by a variance. It would be very difficult to place homes as the lots stand to keep them far enough away from the adjoining property. But it's their contention that the smaller lot being 12,803 SF would be very difficult to put a home of the required size without having to request a variance from the setback requirements. It's possible that it could be done but it's possible that any new owner would like to put a home that keeps with the square footage of the other homes.

The homes that are in this area range from probably 3,000 SF to around 8,000 SF. In other words, there are large homes there already. To divide this lot in this manner would change the character of the neighborhood in that only small homes could be placed on these lots. He understands the sellers desire to sell off two (2) smaller lots which would maybe allow for more flexibility in selling but it would also most likely lead to a somewhat smaller home, if not a smaller home then variances from the setback requirements. Therefore his clients believe that to approve this subdivision request would really change the character of the neighborhood, lead to hardship which would then have to be remedied and his clients would oppose any such easement request for that as well. His clients ask that the Planning Commission deny this request for Minor Subdivision.

Mr. Grower stated that on the map the setbacks are in place. In Lot 6, within those setback lines there is approximately 5,000 SF of available property. Being where this subdivision is, it's probably not going to be first time home buyers on a budget. These are going to be people who are looking for a nice home to be built there. He believes that the new owners are going to want to have a home that's going to be in keeping with the area that's around them. It appears that there would be

adequate space to build such homes that would be in keeping with the character of the neighborhood.

Colonel Welsh closed the public hearing.

Mrs. Townshend recommended that if there is an inclination to deny the Subdivision that they have a motion to defer until the next meeting so that they can obtain legal counsel and potentially have an executive session to get legal input from the City's attorney.

Colonel Welsh stated that he thinks it would be wise for the Commission to recommend deferral until next month so that they can have the opportunity to consult with legal counsel.

Mr. Tolbert moved to defer SB-14-03 Lands of Robert & Kathleen Dunn at 276 Troon Road until next month so that legal counsel can be obtained, seconded by Dr. Jones and the motion was unanimously carried 7-0 with Mr. Baldwin and Mr. Ambruso absent.

5) US-14-01 Dover High School at One Dover High Drive – Public Hearing and Review of a Unified Comprehensive Signage Plan application to permit the construction and implementation of signage for the 105.6 acre ± Dover High School campus consisting of illuminated monument and wall signs, non-illuminated building entrance canopy signs and directional signage, and a mesh bleacher banner. The property is zoned R-10 (One-Family Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The property is located on the south side of Forrest Avenue and east of Dover High Drive. The property owner is Capital School District. Property Address: One Dover High Drive (Previously 1650 Forrest Avenue). Tax Parcel: ED-05-076.00-02-07.00-000. Council District 1.

Representatives: Mr. Carl Krienen, ABHA Architects; Dr. Michael Thomas, Superintendent for Capital School District

Mr. Cook stated that this is a Unified Comprehensive Signage Plan for the Dover High School. There is a summary for the signage proposed. It's located on the west side of the City near City limits. The address is 1 Dover High Drive. The property is zoned R-10 (One-Family Residence Zone) and under the existing *Zoning Ordinance*, such a property would be very limited in the amount of signage available. As a campus educational facility, the property has the opportunity to apply for Unified Signage Program. The proposed project has thirteen (13) signs which consist primarily of a monument entrance sign at the corner of Dover High Drive and Forrest Avenue, an entrance canopy sign on the front and on the rear, and seven (7) directional signs internal to the campus along Dover High Drive and also within the parking lot area. To the rear of the property there will be a lighted mascot symbol on the fieldhouse structure as well as a bleacher banner on the back of the bleachers. Generally, there were very few comments from other City agencies and there were some recommendations of altering the signage height for the directional signage.

Mr. Krienen stated that this should be the last presentation that they will be making because this is Bid Package K, the last Bid Package for the high school. The first time that they approached the Planning Commission officially was in 2010. A lot of the drawings shown tonight were reflected in some of the very preliminary drawing that were done at that time. They have been able to adhere

pretty closely to kind of what the overall site concept was. He hopes that the Commission is in agreement that they are trying to keep the aesthetic for the building as true as possible.

Mr. Krienen shared the Power Point presentation for the Unified Signage Program for the new Dover High School.

Mr. Holt stated that they have done a great job with the signs. Was the project for the sign package put out for bid locally? Responding to Mr. Holt, Dr. Thomas stated that it was going to be bid out and it will follow normal State bid regulations. It will be posted for a certain period of time; anyone who wants to submit a sealed bid may do so.

Mr. Tolbert stated that this was one of the best sign packages he's seen since he's been on the Commission. It's very thorough and complete.

Mr. Cregar questioned what sign would be located at the far east intersection? Responding to Mr. Cregar, Mr. Krienen stated that it was a single sign designed to instruct people to use the main entrance. Most people will be coming from the east; they will see the high school and will have an inclination to duck in through this entrance. The District would like to control that primarily for events and lead most people back to the main signaled entrance.

Mr. Cook stated that in the final plan that the Commission members have, the final location is a little bit confusing because of the red dot shown on the plan. The proposed location of the sign is going to be out towards the road not as far internal as it appears to be.

Mr. Krienen stated that it will be and they request a little flexibility on that sign. There is currently still a redesign of that intersection with DelDOT. They are pretty resolved to it but it had not been finalized yet. Hopefully, when they apply for a permit it will be clarified both from a DelDOT point of view and from the District on where they want to place it. It will be an appropriate position that doesn't meet the visibility restrictions but is as close as possible for readability.

Mr. Cregar questioned about accessory uses such as the scoreboards for the football field and baseball field, would they have advertising associated with them? Responding to Mr. Cregar, Mr. Krienen stated that they believe there is allowed to be advertising but not facing any neighborhoods. It's not intended that there's advertising on it right now; that's not been sold but it most likely could be. But for the back sides of the signs facing the neighborhoods, they understand that they can't sell advertising there. Frankly, they don't really face much anyway; most people will be approaching from the north side.

Mr. Cregar further questioned if any of that would have to come before the Planning Commission? Responding to Mr. Cregar, Mrs. Townshend stated no.

Mr. Cregar questioned as operations begin at the school, if there's a need to provide additional signage for direction or parking, how is that handled? Does that have to come back to the Planning Commission or does Staff have the ability to approve any additional signage that may be required? Responding to Mr. Cregar, Mrs. Townshend stated that if it's something in the nature of directional signage, Staff would work with the applicant but if it's new large signage then it's a change to the plan and the applicant would have to come back.

Colonel Welsh stated that it was an excellent package and it's obvious that the applicants did their homework.

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

Mr. Tolbert moved to approve US-14-01 Dover High School Unified Comprehensive Signage Plan at One Dover High Drive as submitted, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Baldwin and Mr. Ambruso absent.

Meeting adjourned at 8:37 PM

Sincerely,

Kristen Mullaney
Secretary

MINUTES OF SPECIAL MEETING of June 3, 2014

The Minutes of the Planning Commission Special Meeting of June 3, 2014 will be distributed to the Planning Commission under separate cover and will be made available at the Meeting on June 16, 2014.

SB-14-03 Lands of Robert & Kathleen Dunn at 276 Troon Road – Continuation of Review of a Minor Subdivision Plan to create two (2) parcels of land from an existing 26,997 S.F. +/- parcel, previously known as Lot 6 of Fox Meadows Subdivision. The parcel will be subdivided into a 12,803 S.F. +/- parcel and a 14,194 S.F. +/- parcel. The property is zoned R-10 (One-Family Residence Zone), located on Troon Road, north of Merion Road, northeast of Maple Dale Golf Course. The property owners are Robert & Kathleen Dunn. Property Address: 276 Troon Road. Tax Parcel: ED-05-067.09-02-06.00-000. Council District 1. *Waiver Requested: Elimination of Sidewalks. A Public Hearing and Review of this application occurred at the May 19, 2014 meeting of the Planning Commission and action was deferred.*

- Information on this application was distributed to the Planning Commission for the May 19, 2014 meeting. Please continue to utilize this information for the continuation of the review of the application at the June 16, 2014 meeting of the Planning Commission.

- At the May Planning Commission Meeting the Commission conducted the Public Hearing and following discussion of the application chose to defer action in order to seek legal counsel. A Special Meeting including an Executive Session of the Planning Commission occurred on June 3, 2014 for this purpose.

- See the attached Memorandums dated June 2, 2014 and June 3, 2014 pertaining to consideration of this application.

- If you have questions or need additional copies of the application information, please contact Planning Staff at 736-7196.

MEMORANDUM

Department of Planning & Inspections
P.O. Box 475
Dover, Delaware 19903
Phone: 302.736.7196 Fax: 302.736.4217

Date: **June 2, 2014**

To: **Planning Commission**

From: **Ann Marie Townshend, AICP**
Director of Planning & Community Development

RE: **Proposed Subdivision of Property at 267 276 Troon Road (SB-14-03)**

At the Planning Commission hearing on Monday, May 19, 2014, the Planning Commission heard testimony from neighbors of the property at 267 Troon Road, where the applicant wishes to subdivide one existing lot into two lots. As stated in the DAC report, the property is zoned R-10 (One Family Residence Zone), and the minimum lot size permitted in 10,000 square feet. The area is shown in the Land Development Plan Map of the 2008 Comprehensive Plan, as amended, as low density residential. The proposed subdivision and the current zoning designation of the property are consistent with this land use classification. The proposed minor subdivision complies with the requirements of the *Zoning Ordinance* and *Subdivision Regulations*.

At the executive session on Tuesday, June 3, 2014, you will have the opportunity to receive legal advice on the matter from the Deputy City Solicitor. In discussing the application with Mr. Pepper, he suggested that the instruction by the Superior Court in the case of *JNK, LLC vs. Kent County Regional Planning Commission* is relevant to the matter pending before the Commission. In this decision, the Court instructed the Commission as follows:

> (1) If the Commission finds that all the regulations are complied with, the plan is approved; (2) if the Commission finds that all of the regulations are complied with, but the Commission has some concerns it desires to condition final plan approval on, the approval is made contingent on the completion of those requirements; (3) if the Commission finds that some regulation is not complied with, the plan is denied; or (4) if the Commission finds that in order to determine if the regulations have been complied with more information is required, the plan is tabled until the information has been provided.


