CITY OF DOVER PLANNING COMMISSION
June 16, 2014

The Regular Meeting of the City of Dover Planning Commission was held on Monday June 16, 2014 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Tolbert, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still, Mr. Ambruso and Colonel Welsh.

Staff members present were Mrs. Townshend, Mrs. Dawn Melson-Williams, Mr. Cook, Mrs. Harvey and Mrs. Mullaney. Also present were Mr. Janaid Kareem, Mr. William Byler Jr., Mr. Rhett Ruggerio and Mr. Mark Redden. Also speaking from the public was Mrs. Trisha Arndt, Mr. Joe Hutter and Mr. Phil McGinnis.

APPROVAL OF AGENDA

Mr. Tolbert moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 9-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MAY 19, 2014

Mr. Holt moved to approve the Planning Commission minutes of May 19, 2014, seconded by Ms. Still and the motion was unanimously carried 9-0.

APPROVAL OF THE SPECIAL PLANNING COMMISSION MEETING MINUTES OF JUNE 3, 2014

Dr. Jones moved to approve the Special Planning Commission Meeting minutes of June 3, 2014, seconded by Mr. Holt and the motion was unanimously carried 9-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting will be held on Monday, July 21, 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 May 27, 2014 and June 9, 2014.

Mrs. Townshend stated that a Public Workshop would be held on Thursday, June 26, 2014 from 4:00-7:00 PM at the Dover Public Library on the draft Bicycle Plan and Pedestrian Plan. The plans are being developed by the Dover/Kent County MPO in conjunction with the City of Dover.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

2) 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 SF. ± 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.*

Colonel Welsh stated that there was an Executive Session meeting held with the City Solicitor to discuss the legal issues involved and they received appropriate legal guidance. The Public Hearing was closed at last month's meeting and he will not be opening another Public Hearing tonight.

Mrs. Townshend stated that an members who were not present at the prior meeting where the application was discussed are unable to vote on the application; that would be Mr. Baldwin and Mr. Ambruso.

Mr. Tolbert moved to approval SB-14-03 Lands of Robert & Kathleen Dunn at 276 Troon Road as submitted, seconded by Dr. Jones and the motion carried by roll call vote 7-0 excluding Mr. Baldwin and Mr. Ambruso. Mr. Holden voting yes, as the application meets the requirements of the Zoning Code. Mr. Cregar voting yes, it's in agreement with the Subdivision Regulations of the City of Dover. Mr. Tolbert voting yes, the application meets all of the requirements of the Comprehensive Plan. Mr. Holt voting yes, the application meets all of the requirements. Dr. Jones voting yes, the application is incompliance with zoning regulations. Ms. Still voting yes, the application meets all the requirements of the ordinances. Colonel Welsh voting yes, for reasons previously stated.

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 Sherrie 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.

Representatives: Mr. Janaid Kareem, Janaid's Hair Salon; Mr. William Byler Jr., William Byler Jr. Architect, Inc.

Mrs. Harvey stated that the Conditional Use Plan is to create a hair salon on the first and second floor tenant space of the existing building located at 213 West Loockerman Street. The property is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone) located on the north side of Loockerman Street. The building was built in the 1800's and is listed in the National Register of Historic Places as a contributing resource to the Victorian Dover Historic District. The

building consists of two floors; the first and second floors of the building are currently registered as a vacant building in 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. The adjacent building located to the east side of the proposed site is Zuha Trend Men's Fashion Store. The Tresses Hair Studio is a personal service store located within two hundred fifty (250) feet of the subject site. Due to the proposed location and type of land use as a hair salon, a Conditional Use approval is required by the Planning Commission as noted in Article 3, Section 13.21 of the *Zoning Ordinance* regarding a personal service store located within two hundred fifty (250) feet of another personal service store.

Colonel Welsh asked the applicants if they had an opportunity to review the DAC comments and the recommendations of the Planning Staff. Responding to Colonel Welsh, Mr. Byler stated yes, they have had an opportunity to review all of the DAC comments and recommendations. They are in agreement with each of the comments. They do not have any issues with complying with what's been recommended.

Mr. Byler stated that he thinks they have communicated what their floor plan is going to be and they want to get an approval tonight so that they can move forward with the remaining parts of the project.

Mr. Ambruso stated that based on this gentleman's past performance, he is familiar with his current location. He always seemed to run a nice shop there. He would be supportive of him in this matter.

Dr. Jones stated that she concurs with Mr. Ambruso.

Mr. Holt questioned the hours of operation? Responding to Mr. Holt, Mr. Kareem stated that Monday through Wednesday they typically run 9AM-5PM. Thursday, Friday and Saturday they typically run 8AM-6PM. They open a little earlier for earlier appointments and close a little later of later appointments.