Fox Meadow Subdivision
Fairway
Brandywine
Meadow
Gregory
Phillip
Troon
Merion
263
11
267
15
268
12
272
271
276
275
282
279
286
283
290
287
294
291
298
295
299
N
06-02-2014
0 35 70 140 210 280
Feet

SB-14-03
276 Troon Road
Fox Meadow Subdivision

Number of Lots, *existing*	21
Mean Lot Size *(S.F.)*	19,948.8
Median Lot Size *(S.F.)*	18,143.9
Proposed Lot 6	12,803.0
Proposed Lot 6A	14,194.0
Smallest Existing Lot	13,756.8
Largest Existing Lot	47,486.2

Source: City of Dover GIS Data

MEMORANDUM

TO: Planning Commission

FROM: William W. Pepper Sr., Esquire
Deputy Solicitor

DATE: June 3, 2014

RE: Proposed Subdivision of Property at 267 Troon Road

The application is for a minor subdivision approval because the proposed subdivision fronts on an existing street not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the development plan, official map, zoning ordinance or this ordinance. *Dover Subdivision Ordinance, Article III, definition of subdivision, minor*.

In Dover, the Planner acts as the gatekeeper. Plans that do not comply with the City Code are not presented to the Planning Commission. Therefore, if an application comes before the Planning Commission, there is a strong presumption that the application complies with any and all applicable ordinances.

The leading Delaware case on subdivision approval is Tony Ashburn & Son, Inc. v. Kent County Regional Planning Commission, 962 A.2d 235, 239 (Del. 2008). It is a Delaware Supreme Court decision from 5.5 years ago.

There are some nuggets to be mined from the Court's decision:

"Where, as here, a . . . planning commission considers an application to approve a subdivision, it does not act in a legislative capacity but 'partly in a ministerial and partly in a judicial capacity.' We review . . . decisions to determine whether the decision is supported by substantial evidence and free from legal error. Substantial evidence 'means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'"

Tony Ashburn & Son, Inc. v. Kent County Regional Planning Commission, 962 A.2d 235, 239 (Del. 2008) quoting in part *Eastlake Partners v. City of Dover Planning Commission*, 655 A2d. 821, 825 (Del. Super. 1994).

"If the Commission is empowered to deny proposals that meet all applicable statutory and Code criteria, purchasers of land would be left unable to predict whether they can develop their land in accordance with the pertinent zoning ordinances, or whether instead the County may prevent development based upon non-Code related *ad hoc* determinations. Here, Ashburn purchased land zoned AC, a classification that permits the kind of subdivision development that Ashburn was proposing. Upholding a

denial of Ashburn's plan even though it complied with all Kent County Code criteria, would upset Ashburn's reasonable development expectations when it purchased the land for development."

962 A.2d at 241.

"When people purchase land zoned for a specific use, they are entitled to rely on the fact that they can implement that use provided the project complies with all of the specific criteria found in ordinances and subject to reasonable conditions which the Planning Commission may impose in order to minimize any adverse impact on nearby landowners and residents. To hold otherwise would subject a purchaser of land zoned for a specific use to the future whim or caprice of the Commission by clothing it with the ability to impose ad hoc requirements on the use of land not specified anywhere in the ordinances. The result would be the imposition of uncertainty on all landowners respecting whether they can safely rely on the permitted uses conferred on their land under the zoning ordinances."

962 A.2d at 241 quoting *DiFrancesco v. Mayor and Town Council of Elsmere*, 2007 Del Super. LEXIS 181 at *3 (Del. Super. June 28, 2007).

"To summarize, the Commission may condition its approval of Ashburn's subdivision application based on non-Code factors, such as agency recommendations, school capacity issues, and concerns regarding the health, safety and welfare of the community. The Commission may consider these issues and has discretion in formulating conditions on approval designed to harmonize and coordinate regional planning. But, the Commission's power to impose conditions cannot be administratively enlarged to a power to deny a conforming application outright. In this case the Commission did not approve the application with conditions. Therefore, in denying Ashburn's application, which fully complied with all provisions of the Kent County Code, the Commission exceeded its statutory power."

962 A.2d at 242.

Options for a planning commission when considering an application for subdivision approval:

(1) [I]f the Commission finds that all the regulations are complied with, the plan is approved;

(2) if the Commission finds that all the regulations are complied with, but the Commission has some concerns it desires to condition final plan approval on, the approval is made contingent on the completion of those requirements;

(3) if the Commission finds that some regulation is not complied with, the plan is denied; or

(4) if the Commission finds that in order to determine if the regulations have been complied with more information is required, the plan is tabled until the information has been provided.

962 A.2d at 242 (Del. 2008) quoting *JNK, LLC v. Kent County Regional Planning Commission*, 2007 Del Super. LEXIS 435 at *2 (Del. Super. July 11, 2007).

City of Dover

DATA SHEET FOR CONDITIONAL USE PLAN REVIEW

DEVELOPMENT ADVISORY COMMITTEE MEETING OF June 4, 2014

PLANNING COMMISSION MEETING OF June 16, 2014

Plan Title:	Janaid's Hair Salon C-14-03
Plan Type:	Conditional Use Plan
Property Location:	North side of Loockerman Street east of South New Street
Property Address:	213 West Loockerman Street
Tax Parcel:	ED-05-077.09-01-55.00-000
Equitable Owner:	Janaid Kareem
Lot Area:	2,235 SF ±
Present Use:	Vacant first and second floor tenant space
Proposed Use:	Men's Hair Salon
Sewer & Water:	City of Dover
Zoning Classification:	C-2 (Central Commercial Zone) H (Historic District Zone)

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: June 4, 2014

City of Dover Planning Office

APPLICATION: Janaid's Hair Salon at 213 West Loockerman Street

FILE #: C-14-03 REVIEWING AGENCY: City of Dover Planning

CONTACT PERSON: Tracey Harvey PHONE #: (302) 736-7196

PLAN SUMMARY:

This Conditional Use Plan Review is to permit a Men's Hair Salon on the first and second floor tenant space of an existing building located at 213 West Loockerman Street. The property of 2,235 S.F. for the proposed development is zoned C-2 (Central Commercial Zone) and is subject to the H (Historic District Zone). The property is located on the north side of West Loockerman Street and east of the intersection of South New Street. The equitable owner of record is Janaid Kareem. The property address is 213 West Loockerman Street. Tax Parcel: ED-05-077.09-01-55.00-000.

Project Site

The subject building is within a block of Loockerman Street that was developed between 1868-1885. An 1885 map shows the building as a hardware store and dwelling, then as a "dry and fancy goods" store in 1891, as a fruit and confectionary store in 1904 and part of a department store by 1929. It is within the Historic District Zone and listed in the National Register of Historic Places as a contributing resource to the Victorian Dover Historic District (K-396.85). The following excerpt on the building is from the National Register nomination.

> K-396.85 211 West Loockerman Street – Late 19th century, 2 story, frame, commercial structure; resheathed asbestos shingles 2nd floor level, brick veneer 1st floor level; flat roof, modillion cornice; 2/2 double hung sash on 2nd floor level, moulded window lintels. (* Building is currently addressed as 213 West Loockerman Street.)

The building is within the Historic District. Any exterior changes including signage are subject to the Architectural Review Certification process and compliance with the *Design Standards and Guidelines for the City of Dover Historic District Zone.*

The building consists of two floors. The first and second floors of the building are currently registered as a vacant building under the provisions of the Vacant Building Ordinance. The tenant space located on the west side of the subject tenant space is a vacant building that was previously Simon's Bridal Shop and the adjacent building located to the east side of the proposed

site is also a vacant building. The Tresses Hair Studio is a personal service store located within 250 feet of the subject site.

Proposed Project

The application seeks to allow for the establishment of a Men's Hair Salon on the first and second floors of the existing building. The plan indicates on the first floor a waiting area for clients in front of the building, a styling area, an ADA styling area, a wash area and a coffee bar on the first floor. The second floor will consist of a second styling area in the future.

Due to its location, this type of land use as a Hair Salon (a personal service store) on the first and second floors requires Conditional Use approval by the Planning Commission as noted in Article 3 §13.21 of the *Zoning Ordinance*.

> 13.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 10.1 [1] of this ordinance and to any specified requirements set forth below. Any of the following uses in existence at the time this ordinance [section] is adopted are considered permitted uses, and shall not lose their status as permitted uses in their existing locations unless the use is changed to one of the uses listed above in [sub] section 13.1 of this ordinance [section]. Changes from one conditional use to another will require conditional use approval.
>
> 13.21 Personal service stores, including, but not limited to, barbershops, beauty shops, tailors, day spas, and other establishments in which the primary business is the sale of a service, rather than a product, located on the first floor on Loockerman Street between State Street and New Street and located within 250 feet of another personal service store.

This Conditional Use is subject to the requirements of Article 10 §1 further discussed below. With Conditional Use applications, the Planning Commission reviews the proposed project to determine whether or not the intended use is appropriate in type and scale for the immediate neighborhood. The Commission must also consider whether or not the proposed use will have an adverse impact on the future orderly development of the surrounding area. Several sections of the *Zoning Ordinanc*e which relate to the role of the Commission in reviewing Conditional Use applications are particularly relevant when reviewing this application:

> 1.1 *Accessibility for emergency response.* That all proposed structures, equipment or material shall be readily accessible for fire, ambulance, police, and other emergency response;
>
> 1.2 *Harmony of location, size and character.* That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;

For a use seeking Conditional Use approval that proposes to occupy an existing structure in the C-2 Zoning District, Article 3 §13.3 outlines the submission requirements. These requirements include a map of the property showing existing conditions and a conceptual floor plan with the appropriate legal data.

> 13.3 *Submission requirements for conditional uses in the C-2 zone.* The following submission requirements shall be used in lieu of the requirements of article 10, section 1.6, in the event that

the business, office, or establishment seeking conditional use approval will be occupying an existing structure:

(a) The applicant shall cause a site map to be prepared. The applicant shall submit 21 copies of the site map at the time of application. The site map shall conform to the following specifications and the following elements shall be included on the site map:

1. The map shall be at least 11 [inches] by 17 inches, but not more than 24 [inches] by 36 inches, and at a scale of ten, 20, 30 or 40 feet to the inch, except that, if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

2. The existing building and conditions on the lot must be depicted. It is permissible to utilize the most recent mortgage survey of the property for this purpose. If conditions, such as landscaping and accessory structures, on the lot have changed since the survey was completed, the applicant shall depict these changes on the plan to the best of his/her ability. However, the nature and extent of such revisions must be approved by the city planner at the required pre-application meeting.

3. A conceptual floor plan of the building is required. This floor plan must depict the location and percent of total floor area devoted to the proposed uses. Any uses on separate floors which are not the subject of the application must be referenced by a note on the plan. The city planner may request more detailed information, including architectural floor plans, on a case-by-case basis at his/her discretion.

4. Legal data:
(a) Lot, blocks, and section number.
(b) Name and address of the owner of record.
(c) Name and address of the equitable owner, if any.
(d) Name and address of the person, firm, or organization preparing the map.
(e) Date, north point, and written and graphical scale.
(f) The location and names of adjacent streets.
(g) The location, zoning, and owners of record of all adjacent properties.

Staff notes that in this case of this proposal of the existing building occupies almost the entire property parcel. There is an open area of approximately 3 feet along the east side of this building between it and the neighboring building.

SITE CONSIDERATIONS:

Trash Collection

There is not a specific Dumpster pad requirement for personal service uses. Arrangements for trash collection will need to be made with either the City of Dover or a private trash collection service. Dumpster enclosures are required and must be implemented where space is available on a site. Currently, trash collection along Loockerman Street is curbside pick-up on a designated night by the City of Dover.

Parking
The C-2 zoning district does not have an off-street parking requirement for existing buildings. Staff notes that there are several municipal parking lots located within the immediate area and on street parking.

Bicycle Parking
Bicycle parking is not required as there is no off-street parking requirement. There are bicycle parking facilities along West Loockerman Street (post style).

Sidewalk
There is existing sidewalk along West Loockerman Street.

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

CITY AND STATE CODE REQUIREMENTS:

1) The Site Data and plan drawing column will need to be updated prior to Final Approval with the following items.
   a) Any changes recommended or approvals by the Planning Commission.
   b) Indicate the proposed use.
   c) Add legal data items :
      1. Name and address of the owner of record.
      2. Name and address of the equitable owner.
      3. Tax Parcel identification number
      4. List zoning districts: C-2 and H

2) Provide an Owner's Certification note and signature line to plan sheet. See text below.

OWNER'S CERTIFICATION:
I, _____, hereby certify that I am the owner of the property described and shown on this plan, that the plan was made at my direction, and that I acknowledge the same to be my act and desire the plan to be developed as shown in accordance with all applicable laws and regulations.

DATE _____ SIGNATURE_____

The Equitable Owner's signature will need to be added to the plan sheet if the change of ownership does not occur when the Check Print is submitted if the proposed use is approved by Planning Commission.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

None

ADVISORY COMMENTS TO THE APPLICANT:

1) Following Planning Commission approval of the Conditional Use Plan, the Plan must be revised to meet all conditions of approval from the Development Advisory Committee or as otherwise noted. A Check Print must be submitted for review by Planning Office Staff. Upon determination that the Plan is complete and all agency approvals have been received, copies of the Plan may be submitted for final endorsement.

2) The use as a personal service store must comply with applicable Building Codes and Fire Codes. The applicant is advised to meet with the City's Fire Marshal and Building Inspector to learn more about these requirements.

3) The applicant shall be aware that the Conditional Use Plan approval does not represent a Sign Permit, nor does it convey permission to place any sign on the premises. Any proposed site or building identification sign shall require a Sign Permit from the City of Dover prior to placement of any such sign.

4) The applicant shall be aware that the Conditional Use Plan approval does not represent a Building Permit and associated construction activity permits. A separate application process is required for issuance of a Building Permit and Certificate of Occupancy from the City of Dover.

5) Exterior renovations to the building are subject to Architectural Review Certification as the property is located within the Historic District. This may include review by the Historic District Commission.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Department as soon as possible.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: MAY 28, 2014

CITY OF DOVER Electric & Public Works Departments

APPLICATION: JANAID'S HAIR SALON, 213 W. LOOCKERMAN ST.

FILE #: C-14-03

REVIEWING AGENCY: City of Dover Electric and Public Works Departments

CONTACT PERSON: Aren Wright - Electric
Jason A. Lyon, P.E. – Public Works

CONTACT PHONE #: ELECTRIC - 302-736-7070 / PUBLIC WORKS – 302-736-7025

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

ELECTRIC

1. Owner is responsible for following the requirements outlined in the City of Dover's Electric Service Handbook. The handbook is now available on the website at the following link: http://www.cityofdover.com/Public-Documents-4017/.
2. The roadway and curbing must be in.
3. The right-of-way must be within 6" of final grade.
4. The property corners must be staked.
5. Owner is responsible for locating all water, sewer, and storm sewer lines.
6. Owner is responsible for installing all conduits and equipment pads per the City of Dover Engineering Department specifications.
7. Owner is responsible for site and/or street lighting.
8. Meter locations will be determined by City of Dover Engineering Department.
9. Load sheets and AutoCAD compatible DXF or DWG diskettes of site plans, including driveways, are required prior to receiving approved electrical construction drawings.
10. Any relocation of existing electrical equipment will be engineered by the City of Dover Electric Department. Developer may be required to perform a quantity of the relocation. Any work performed by the City of Dover will be at the owner's expense.
11. Prior to construction, owner is responsible for granting an easement to the City of Dover Electric Department. Easement forms will be furnished and prepared by the City of Dover Electric Engineering Department.
12. Fees will be assessed upon final site plans. The owner will be responsible for fees assessed prior to construction. Owner is required to sign off plans prepared by the Electric Department.
13. Must maintain 10' clearance around all electrical equipment, unless pre-approved by the City of Dover Electric Engineering Department.
14. Prior to the completion of any/all designs and estimates, the owner is responsible for providing the Electric Engineering Department with a physical address of the property.
15. All Engineering and design for Dover Electric will be engineered upon final approved plans. All Engineering work will be furnished by the City's Electric Engineering Department.

WATER

1. All water utility components must meet the requirements of the Water Wastewater Handbook, effective date March 22, 2010. Please contact our office for more information.
2. The following notes must be added to the plans:
    a. Any existing water lines not to be utilized by the proposed facility must be properly abandoned at the mains in accordance with the City of Dover Department of Public Works specifications and requirements.
3. Water usage projections (peak demand or plumbing fixtures) must be submitted to our office to correctly determine the size of the domestic and irrigation (if applicable) water meter for the proposed building. These projections must be submitted prior to approval so the meter size can be placed on the final plan. The proposed water meter must be installed in a pit per City of Dover requirements and manufacturer's recommendations. Also, a dual check valve is required downstream of the meter.

WASTEWATER

1. All wastewater utility components must meet the requirements of the Water Wastewater Handbook, effective date March 22, 2010. Please contact our office for more information.
2. The following notes must be added to the plans:
    a. Any existing sanitary sewer lines not to be utilized by the proposed facility must be properly abandoned at the mains in accordance with the City of Dover Department of Public Works specifications and requirements.
    b. Part II, Chapter 180, Article III, Section 180-10 of the Code of Kent County requires that "no person shall discharge or cause to be discharged any stormwater, surface water, uncontaminated groundwater, roof runoff, subsurface drainage, uncontaminated noncontact cooling water or unpolluted industrial process waters to any sanitary sewer", this shall include condensate. Sec. 110-231 of the City of Dover Code defines storm sewer as "…any system used for conveying rain water, surface water, condensate, cooling water or similar liquid wastes, exclusive of sewage." The contractor, developer, owner and designers shall ensure during construction that no illegal discharges to the sanitary sewer system are created with the site improvements.
3. The size, length, slope, type and flow directions must be shown on all existing and proposed sanitary sewer lines. Rim and invert elevations must be labeled on all sanitary structures, including cleanouts.
4. Cleanouts must be installed on sanitary sewer laterals within five feet (5') of the building, one foot (1') outside of the right-of-way and at all bends. Any cleanout located within a traffic bearing location shall be installed with a heavy duty cast iron frame and cover to prevent damage to the cleanout and lateral.
5. Sizing (flow) calculations must be submitted for all sanitary sewer laterals (other than for single-family dwellings) showing that velocity and all other requirements are met.
6. The minimum size of all sanitary sewer laterals shall be six-inch (6").

STORMWATER / STREETS / SANITATION/ GROUNDS

1. None.

GENERAL

1. No trees may be planted within ten feet (10') of underground utility infrastructure.
2. The final site plan must be submitted in the following compatible digital formats:
    a. AutoCAD 2004 (.dwg format).
    b. Adobe Reader (.pdf format).

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC

1. Owner must give the City of Dover Electric Department three (3) month notice prior to construction. Owner is responsible for following the requirements outlined in the City of Dover's Electric Service Handbook. The handbook is now available on the website at the following link: http://www.cityofdover.com/departments/electric/documents/.

WATER / WASTEWATER / STORMWATER / STREETS /SANITATION / GROUNDS / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC

1. None

WATER

1. Depending on the additional number of fixtures proposed with this project, additional impact fees may be assessed to this property.

WASTEWATER

1. Depending on the additional number of fixtures proposed with this project, additional impact fees may be assessed to this property.

SANITATION

1. Contact the City of Dover Department of Public Works at 302-737-7025 to discuss sanitation options for this property.

STORMWATER / STREETS / GROUNDS

1. None

GENERAL

1. Construction plans will not be reviewed by our office unless all previous comments have been clearly addressed within the plan set and accordingly identified within an itemized response letter and with the Water/Wastewater Initial Plan Submission Checklist, which can be obtained from the following website: https://imageserv9.team-logic.com/mediaLibrary/198/WaterWastewaterHandbookFinal_1.pdf, page 88.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 06/04/14

CITY OF DOVER FIRE MARSHAL

APPLICATION: 213 W Loockerman St Janaids Hair Salon

FILE #: C-14-03 REVIEWING AGENCY: City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Deputy Fire Marshal PHONE #: (302) 736-4457

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESS BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

1. Proposed building is business.
2. Firefighter perimeter access will be 30% and clearly shown on the plans
3. Any gas fired HVAC equipment must be equipped with emergency cut off switches remotely located.
4. Address numbers of at least 12 inches in height must be placed on the street side of the building visible from the street.
5. Any natural or LP gas bottles, meters, values, regulators, etc., must have impact protection.
6. Full building and fire plan review is required.
7. Building cannot be occupied or construction or renovations started until completion of building and fire plan review.
8. All required means of egress shall have an exit discharge consisting of a non slip surface, and leading to and terminating at a public way.