Mr. Tolbert questioned if they planned to have full services on both floors? Responding to Mr. Tolbert, Mr. Kareem questioned what he meant by full services?

Mr. Tolbert stated that there is a styling area with eight locations on the first floor. Responding to Mr. Tolbert, Mr. Kareem stated yes, there will be eight stations on the first floor.

Mr. Tolbert questioned if there would also be a styling area on the second floor? Responding to Mr. Tolbert, Mrs. Kareem stated that there would be another four stations on the second floor.

Mr. Tolbert further questioned if the second floor area was going to open up right away? Responding to Mr. Tolbert, Mr. Kareem stated no, the second floor will be a year down the road. They are going to phase the second floor in but initially they are going to open the first floor with eight stations.

Mr. Tolbert stated that he sees a coffee and a bar located on the first floor. Is that a coffee bar? Responding to Mr. Tolbert, Mr. Kareem stated yes, a coffee bar not a bar.

Mr. Cregar questioned since they are phasing in the second floor, does that interfere with the Conditional Use that the Planning Commission grants and is there any time limit on that once they grant approval for them to be able to work on the second floor? Responding to Mr. Cregar, Mrs. Townshend stated as long as the second phase is done within a year.

Mrs. Townshend questioned if the applicant was looking at longer than one year? Responding to Mrs. Townshend, Mr. Kareem stated no.

Mrs. Townshend stated that a Conditional Use approval is good for one year and can then be extended for one year so it would actually be good for two years.

Mr. Cregar questioned if things didn't work out within one year, the applicant could come back for an extension at the end of that period? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Holden stated that he is pleased to see some activity in this area and he wishes the applicant the best of luck.

Colonel Welsh stated welcome to the street.

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

Dr. Jones moved to approve C-14-03 Janaid's Hair Salon at 213 West Loockerman Street to include DAC comments, seconded by Mr. Holt and the motion was carried by roll call vote 9-0. Mr. Holden voting yes, for reasons already stated, staff comments and that the proposed Conditional Use is in harmony with the location, size and character of the property. Mr. Cregar voting yes, agreeing with the comments stated by Mr. Holden. Mr. Tolbert voting yes, the application is in compliance with rules and requirements of the Planning Commission. Mr. Holt voting yes, as the application is in compliance with the plans of the Planning Commission. Mr. Baldwin voting yes, based on the information provided this evening. Dr. Jones voting yes, based upon compliance with all conditions as well as the comments from DAC. Secondly, she thinks it is wonderful to have this kind of business continue the integrity of the businesses in that area. Ms. Still voting yes, for all the reasons previously stated. Mr. Ambruso voting yes, based on everything previously stated. Colonel Welsh voting yes, he wished the applicant the best of luck.

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.*

Representatives: Mr. Rhett Ruggerio, owner of record

Mr. Cook stated that this application is a Conditional Use Site Development Plan to permit professional offices in an existing 1,689 S.F. structure on an 11,340 S.F. ± parcel at 109 East Division Street. The property is zoned RG-1 (General Residence Zone) and is also subject to the H (Historic District Zone). On May 27, 2014 City Council approved Ordinance # 2014-05 which allows professional offices as a Conditional Use is RG-1 (General Residence Zone) and subject to regulations. Pages 2 and 3 of the DAC Report include the text of that Amendment and those regulations. It is also located on the blue colored sheet that was handed out tonight.

The residential structure was built in 1857 and has had recent improvements to the exterior and landscaping. There is a front door on East Division Street and an entrance on the east side accessible from the rear of the property or from the alley by a gate. A Landscape Plan is required to be submitted before final approval. The Landscape Plan is still being finalized but there has been some landscaping work that has already taken place. The property in its current state meets the tree density requirements and that's outlined in the existing report. An existing landscape feature that the Staff recommends to be retained is a hedgerow along the east property line. The property faces East Division Street. The red outline shown on the plan is the main structure. In the rear, there is a garage. The hedgerow divides the property between an alley which is to the east. Off-street parking is required and proposed off of the rear alley. There is an existing garage via the alley that can be accessed from Pennsylvania Avenue. The garage is capable of housing two (2) vehicles and then there are three (3) parking spaces on the surface adjacent to the garage. Per requirements of the *Zoning Ordinance*, there are screening requirements which are elaborated upon in the DAC Report. There is one waiver being requested by the applicant. That is a request to eliminate some required upright curbing.