9. Project to be completed per approved Site Plan

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

1. An electrical inspection will be required
2. Emergency lights and Exit lights will be required
3. Separation requirements will be addressed when plans are submitted
4. Ensure NFPA 101 is followed in regards to exits required for new businesses

ADVISORY COMMENTS TO THE APPLICANT:

1. There is to be no alcohol on the premises.
2. If the occupant load reaches more than 50 on the second floor, a Fire Alarm System is required.
3. After any application has been approved by the Planning Commission, the applicant has a maximum of thirty (30) days to appeal to the Code Board of Appeals Committee.
4. All comments from this office, approved by the Planning Commission are at the expense of the owner/applicant.
5. The proposed building will be reviewed under Business Occupancy.
6. The City of Dover uses the 2012 NFPA Life Safety Code, 2009 IBC, latest editions of all other NFPA Codes and the 2012 Delaware State Fire Prevention Regulations.
7. The Dover Fire Department request that a 8 ½ X 11 copy of the floor plan and site plan be submitted to Station 1, attention Fire Chief, prior to the Certificate of Occupancy being issued.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Department as soon as possible.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: May 28, 2014

D E L D O T

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APPLICATION: Janaid's Hair Salon at 213 West Loockerman Street
FILE#: C-14-03 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Julio F. Seneus PHONE#: 760-2145

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THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

1. The Department has no comments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

If you have any questions or need to discuss any of the above comments, please call the above contact person and the planning department as soon as possible.

KENT CONSERVATION DISTRICT
800 BAY ROAD SUITE 2 • DOVER, DELAWARE • 19901 (302) 741-2600 EXT. 3 • FAX (302) 741-0347

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
June 2014

APPLICATION: *Janaid's Hair Salon*

FILE #: C-14-03

REVIEWING AGENCY: *Kent Conservation District*

CONTACT PERSON: *David C. Cahill* **PHONE #:** *741-2600 ext.3*

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE. THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

1. Kent Conservation District has no objection to conditional use site plan of the above referenced site.

ADVISORY COMMENTS TO THE APPLICANT:

1. If at any time expansion or earth disturbing activity (clearing, grubbing tree clearing etc.) takes place and exceeds 5000 square feet; a detailed Sediment and Stormwater Management Plan must be submitted and approved to the Kent Conversation District.

City of Dover

DATA SHEET FOR CONDITIONAL USE SITE PLAN REVIEW

DEVELOPMENT ADVISORY COMMITTEE MEETING OF June 4, 2014

PLANNING COMMISSION MEETING OF June 16, 2014

Plan Title:	Professional Offices at 109 East Division Street C-14-04
Plan Type:	Conditional Use Site Plan
Applicants:	Leg Hall, LLC c/o Rhett Ruggerio
Location:	North side of East Division Street between Pennsylvania Avenue and Maple Lane
Address:	109 East Division Street
Tax Parcel:	ED-05-077.05-02-55.00-000
Site Area:	11,340 S.F. +/-, (0.26 acres)
Zoning:	RG-1 (General Residence Zone) H (Historic District Zone)
Present Use:	Vacant Residence
Proposed Use:	Professional Offices
Building Areas:	1,689 S.F.
Off Street Parking:	Existing – 2 parking spaces (garage) Proposed – 5 parking spaces
Sanitary Facilities:	City of Dover
Water Supply:	City of Dover
Waiver(s) Requested:	Elimination of Upright Curbing Requirement

City of Dover Planning Office

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: June 4, 2014

APPLICATION: Professional Offices at 109 East Division Street

FILE #: C-14-04 REVIEWING AGENCY: City of Dover Planning Office

CONTACT PERSON: Bill Cook, Planner I PHONE #: 302.736.7196

PLAN SUMMARY

This is a Conditional Use Site Plan to permit professional offices at an existing 1,689 S.F. structure on an 11,340 S.F. +/- parcel. The property is zoned RG-1 (General Residence Zone) and subject to the H (Historic District Zone), and is located at the north side of East Division Street between Pennsylvania Avenue and Maple Lane. The site includes a house and a garage. Public alleys run parallel to the north and east property lines. The owner of record is Leg Hall, LLC. Property Address: 109 East Division Street. Tax Parcel: ED-05-077.05-02-55.00-000.

Site History

Application Z-13-03 to rezone from RG-1 (General Residence Zone)/H (Historic District Zone) to RGO (Residence and General Office Zone)/H (Historic District Zone) was presented and public hearing held before the Planning Commission on September 16, 2013. Subsequent to questions and the public hearing, the Planning Commission accepted the applicant's request to withdraw the application.

A Building Permit for roof replacement was issued in August 2013. Building Permits were issued for the garage in December 1992, and for an addition to the house in February 1991.

CONDITIONAL USE

On May 27, 2014 City Council approved *Ordinance #2014-05 MI-14-02: Text Amendment Revisions to Conditional Uses in RG-1/RG-2*. The adopted text allows professional offices as a conditional use, subject to regulations, in the General Residence Zones (RG-1 and RG-2). The regulations for professional uses as a conditional use are as follows (*Zoning Ordinance*, Article 3, §2.4d):

Article 3. District Regulations

Section 2. General Residence Zones (RG-1 and RG-2)

2.4 [Conditional Uses.] Conditional uses permitted upon the approval of the planning commission in accordance with the procedures and general conditions set forth in article 10, section 1 of this ordinance (d) Professional offices may be permitted on Governors Avenue between Water Street and Mary Street, and on Route 8, subject to the following restrictions:

i. The office operations shall be conducted in such a manner as to maintain the residential character of the surrounding neighborhood, and no changes or improvements shall be made to the premises which might preclude utilization of the premises for residential purposes in the future.
ii. There shall be no other professional office located in the same zoning district within 250 feet of the premises.
iii. No display of products or goods shall be visible from the street.
iv. There shall be no exterior effects such as noise, traffic, odor, dust, smoke, gas, fumes, radiation, or electromagnetic interference.
v. A minimum of two (2) off-street parking spaces shall be required.
vi. No more than four (4) off-street parking spaces shall be permitted. Furthermore, all off-street spaces shall be visually screened from adjacent residential uses, to the greatest extent possible, by employing a landscape screen no less than six and one half (6½) feet high, which landscape screen shall be properly maintained throughout the duration of the professional office use on the subject premises.
vii. Signage shall be limited to one (1) sign, not to exceed six (6) square feet in area. No sign may be illuminated.
viii. The hours of operation shall not commence prior to 6:00 a.m. and shall cease no later than 8:00 p.m., with no more than four (4) employees engaged in the operations upon the premises at any given time.
ix. The Planning Commission shall have the authority to impose such additional conditions and restrictions as may be necessary or appropriate to protect the general health, safety, and welfare of the residents of surrounding properties.

With Conditional Use Applications, the Planning Commission reviews the proposed project to determine whether or not the intended use is appropriate in type and scale for the immediate neighborhood. The Commission must also consider whether or not the proposed use will have an adverse impact on the future orderly development of the surrounding area. The following are sections of the *Zoning Ordinance* which relate to the role of the Commission in reviewing Conditional Use applications:

Article 10. Planning Commission

Section 1. Approval of conditional uses.

On application and after public notice and hearing, the commission may authorize the issuance by the city planner of permits for any of the conditional uses for which this ordinance requires, in the district in which such use is proposed to be located. In approving any such use, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

1.1 *Accessibility for emergency response.* That all proposed structures, equipment or material shall be readily accessible for fire, ambulance, police, and other emergency response;
1.2 *Harmony of location, size and character.* That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;
1.3 *Residential zones.* That, in addition to the above, in the case of any use located in, or adjacent to, a residential zone:
1.31 The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the

> assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood; and
> 1.32 The location and height of buildings, the location, nature and height of walls and fences, the nature and extent of landscaping, and other improvements on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

The Planning Commission may set conditions of approval for the Conditional Use during the review process. They also have the ability to require periodic renewal of a Conditional Use Permit and also can consider revocation of a Conditional Use Permit.

PROJECT SUMMARY

The applicant proposes using the existing residential structure as Professional Offices for a government consulting practice.

BUILDING ARCHITECTURE

The existing residential structure is located with the Historic District. The building is believed to have been constructed in 1857. The structure has recently painted white clapboard siding with dark blue shutters and a dark asphalt shingle roof. There is a small front porch over the front entrance, and a long porch is on the rear addition of the building parallel to the side alley.

SITE CONSIDERATIONS AND LANDSCAPING

A hedge row approximately five (5) feet tall runs along the east property line and screens the property from the right side alley. The compact front yard is landscaped and open to the sidewalk along East Division Street. The back yard is primarily grass, and there is a large tree near the left side property line between the garage and the primary structure. To the west of the property is another residence at 103 East Division Street.

Per *Zoning Ordinance,* Article 5, §16.6, a tree planting and preservation plan is required. A total of four (4) trees are required on the site based on the minimum tree density requirement of one (1) tree per 3,000 S.F. of lot area. A partial landscape plan has been provided and staff has verified satisfaction of the tree requirement using photos provided by the applicant. The final landscape plan submitted with the Conditional Site Plan will show existing trees and planned tree plantings (if any).

Entrances

The front door of the property faces East Division Street and is located approximately 12 feet back from the public sidewalk. Vehicle access onto the property is via a public alley to the rear of the property. The entrance to the rear alley is located on Pennsylvania Avenue mid-block between East Division Street and Delaware Avenue. There is a gate from the side alley leading to the side yard and the side/rear entrance.

Sidewalks

A front sidewalk on the property leads from the front door to the public sidewalk on East Division Street.

Trash

Trash collection will provided by the City using issued containers. If additional trash service is

required, it must be provided by a private contractor per comments from the Department of Public Works.

Signage
No signage is shown in the proposed plan. Any signage must be approved through a separate sign approval and permitting process.

PARKING SUMMARY
The parking requirement for professional offices as a conditional use in a General Residence Zone is a minimum of two (2) off-street parking spaces, with a maximum of four (4) off-street parking spaces. The provided site plan shows two (2) parking spaces in the garage, and three (3) parking spaces adjacent to the garage. While the existing garage could fit two (1) vehicles, staff recommends that the garage be counted as satisfying one (1) of the required parking spaces. The existing outside parking spaces are currently surfaced with stone or gravel.

On-street parking is available in front of the site along East Division Street, and along adjacent streets. The applicant is reminded that parking on grass surfaces is prohibited.

Waiver Request: Upright Curbing Requirement
Per *Zoning Ordinance*, Article 6, §3.6(b) upright curbing is required for the off-street parking spaces. The applicant may request a waiver from the upright curbing requirement by submitting a letter to the Planning Commission in care of the Planning Office, citing the code requirement and a providing description of the planned parking arrangement.

Bicycle Parking
The site is required to provide bicycle parking. The bicycle parking calculation is one (1) for every twenty parking spaces. For this site one (1) bicycle parking space is required.

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

CITY AND STATE CODE REQUIREMENTS:

1) A final Site Plan must be updated with changes recommended in this report, and any approvals including any waivers granted by the Planning Commission.

2) Submission of a landscape plan with required tree plantings is required. Label existing trees and show location of proposed/required trees. Include species data using a label or note. Per *Zoning Ordinance,* Article 5, §16.8 the landscape plan must be prepared by a design professional, with the name and contact information provided on the plan.

3) Add dimensions and material description of the proposed parking pad adjacent to the garage. Per *Zoning Ordinance,* Article 6, §3.6(a) the area should be paved with asphalt, concrete, or other hard dust-free surface.

4) Required parking must be screened from adjacent residential uses. Include screening detail for with the landscape plan. Show existing landscaping to provide screening, and any proposed additional landscape plantings for screening.

5) Per the *Zoning Ordinance* one (1) bicycle parking space is required. Label on the plan, or provide a narrative description of where one or more bicycles could be securely parked on the site without impeding any paths or railings, or using any trees as points upon which to lock a bicycle.

6) A sidewalk or path to provide for pedestrian access is required from the off-street parking area to the building entrance.

7) Plan Sheet Revisions:
   a) The provided copy does not appear to be to scale. Ensure that scale is maintained if the document is reproduced.
   b) Show sidewalks and/or any other impervious surface.
   c) Label dimensions of proposed parking area.
   d) Show entrances to the main structure and garage, and the path between the main structure and the parking area.
   e) Provide a Site Data Column or reference to equivalent column or table if it is located off the plan sheet. The following Site Data will need to be provided on a Final Plan:
      i) Floor Area Ratio for site.
      ii) Lot Coverage Ratio for site.
      iii) It is unclear if the 1,689 S.F. shown for the main structure is the building footprint, or the gross floor area.
      iv) Any changes recommended or approvals including information on any waivers granted by the Planning Commission.

8) If a Record Plan is required by another agency, then submission is also required to the Planning Office for review and approval.

<u>RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:</u>

1) Staff recommends that the existing garage be counted as one (1) parking space.

2) Staff recommends that the hedgerow along the east side property line between the property and the alley be retained and maintained at its present height (or greater) for the duration of the conditional use. If any hedges are damaged or die, they should be replaced with like or similar plant material. The parking area is screened on the west side primarily by the garage building.

3) Staff recommends screening in front of the proposed off-street outside parking spaces. Staff recommends a mix of plant materials for the required parking screen, to include deciduous as well as evergreen plants, shrubs, or trees. Screening should also ensure that parked vehicles in the rear of the property are not easily visible from the front property line along East Division Street.

4) Staff recommends review of the Conditional Use Permit after a period of one (1) year. The Planning Commission can then determine if the conditions prescribed have been met and if further periodic review is warranted.

ADVISORY COMMENTS TO THE APPLICANT:

1) The Planning Commission will act upon waiver requests as part of any motion to approve this project, or as a separate motion if necessary. Note: All waivers are at the discretion of the Planning Commission. The Commission may approve or deny waiver requests.

2) Other agencies and departments which participate in the Development Advisory Committee may provide additional comments related to their areas of expertise and code requirements.

3) Following Planning Commission approval of the Conditional Use Site Plan, the Plan must be revised to meet all conditions of approval from the Development Advisory Committee or as otherwise noted. A Check Print must be submitted for review by Planning Office Staff and directly to other agencies. Upon determination that the Plan is complete and all agency approvals have been received, copies of the Plan may be submitted for final endorsement.

4) In the event, that major changes and revisions to the Conditional Use Site Plan occur in the finalization of the Site Plan contact the Planning Office. Examples include expansion of the building, relocation of site components, and increases in floor area count. These changes may require resubmittal for review by the Development Advisory Committee, Planning Commission, or other agencies and commissions making recommendations in regards to the plan.

5) For building construction, the requirements of the building code or fire code must be complied with. Consult with the Chief Building Inspector and City of Dover Fire Marshal for these requirements. The resolution of these items may impact the site design including such items as building dimensions and height, building openings, and fire protection needs, etc.

6) The applicant/developer shall be aware that prior to any ground disturbing activities on the site the appropriate site inspections, Pre-Construction meetings (including a City of Dover Pre-Construction meeting), and permits are required.

7) Construction may have an effect on the adjacent property owners and nearby travel lanes. Any work requiring the closing or rerouting of potential customers or visitors to adjacent properties should be coordinated as to offer the least amount of inconvenience to the adjacent property owners.

8) The applicant shall be aware that Conditional Use Site Plan approval does not represent a Sign Permit, nor does it convey permission to place any sign on the premises. Any proposed site or building identification sign shall require a Sign Permit from the City of

Dover prior to placement of any such sign. It is recommended that the applicant discuss the sign regulation requirements with the Planning Staff prior to applying for a Sign Permit.

9) The applicant shall be aware that Conditional Use Site Plan approval does not represent a Building Permit and associated construction activity permits. A separate application process is required for issuance of a Building Permit from the City of Dover.

10) Exterior renovations to the building are subject to Architectural Review Certification as the property is located within the Historic District. This may include review by the Historic District Commission.

11) The change of the building use from residential to professional offices will require an Administrative Building Permit to track the implementation of the Conditional Use Site Plan.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Department as soon as possible.

City of Dover

DATA SHEET FOR SITE DEVELOPMENT PLAN REVIEW

DEVELOPMENT ADVISORY COMMITTEE MEETING OF June 4, 2014

PLANNING COMMISSION MEETING OF June 16, 2014

Plan Title:	Jolly Joe's Addition at 1160 White Oak Road S-14-12
Plan Type:	Site Development Plan
Owners of Record:	Kewal Singh and Harbhinder Kaur
Location:	Southwest corner of White Oak Road and Spruance Road
Address:	1160 White Oak Road
Tax Parcel:	ED-05-068.14-03-54.00-000
Site Area:	22,513 S.F.
Zoning:	C-1 (Neighborhood Commercial Zone)
Existing Use: Proposed Use:	Commercial Building (liquor store) Expand Commercial Building to add two tenant spaces
Building Areas:	Existing Building: 1,927 S.F. Proposed Building Addition: 2,400 S.F. Total Building: 4,327 S.F.
Impervious Areas:	Proposed – 73.9%
Off Street Parking:	Required – 29 parking spaces Proposed – 30 parking spaces
Sanitary Facilities: Water Supply:	City of Dover City of Dover
Waivers Requested:	Elimination of Upright Curbing Requirement Elimination of Opaque Barrier (Fence) Requirement

City of Dover Planning Office

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: June 4, 2014

APPLICATION: Jolly Joe's Addition at 1160 White Oak Road, Dover, DE

FILE #: S-14-12 REVIEWING AGENCY: City of Dover Planning Office

CONTACT PERSON: Dawn Melson-Williams, AICP PHONE #: (302) 736-7196

PLAN SUMMARY

This is a Site Plan to permit construction of a 2,400 S.F. +/- building addition to an existing 1,927 S.F. +/- commercial building and associated site improvements on a 22,513 S.F. +/- parcel. The property is zoned C-1 (Neighborhood Commercial Zone), located on the southeast side of White Oak Road between Mitscher Road and Spruance Road. The owner of record is Kewal Singh and Harbhinder Kaur. Property Address: 1160 White Oak Road. Tax Parcel: ED-05-068.14-03-54.00-000. Council District 2.

PROJECT DESCRIPTION

This project will construct a one story building addition consisting of two tenant spaces. The project improves the existing parking lot and expands the parking lot on the eastern side of the building. There are no proposed changes to the access from the adjacent public streets; the site will continue to have one entrance/exit onto White Oak Road with no vehicular access to Spruance Road.

BUILDING ARCHITECTURE

The architecture of the building addition is presented in a color rendering and annotated building elevation drawings. The one story building has a pitched roof consisting of a pent roof extending to protect the entry doors of the tenant spaces on the entire front façade (north elevation) and a larger roof sloping to the rear of the building. Each tenant space includes several windows and a single entry door on the front elevation. The building appears to be clad in horizontal siding with trimwork details and vertical siding in the area of the roof gable on the east elevation.

All the signage depicted on the elevation drawings is subject to a separate review and approval process.

SITE CONSIDERATIONS

PARKING SUMMARY

The parking requirement in the C-1 zoning district is two (2) parking spaces per 300 S.F. of floor area or one space per employee. The number of employees was not identified. Based on the floor area of 4,327 S.F. for the total building, a minimum of 29 parking spaces are required (maximum

of 36 parking spaces). The existing site includes a paved parking area (unstriped) in front of the existing building connecting to the adjoining parcel to the west.

Loading Spaces
The requirement for loading spaces for retail and service establishments is based on building square footage. The rate is one loading space for establishments of 8,000 to 25,000 square feet in floor area with an additional loading space per 25,000 square feet of floor area or fraction thereof. The overall building is not large enough to require a designated loading space.

Bicycle Parking
The site is required to provide bicycle parking. The bicycle parking calculation is one for every twenty parking spaces. Based on the number of required parking spaces at 29, then two (2) bicycle parking spaces are required. The plan does not show bicycle parking.

Dumpster
For retail uses, one Dumpster is required for the first 8,000 S.F. of building area and one for each additional 16,000 S.F. of building area or fraction thereof. For this project with a total building area of 4,327 S.F., the requirement is for one (1) Dumpster. However, as a commercial building provisions must also be made for recycling. The plan locates a new Dumpster (front loading) to the west side of the existing building; the existing Dumpster will be removed. The enclosure shows gates as the Dumpster is visible from the public right-of-way. It is also noted that depending on the type of uses in the tenant spaces additional Dumpsters could be required.