As a summary of the staff recommendations for conditions of approval, Staff recommends that the garage be counted as one (1) space realizing that the structure over time may be used for storage. The plan submitted shows two (2) parking spaces for the garage and three (3) on the outside, whereas, there is really a maximum of four (4) parking spaces per the regulations of the Conditional Use. Staff recommends retention of the existing hedgerow that's about five (5) feet tall. It separates the side yard from the alley and also provides screening of the property from the street and adjacent neighbors. Staff also recommends screening in front of the proposed off-street parking spaces. If there were cars there, it's possible that they could be seen from Division Street. This is something that Staff noted particularly from the intersection of Kings Highway and Division Street. Staff recommends review of the Conditional Use after a period of one (1) year, at which time the Commission can then determine if the conditions have been met. The DAC Report includes comments from the Planning Office, the Department of Public Works, the Fire Marshal's Office, DelDOT and the Kent Conservation District Office.

Mr. Ruggerio stated that the only comments he would have is a little bit of history on this issue. He was before the Commission in the Fall and at that time the neighbors were not comfortable with the Rezoning so subsequently they worked with the neighbors and proposed legislation that would allow for a Conditional Use and that's why he is here tonight. There's a number of people to thank; first, the Commission to allow him to work with the neighbors so that they had a comfort level. Secondly, Mrs. Townshend for working with himself and the neighbors through this. Also, the neighbors particularly Mrs. Trish Arndt and the rest of the folks here tonight for some of the conditions that they were comfortable with.

Colonel Welsh questioned if the applicant was in agreement with Planning Commission comments and suggestions for approval as well as the DAC comments? Responding to Colonel Welsh, Mr. Ruggerio stated yes, the only issue is screening issue.

Mrs. Townshend stated that the screening will obviously not have to block access to the parking so it could just be along the edge of the garage. Again, some of it is screened by the garage itself so she thinks it's something that they just work out.

Mr. Ruggerio stated other than that there are no other comments.

Mr. Cregar stated that it seems like this has been a long time coming but as a Commissioner, he appreciates the effort that Mr. Ruggerio has put into it and the patience that he has had working with the community also. This is what planning is about; it's about trying to come together with good development proposals. They were able to work out something that he thinks is positive for the community and for the City as a whole.

Ms. Still questioned the reason for the elimination of the upright curbing? Responding to Ms. Still, Mr. Ruggerio stated that currently there is crush and run rock. One, the slope or the angle of the parking there probably wouldn't support it. Secondly, the commercialization of that area wouldn't fit in character with the neighborhood.

Colonel Welsh opened the public hearing.

Mrs. Trisha Arndt – 11 Pennsylvania Avenue Dover, DE 19901

Mrs. Arndt stated that she did receive notice from the applicant. She wants to take a moment to thank Mr. Ruggerio for working with the neighbors. She certainly appreciates his willingness to adhere to their conditions. She appreciates the City of Dover, especially Mrs. Townshend for helping them through this process. She just wanted to state that she does appreciate the elimination of the upright curbing. Her property shares the alley and she would like to make sure that it does not look commercialized. She would like to make sure that it maintains that residential character. They would definitely appreciate keeping the hedgerow.

Mr. Joe Hutter – 41 Delaware Avenue Dover, DE 19901

Mr. Hutter questioned how long this Conditional Use lasts? Responding to Mr. Hutter, Colonel Welsh stated two (2) years unless the Commission specifies something less.

Mr. Hutter further questioned if at that time the applicant would have to come back and apply again? Responding to Mr. Hutter, Colonel Welsh stated no, he doesn't apply again. The applicant applies for an extension of the Conditional Use.

Mr. Hutter questioned how many times the applicant could reapply for the Conditional Use? Responding to Mr Hutter, Colonel Welsh stated forever, as long as the use is not changed.

Mr. Hutter stated that the place looks beautiful. He agrees with the curbing waiver. None of the neighbors want that curbing either. There are kids that play and walk through that alley which would be not good if someone falls or anything. They did not know about the hedgerow and they think that's fantastic. He was against a lot of this stuff at the beginning of the process but Mr.

Ruggerio has really worked well with the neighbors and has come forward with a plan that's conducive to everything that the neighbors think. The only fear they have is of course not adhering to what he said at the beginning. It is life and things do change as time goes on but as long as the Commission is ready to make the decision to enforce that in writing, they particularly don't have too much of a problem. The other point naturally being is when the property is sold, does that Conditional Use go to the subsequent owner or does that have to be reapplied for by that owner? Responding to Mr. Hutter, Mrs. Townshend stated that it isn't specific to the owner; it's specific to the use so if Mr. Ruggerio sold the property to another office that had the same number of employees, the same everything then it would be allowed to continue. Now if there were violations of the conditions then Staff could bring it back to the Planning Commission to revoke the Conditional Use. One of the conditions could be that it run with the ownership.