Lighting
The location of the proposed lighting is not shown on the plan; there are several street lights on the adjacent streets. The proposed lighting must be adequate to safely light all parking and pedestrian areas yet must be shielded and directed as to not create a nuisance on the adjacent residential properties or traffic on adjacent roads.

Sidewalk
There is existing sidewalk along the street frontages of White Oak Road and Spruance Road in accordance with *Zoning Ordinance,* Article 5 §18. Some sidewalk improvements appear to be providing ADA accessible curb ramps and to complete a small missing sidewalk segment along White Oak Road. In addition sidewalks connecting from the street frontage sidewalks into the site are required, but are not currently shown.

Waiver Requested: Partial Elimination of Curbing
The *Zoning Ordinance,* Article 6 §3.6(b) requires upright curbing for all parking areas and access drives. The existing parking areas on the site are not curbed. A written waiver request for the elimination of curbing in these areas was submitted to the Planning Office for consideration by the Planning Commission. See attached waiver request.

Signage
The project documents show roof mounted signage for the proposed building addition. Any signage for this property must be evaluated for compliance with the *Zoning Ordinance*, Article 5 §4 Supplementary Sign Regulations.

TREE PLANTING AND LANDSCAPE PLAN

A Landscape Plan in accordance with *Zoning Ordinance,* Article 5 §16 must be prepared; the submitted plan includes some elements of the required Landscape Plan. The tree planting requirement is based on the total lot area and one (1) tree is required for every 3,000 SF of land area. This project site consists of a total lot area of 22,513 S.F. therefore eight (8) trees are required.

Waiver Requested: Opaque Barrier – Fence Requirement

There are requirements for visual and sound buffering for non-residential properties that abut residential properties (*Zoning Ordinance,* Article 5 §7.2). The ordinance requires the installation of both an opaque barrier (solid fence, wall, berm, etc.) and a vegetative buffer (evergreen trees and shrub plantings) on the residential side of the opaque barrier. Due to the non-residential use of the property, project must conform to these requirements as the subject property is bounded by residential property to the south. The plan shows the planting of a line of evergreen trees to the rear of building between the building and the southern property line to satisfy the landscape component of the opaque barrier in that area. Full compliance with the opaque barrier requirements is not met as the applicant does not propose to construct the opaque barrier (solid fence, wall, berm, etc.). A waiver request for the opaque barrier requirement was submitted for consideration of eliminating the fence component citing that the adjacent residential property has an existing fence approximately along the shared property line.

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

CITY AND STATE CODE REQUIREMENTS:

1) The Site Plan must be updated with changes recommended or approvals including any waivers granted by the Planning Commission.

2) The Site Data Column will need to be updated prior to Final Approval with the following:
    i) Provide Floor Area Ratio for project site.
    ii) Provide building height and number of stories.
    iii) Note maximum size per tenant space of 2,000 S.F. as per the currently adopted C-1 regulations.
    iv) Clarify if the "exg. paved area" refers to the total of existing impervious area (building and paving). List total impervious area.
    v) Check spelling in listings and notes.
    vi) Any changes recommended or approvals including information on the action taken on any waivers granted by the Planning Commission.
    vii) Identify the plan preparer. The appropriate licensed design professional is required for certification of the plan. Approvals from other agencies may require that the plan be prepared by a licensed engineer.

3) Provide an Existing Conditions/Demolition Plan and information on site grading for project. Information on the erosion and sediment control measures for project construction should be indicated.

4) Provide bicycle parking location and detail of bicycle parking rack.

5) Show location of site lighting and adjacent street lighting.

6) Add sidewalk connections from the street frontage sidewalks to lead into the site.

7) The Landscape Plan must be prepared and certified by an appropriate design professional in accordance with *Zoning Ordinance,* Article 5 §16.
   a) Provide information on the tree species selected.
   b) Ensure trees satisfy the planting separation distances from utility lines.
   c) Add tree planting diagram.

8) Clarify east end of sidewalk at transition to parking lot at east side of building. Clarify surface along east side of building.

9) Staff notes that the existing building (Liquor store) encroaches into the rear yard setback as adjacent to a residential zone. This will be considered legal non-conforming. The new addition to the building complies with the required setback.

10) Add construction details for site elements such as bicycle rack, sidewalks, Dumpster enclosure, handicapped parking signage, traffic control signage, etc. Show location of signage and required fire lanes on plan drawing.

11) Barrier free access ramps shall be installed at the access from the accessible parking spaces and at all points where sidewalks intersect with roadways and parking areas. Clarify if the sidewalk and ramp system along the front of the building is raised from the parking lot pavement surface.

12) Upright curbing shall be provided in accordance with the *Zoning Ordinance* unless a waiver is granted by the Planning Commission. A written waiver request was submitted for the elimination of the curbing for consideration by the Planning Commission.

13) The fence component of the opaque barrier shall be provided in accordance with the *Zoning Ordinance* unless a waiver is granted by the Planning Commission. A written waiver request for elimination of the fence component of the opaque barrier was submitted for consideration by the Planning Commission.

14) In addition, for corner lots such as this, fences, landscaping, signage etc. are limited to a maximum height of three (3) feet within the corner visibility area (triangle) as per *Zoning Ordinance,* Article 5 §1.3. Show location of the corner visibility area on the plan drawing.

15) The proposed sign locations shown in this plan submission are for informational purposes and approval of this plan does not grant approval to the signage shown on the Site Plan or in building elevation drawings. Additional review is required to evaluate compliance with the Sign Regulations.
   a) The proposed signs (for the two new tenant spaces) appear to meet the definition of roof signs (signs attached to the roof) which are not permitted.

b) Removal or compliance is required for any existing non-conforming signs since a building expansion of more than 20% of the floor area of the building is proposed.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

1) Waiver Requests: The following is the Staff recommendation regarding the waiver requests.
    a. Elimination of Upright Curbing: Staff recommends approval of the request to eliminate the curbing for the parking lot noting the existing conditions for a large portion of the lot. However, the site grading at the southeastern portion of the site may require implementation curbing.
        i. Parking bumpers shall be implemented at the head of each parking space.
        ii. Staff recommends add curbing to the parking lot island at the end of the row of parking along the front of the building.

    b. Elimination of Opaque Barrier (Fence) Component: Staff recommends approval of the elimination of the fence component of the opaque barrier. The landscape screening element of the opaque barrier in the areas of the site adjacent to residentially zoned properties will be as evergreen tree plantings.

2) Staff recommends that any outside HVAC Equipment be designed to minimize the impact on adjacent property owners, adequately screened from public view and the overall visible impact. Consideration must also be given to its placement as most areas immediately adjacent to the building are parking areas or drive aisles/fire lanes

ADVISORY COMMENTS TO THE APPLICANT:

1) The Planning Commission should act upon any waiver requests for the project as part of any motion to approve this project, or as a separate motion if necessary. Note: All waivers are at the discretion of the Planning Commission. The Commission may approve or deny waiver requests.

2) Other agencies and departments which participate in the Development Advisory Committee may provide additional comments related to their areas of expertise and code requirements.

3) It is noted that a series of Text Amendments to the *Zoning Ordinance* are currently under review that will change the requirements of the C-1 (Neighborhood Commercial Zone) and other commercial zones including revisions to the permitted uses and bulk standards. See proposed Ordinance #2014-08 (Application MI-14-10). If adopted the use as liquor store will be prohibited in C-1; however, this existing liquor store will be considered legal non-conforming.

4) Following Planning Commission approval of the Site Plan, the Plan must be revised to meet all conditions of approval from the Development Advisory Committee or as otherwise noted. A Check Print must be submitted for review by Planning Office Staff and directly to other agencies. Upon determination that the Plan is complete and all agency approvals have been received, copies of the Plan may be submitted for final

endorsement.

5) In the event, that major changes and revisions to the Site Development Plan occur in the finalization of the Site Plan contact the Planning Office. Examples include reorientation of the building, relocation of site components, and increases in floor area count. These changes may require resubmittal for review by the Development Advisory Committee, Planning Commission, or other agencies and commissions making recommendations in regards to the plan.

6) For building construction, the requirements of the building code or fire code must be complied with. Consult with the Chief Building Inspector and City of Dover Fire Marshal for these requirements. The resolution of these items may impact the site design including such items as building dimensions and height, building openings, and fire protection needs, etc.

7) The applicant/developer shall be aware that prior to any ground disturbing activities on the site the appropriate site inspections, Pre-Construction meetings (including a City of Dover Pre-Construction meeting), and permits are required.

8) Construction may have an effect on the adjacent property owners and nearby travel lanes. Any work requiring the closing or rerouting of potential customers or visitors to adjacent properties should be coordinated as to offer the least amount of inconvenience to the adjacent property owners.

9) The applicant shall be aware that Site Plan approval does not represent a Sign Permit, nor does it convey permission to place any sign on the premises. Any proposed site or building identification sign shall require a Sign Permit from the City of Dover prior to placement of any such sign. It is recommended that the applicant discuss the sign regulation requirements with the Planning Staff prior to applying for a Sign Permit.

10) The applicant shall be aware that Site Plan approval does not represent a Building Permit and associated construction activity permits. A separate application process is required for issuance of a Building Permit from the City of Dover.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the Planning Department as soon as possible.

PETITION TO AMEND ZONING ORDINANCE TEXT

Report to the
Dover Planning Commission
June 16, 2014

Proposed Change: Amendments to the *Zoning Ordinance*, Article 3 Sections 10-16 and 26 pertaining to District Regulations, Article 4 Sections 4.14 and 4.15 pertaining to Bulk and Parking Regulations, Article 10 Section 2 pertaining to Site Development Plan approval, and Article 12 Definitions. The proposed ordinance revisions are the result of numerous consultations with the business and real estate community to simplify zones, generalize certain use categories, and provide more flexibility in site design.

Summary of Amendment: The City Planner has been meeting with a group of representatives of the business and real estate community convened by the Central Delaware Chamber of Commerce since late 2012 to review the commercial, office and industrial zones in the City in an effort to simplify the zones, create more generalized use categories, provide more flexibility in site design by adjusting bulk standards, and make the zones more business friendly. The proposed ordinance reflects the proposed changes to *Zoning Ordinance* as a result of this effort. The changes include revisions to Article 3- District Regulations, Article 4- Zoning Bulk and Parking Regulations, Article 10- Planning Commission, and Article 12- Definitions. The proposed changes to Article 10 would increase the thresholds for projects that require Planning Commission review. For building additions, Planning Commission review would be required for additions of more than 15% of the floor area.

Comments: At the May 12, 2014 meeting of the Parks, Recreation and Community Enhancement Committee, the Committee recommended in favor of the proposed ordinance, with the direction that some confusing language in the proposed amendment to Article 10 be amended prior to final reading. Staff is working on proposed amendments and will have them ready for distribution at the Planning Commission meeting.

Ordinance Number: 2014-08

File Number: MI-14-10

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: May 28, 2014

DELDOT

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APPLICATION: Text Amendment: Revision to Commercial and Offices Zones
FILE#: MI-14-10 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Julio F. Seneus PHONE#: 760-2145

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THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

1. The Department has no comments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

If you have any questions or need to discuss any of the above comments, please call the above contact person and the planning department as soon as possible.

FIRST READING

CITY OF DOVER
PROPOSED ORDINANCE #2014-08

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Appendix B – Zoning, Article 3 – District Regulations, Section 10 – Institutional and Office Zone (IO) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 10. Institutional and office zone (IO).

10.1 *Uses permitted*. In an institutional and office zone (IO), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Business, professional, or governmental offices.
(b) Banks.
(c) Research, design, and development laboratories.
(d) Public and institutional uses including hospitals, medical clinics, libraries, police stations, courthouses, transit centers, schools, colleges, universities, places of public assembly, philanthropic and charitable institutions, parks, playgrounds, public indoor recreation centers, athletic fields.
(e) Public utility rights-of-way and structures necessary to serve areas within the city.
(f) Day care centers, provided they are established in accordance with all applicable state regulations pertaining to child care and provided that they are established and maintained in accordance with article 5, section 14 of this ordinance.
(g) Emergency shelters and transitional housing.

10.2 *Conditional uses*. The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Firearm ranges, prisons, and correctional facilities.
(b) Public incinerators.
(c) Hotels and restaurants.

10.3 *Accessory uses.* The following uses shall be permitted accessory to other permitted uses on a lot.

(a) Clinics, cafeterias, and recreational facilities.
(b) Motor vehicle storage and repair facilities accessory to a public or institutional use.
(c) Restaurants that are on a campus and intended to support users of the campus.

10.4 *Uses prohibited*. The following uses are prohibited:

(a) Landfills, dumps.

Draft

10.5 *Enclosed buildings.* All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

10.6 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

10.7 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 11 – Neighborhood Commercial Zone (C-1) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 11. Neighborhood commercial zone (C-1).

11.1 *Uses permitted.* In a neighborhood commercial zone (C-1), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Retail stores.
(b) Personal service establishments.
(c) Service establishments.
(d) Restaurants.
(e) One family residences, including attached and semi-detached dwellings, complying with the bulk standards of the RG-1 (General Residence) zone.
(f) Apartments and multi-family dwellings.

11.2 *Uses prohibited*. The following uses are prohibited:

(a) Fuel pumps; motor vehicle storage, sales, or repairs.
(b) Drive-throughs.
(c) Liquor stores.
(d) Fire arm sales
(e) Tobacco shops.

11.3 *Enclosed buildings.* All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

11.4 *Floor area.* The total floor area in any one establishment shall not exceed 2,500 square feet.

Draft

11.5 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

11.6 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 12 – Limited Commercial Zone (C-1A) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 12. Limited commercial zone (C-1A)

12.1 *Uses permitted*. In a limited commercial zone (C-1A), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Retail stores.
(b) Personal service establishments.
(c) Service establishments.
(d) Restaurants.
(e) Business, professional, and governmental offices.
(f) One family residences, including attached and semi-detached dwellings, complying with the bulk standards of the RG-1 (General Residence) zone.
(g) Apartments and multi-family dwellings.

12.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Drive-throughs accessory to a permitted use.

12.3 *Uses prohibited*. The following uses are prohibited:

(a) Motor vehicle storage, sales, or repairs.

12.4 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

12.5 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

12.6 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

Draft

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 13 – Central Commercial Zone (C-2) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 13. Central commercial zone (C-2).

13.1 *Uses permitted*. In a central commercial zone (C-2), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Retail stores.
(b) Restaurants.
(c) Hotels, including bed and breakfast inns.
(d) Art galleries and studios.
(e) Service establishments.
(f) Personal service establishments.
(g) Business, professional, and government offices.
(h) Apartments and multi-family dwellings, provided that no dwelling units shall be permitted in the first floor on the street frontage of Loockerman Street.

13.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Parking lots and parking structures as a principal use.
(b) Places of public assembly.
(c) Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products where goods so produced or processed are to be sold at retail exclusively on the premises, provided that:
    (1) An area fully concealed from any street and equal to not more than 20 percent of the area devoted to retail sales shall be so used;
    (2) Electrical power not to exceed a total of five rated horsepower, and steam pressure not in excess of 60 pounds of pressure per square inch shall be used exclusively;
    (3) Not more than four (4) employees are engaged in such production or processing.

13.3 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

13.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

13.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

Draft

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 14 – Limited Central Commercial Zone (C-2A) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 14. Limited central commercial zone (C-2A).

14.1 *Uses permitted.* In a limited central commercial zone (C-2A), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Retail stores.
(b) Business, professional or governmental offices.
(c) Personal service establishments.
(d) Restaurants.
(e) Service establishments.
(f) Hotels.
(g) Places of public assembly.
(h) Drive-throughs.
(i) One (1) family residences, including attached and semi-detached dwellings, complying with the bulk standards of the RG-1 (General Residence) zone.
(j) Apartments and multi-family dwellings.

14.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Parking lots and parking structures as a principal use on suitably landscaped lots.
(b) Fuel pumps accessory to a permitted use.

14.3 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

14.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

14.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

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BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 15 – Service Commercial Zone (C-3) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 15. Service commercial zone (C-3).

15.1 *Uses permitted*. In a service commercial zone (C-3), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Service establishments.
(b) Personal service establishments.
(c) Business, professional or governmental offices.
(d) Retail uses accessory to a permitted use.
(e) Drive-throughs accessory to a permitted use.
(f) Wholesale, storage, and warehousing establishments.
(g) Indoor recreation and amusement establishments.
(h) Motor vehicle, boat, or farm equipment sales or service, subject to the following regulations:
    (1) The minimum lot size for such establishments shall be 20,000 square feet, and the minimum street frontage shall be 150 feet.
    (2) Entrance and exit driveways shall have an unrestricted width of not less than 16 feet, shall be located not nearer than ten feet from any property line and shall be so laid out as to avoid the necessity of any vehicle leaving the property to back out across any public right-of-way or portion thereof.
    (3) Vehicle lifts or pits, dismantled and disabled automobiles and all parts or supplies shall be located within a building enclosed on all sides.
    (4) All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted in a building fully enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
    (5) The storage of gasoline or flammable oils in bulk shall be located fully underground in accordance with applicable provisions of the National Fire Protection Association Code.
    (6) No fuel pumps shall be located nearer than 15 feet to any street line.
    (7) Fuel pumps shall not be permitted closer than 100 feet from a property line of any school, day care, church, hospital, nursing home, or place of public assembly designed for the simultaneous use and occupancy by more than 100 persons.
(i) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products for sale on or off the premises, provided that not more than 25 persons shall be engaged in such activity; and provided further, that any such use shall be subject to the performance standards procedure as set forth in article 5, section 8.
(j) Mini-storage facilities, subject to the following regulations:
    (1) No unit shall be placed within 30 feet of a residential property line.
    (2) No outside storage, except for recreational vehicles, boats, or personal automobiles when parked in specifically approved locations. Parking for these vehicles shall not count toward the required parking set forth in

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subsection (e) below.

(3) No individual unit may be used for retail, garage sale or any other commercial activities.

(4) No storage of flammable, explosive, corrosive or other hazardous products may occur in the individual unit.

(5) Parking must be provided at a ratio of one (1) space for each 25 rental units, plus a minimum of three (3) spaces for an office outside of the enclosure.

15.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Crematory, subject to the following requirements:

(1) The building lot line upon which a crematory is to be established shall be located at least 100 feet from any residential zone.

(2) Where adjacent to residential zones, all landscape buffers shall be required. The buffer shall consist of a landscape screen no less than six and one half (6½) feet high. All landscaping shall be properly maintained throughout the life of the use on lot.

(3) Loading operations shall be conducted within a completely enclosed building. Location of loading doors shall be at the side or rear of the building.

(4) The crematory shall comply with the Delaware Incinerator Regulations. A copy of the approved air pollution permit issued by the State of Delaware Department of Natural Resources and Environmental Control shall accompany the application for a certificate of occupancy.

15.3 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

15.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

15.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 16 – Highway Commercial Zone (C-4) be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 16. Highway commercial zone (C-4).

16.1 *Uses permitted.* In a highway commercial zone (C-4), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Retail stores.

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(b) Business, professional or governmental offices.
(c) Restaurants.
(d) Personal service establishments.
(e) Service establishments.
(f) Hotels and motels.
(g) Places of public assembly.
(h) Bus terminal.
(i) Wholesale, storage, warehousing, and distribution establishments.
(j) Indoor or outdoor recreation and amusement establishments.
(k) Hospitals and medical centers.
(l) Drive-throughs.
(m) Motor vehicle, boat, or farm equipment sales or service:
    (1) The minimum lot size for such establishments shall be 20,000 square feet, and the minimum street frontage shall be 150 feet.
    (2) Entrance and exit driveways shall have an unrestricted width of not less than 16 feet, shall be located not nearer than ten feet from any property line and shall be so laid out as to avoid the necessity of any vehicle leaving the property to back out across any public right-of-way or portion thereof.
    (3) Vehicle lifts or pits, dismantled and disabled automobiles, and all parts or supplies shall be located within a building enclosed on all sides.
    (4) All service or repair of motor vehicles, other than such minor servicing as change of tires or sale of gasoline or oil, shall be conducted in a building fully enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
    (5) The storage of gasoline or flammable oils in bulk shall be located fully underground in accordance with applicable provisions of the National Fire Protection Association Code.
    (6) No fuel pumps shall be located nearer than 15 feet to any street line.
    (7) Fuel pumps shall not be permitted closer than 100 feet from a property line of any school, day care, church, hospital, nursing home, or place of public assembly designed for the simultaneous use and occupancy by more than 100 persons.
(n) Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products for sale on or off the premises, provided that not more than 25 persons shall be engaged in such activity; and provided further, that any such use shall be subject to the performance standards procedure as set forth in article 5, section 8.
(o) Mini-storage facilities, subject to the following regulations:
    (1) No unit shall be placed within 30 feet of a residential property line.
    (2) No outside storage, except for recreational vehicles, boats, or personal automobiles when completely parked in specifically approved locations. Parking for these vehicles shall not count toward the required parking set forth in subsection (e) below.
    (3) No individual unit may be used for retail, garage sale, or any other commercial activities.
    (4) No storage of flammable, explosive, corrosive, or other hazardous products may occur in the individual unit.
    (5) Parking must be provided at a ratio of one (1) space for each 25 rental units, plus a minimum of three (3) spaces for an office

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(p) Adult entertainment establishments, subject to the provisions stated in article 5, section 13.

16.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Apartments and multi-family dwellings.

(b) Crematory, subject to the following requirements:

(1) The building lot line upon which a crematory is to be established shall be located at least 100 feet from any residential zone.

(2) Where adjacent to residential zones, all landscape buffers shall be required. The buffer shall consist of a landscape screen no less than six and one half (6½) feet high. All landscaping shall be properly maintained throughout the life of the use on lot.

(3) Loading operations shall be conducted within a completely enclosed building. Location of loading doors shall be at the side or rear of the building.

(4) The crematory shall comply with the Delaware Incinerator Regulations. A copy of the approved air pollution permit issued by the State of Delaware Department of Natural Resources and Environmental Control shall accompany the application for a certificate of occupancy.

16.3 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

16.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

16.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 3 – District Regulations, Section 26 – Commercial/Professional Office Development District be amended by deleting it in its entirety and inserting in lieu thereof the following:

Section 26. Commercial and professional office zone (C-PO).

26.1 *Uses permitted.* In a commercial and professional office zone (C-PO), no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

(a) Business, professional or governmental offices.

(b) Banks.

(c) Medical laboratories.

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(d) Drive-in facilities accessory to any permitted use.

26.2 *Conditional uses.* The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1:

(a) Conditional uses accessory to permitted uses on the same lot:
  (1) Cafeteria.
  (2) Restaurant.
  (3) Barbershop/beauty shop.
  (4) Copy center.
  (5) Office supply.
  (6) Retail store.
  (7) Newsstand.
  (8) Spa and health club.
  (9) Associated laboratories (other than those affiliated with permitted medical uses).

(b) Residential uses as follows:
  (1) Apartments and multifamily residences, provided at least two off-street parking spaces shall be provided in the area for each unit.
  (2) One (1) family residences subject to the requirements of the RG-1 (General Residence) zone.

26.3 *Enclosed buildings*. All permitted uses and all storage accessory thereto, other than off-street parking, shall be carried on in buildings fully enclosed on all sides, except for outdoor eating areas associated with restaurants and outdoor sales areas approved by the city planner.

26.4 *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

26.5 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and prior to the issuance of certificates of occupancy for any change of use.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 4 – Zoning Bulk and Parking Regulations, Sections 4.14 and 4.15 be amended by deleting the text shown in red bold strikethrough and inserting the text shown in blue bold italics as follows:

Section 4.14. [C-1, C-1A, C-2, C-2A zones.]

Bulk and parking regulations for neighborhood commercial (C-1), limited commercial (C-1A), central commercial (C-2), and limited commercial (C-2A) zones are as follows:

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	C-1	C-1A	C-2	C-2A
Minimum required:				
Lot area *(sq. ft.)*	*2,500*			
Lot width (ft.)	~~35~~	~~100~~ *25*	~~0~~	~~50~~
Lot depth (ft.)	~~100~~	~~75~~	70	100
Front yard (ft.)	25	25	0	15
Side yard (ft.)	None required, but ~~10~~ *5* feet min. if provided	~~15~~ *None required, but 5 feet min. if provided*	~~Same as C-1~~ *None required, but 5 feet min. if provided*	~~Same as C-1~~ *None required, but 5 feet min. if provided*
Rear yard (ft.)	~~20~~ *15*	15	20 above ground floor. At ground floor, 5 ft. required	Same as C-2
Side or rear yards which adjoin a residential zone (ft.)	~~25~~ *15*	~~25~~*15*	~~25~~ *15*	25
Off-street parking				
Per 300 sq. ft. floor area or	~~2~~	~~1½~~	~~½ for new construction~~	1
Per employee (whichever is greater)	~~0~~	~~1~~	~~0~~	1
Maximum permitted:				
Building height				
Stories	2	2	6	6
Feet	30	30	~~60~~ *75*	~~60~~ *75*
Floor area ratio	~~0.5~~ *1.0*	~~0.35~~ *1.5*	4.0	4.0

Section 4.15. [C-3, C-4, R-C, IO zones.]

Bulk and parking regulations for service commercial (C-3), highway commercial (C-4), recreation and commercial (RC), ~~and~~ institutional and office (IO), *and commercial and professional office (C-PO)* zones are as follows:

	C-3	C-4	RC	IO	*C-PO*
Minimum required:					
Lot area			5 acres	*10,000 sq. ft.*	*5,000 sq. ft.*
Lot width (ft.)	100	150 ~~per building~~	250	~~50~~ *100*	*50*
Lot depth (ft.)	100	150	400	100	*100*
Front yard (ft.)	~~25~~ *20*	~~30~~ *20*	30	~~20~~ *10*	*10*
Side yard (ft.)	~~20~~ *15*	~~25~~ *15*	50	10	*5*
Rear yard (ft.)	10	10 or equal to bldg. height	50	15 ~~or equal to bldg. height~~	*15*
Side or rear yards which adjoin a residence zone (ft.)	30	30	100	30	*25*
Off-street parking					
Per 300 sq. ft. floor area or	1	~~1½~~	1	1	*1*
Per employee (whichever is greater)	1	1		~~1~~	
Maximum permitted:					
Building height					
Stories	~~2~~ *6*	~~4~~ *6*	10	10	*3*
Feet	~~30~~ *75*	~~45~~ *75*	130	~~130~~ *150*	*45*
Floor area ratio	~~0.5~~ *4.0*	~~2.0~~ *4.0*	4.0	~~4.0~~ *6.0*	*2.0*
~~Lot coverage~~	~~0.5~~	~~2.0~~	~~4.0~~	~~4.0~~	
Lot coverage				85%	*75%*

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BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 10 – Planning Commission, Section 2 - Site Development Plan Approval, be amended by deleting the text shown in red bold strikethrough and inserting the text shown in blue bold italics as follows:

Section 2. - Site development plan approval.

2.1 *Required.* Site development plan approval shall be required for the erection or enlargement of all structures and the establishment of any use for which site development plan approval is required by this ordinance. Site development plan shall be required according to the following criteria:

2.11 *Planning commission site plan review.* Site development plans shall be subject to review and approval by the planning commission if they meet the following thresholds:

(a) Site plans for new structures ***of 5,000 square feet or greater in floor area*** and building additions of ~~**3,000**~~ ***5,000*** square feet or greater in floor area ***or greater than 15 percent of existing floor area, whichever is greater***; or

(b) Site plans with a total of 5,000 square feet or greater of new or added impervious surface, including new structures or building additions; or

(c) Nonresidential site plans with site disturbance greater than ***2,500*** ~~**1,500**~~ square feet and adjacent to residential uses or residential zones.

2.12 *Site development master plan.* Site development master plans shall be subject to review and approval by the planning commission in accordance with subsection 2.44.

2.13 *Zoning review.* For site development plans involving construction of a single-family detached, single-family attached, or single-family semidetached dwelling; an accessory structure; or a nonresidential change of use for which no building addition or increase in impervious cover is proposed, the city planner or his designee may approve the site development plan in conjunction with building permit review.

2.14 *Administrative site plan.* All site development plans that do not meet the thresholds for zoning review in accordance with subsection 2.13 or planning commission site plan review in accordance with subsection 2.11 shall be reviewed as administrative site development plans.

BE IT FURTHER ORDAINED:

That Appendix B – Zoning, Article 12 – Definitions be amended by adding the following definitions in the appropriate alphabetical order:

Apartment: A dwelling unit, within a building with other uses and/or dwelling units, that is intended for use as a residence by an individual or a single family.

Dwelling, multi-family: (see "dwelling, multiple" **-** A building, or portion thereof, containing more than two dwelling units)

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Emergency shelter: A facility providing temporary housing to homeless or transient persons in a dormitory style setting; such facility may also provide or facilitate other social services including counseling and vocational training.

Personal Service Establishment: Establishments primarily engaged in providing individual services generally related to personal needs, such as a hair salon.

Place of Public Assembly: Establishments where the principal use is for the gathering of persons for activities such as civic, social, or religious functions, including but not limited to night clubs, theaters, civic halls, and places of worship.

Retail: The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

Restaurant: An establishment in which the principal use is preparation and sale of food and beverages.

Service Establishment: Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Transitional housing: A residential facility developed in a one-family dwelling unit that is established to provide transition from homelessness to permanent housing, and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through acquisition of stable income and permanent housing.

Vocational Training: A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills. Incidental instructional services in conjunction with another primary use shall not be considered vocational training.

ADOPTED: *

(SPONSORS: HARE, BONAR)

Actions History

May 27, 2014 - Scheduled for First Reading at Council

May 12, 2014 - Considered by Parks, Recreation, and Community Enhancement Committee

April 14, 2014 - Deferred by the Parks, Recreation, and Community Enhancement Committee

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CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

STAFF D.A.C. MEETING DATE: MAY 28, 2014

CITY OF DOVER
Electric &
Public Works
Departments

APPLICATION: **TEXT AMENDMENT: REVISIONS TO COMMERCIAL AND OFFICE ZONES**

FILE #: **MI-14-10**

REVIEWING AGENCY: **City of Dover Electric and Public Works Departments**

CONTACT PERSON: **Aren Wright - Electric**
Jason A. Lyon – Public Works

CONTACT PHONE #: **ELECTRIC - 302-736-7070 PUBLIC WORKS – 302-736-7025**

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. Our office has no objections to the proposed amendments.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.