Mr. Hutter thinks that would be a good agreement between the property owner and the Commission that it remains with Mr. Ruggerio. Their biggest problem is that they don't want an office of twenty (20) people in a home in a residential area when they already have a school which is their community school. There is a situation where a weed was growing and when people were exiting out Pennsylvania Avenue they could not see down Division Street. No one from the City seems to want to take care of this. Last year, he cut it down and the neighbor that owns it now cuts it down. When they park cars out there, it's very difficult to see cars coming up Route 8.

Mrs. Townshend questioned the location of the weed? Responding to Mrs. Townshend, Mr. Hutter stated the corner of Pennsylvania Avenue and Division Street. It's not there now because the City did a beautiful job of replacing streets and implementing all of the handicapped access. You couldn't even walk around that area. If a person came with a wheelchair, they would never be able to navigate through this area. But that's off subject. He agrees with everything that Mr. Ruggerio has done and if the Commission could please put in writing that the Conditional Use stays with Mr. Ruggerio only.

Colonel Welsh stated that it would be up to the Commission.

Colonel Welsh closed the public hearing.

Mr. Cregar stated that the recommendation is that after one (1) year the Commission is going to review this application to make sure that everything is in place. Once that has been reviewed, they won't have to look at this again until if they wanted impose a condition which was said at the time of sale? Responding to Mr. Cregar, Mrs. Townshend stated yes, unless there were problem. In the past, they have had some Conditional Uses that have been approved where the applicants have not complied with the conditions applied to it and Staff has brought forward to the Commission proceedings for revocation of Conditional Use. It's rare but if there are problems with compliance, that is available. It does not automatically come back to the Commission.

Ms. Still moved to approve C-14-04 109 East Division Street to include all DAC comments, the waiver for the elimination of upright curbing and a further condition that the Conditional Use expire upon the transfer of the property, seconded by Mr. Cregar and the motion carried by roll call vote 9-0. Mr. Holden voting yes, for reasons already stated and following Staff and DAC comments. Also in support of Mr Ruggerio's diligent respectful efforts to appease both residents and the City and also that the use is in harmony with the location. Mr. Cregar voting yes, as per the reasons he

stated previously during the public hearing. Mr. Tolbert voting yes, the application is in compliance with the ordinances and the Comprehensive Plan of the Planning Commission and that it does require the current owner to comply with the Conditional Use requirements. Mr Holt voting yes, for reasons stated that it is in compliance with the Planning Commission plans. Mr. Baldwin voting yes, based on DAC comments and that it meets the City requirements at this time. Dr. Jones voting yes, it's in compliance and also because it's great to see that there has been an amicable resolution to a business plan and the concerns of the residents. She is very much in favor. Ms. Still voting yes, as the application complies with the Conditional Use. She too agrees with the sentiments that it's a good thing that every effort was made to make this a neighborhood friendly business agreement. Mr. Ambruso voting yes, the applicant as conformed to all of the compliances that have been put in front of him. Colonel Welsh voting yes, as well as thanking Mr. Ruggerio for reaching out to the neighbors and working with them. He remembers when the application first came to the Planning Commission; there was a good deal of sentiment against his proposal and it's heartwarming to see that everyone has come together and worked out a good process. It's a win-win for everyone.

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 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-05-068.14-03-054.00-000. Council District 2. *Waivers Requested: Elimination of Opaque Barrier (Fence) Requirement, Elimination of Upright Curbing Requirement.*

Representatives: Mr. Mark Redden, Archeology Architecture & Design Services

Mrs. Melson-Williams stated that this a Site Plan application for the property at 1160 White Oak Road. This is the south side of White Oak Road just west of the intersection with Spruance Road. There is an existing building on the property that consists of 1,927 S.F. This project is a purposed building addition of 2,400 S.F. which will leave the building at a total square footage of 4,327 S.F. That size building requires twenty nine (29) parking spaces. As part of this project, the existing parking lot is expanded to the east and then also wraps around the east side of the proposed building. The property is zoned C-1 (Neighborhood Commercial Zone). With this zoning, there are some limitations on the sizes of the individual tenant spaces and this plan complies with that. It is proposed to be a one story building. From an architectural perspective it has a pitched roof. It has a short roof face that would face White Oak Road and then it slopes significantly to the south. Basically, the building addition will continue the form of the building as it exists today.

As noted, the parking is expanded with this project. It does not require a loading space but will require the addition of two (2) bicycle parking spaces which they will have to identify the location on the plan. With the project, they are also making adjustments to the location and positioning of the dumpster which is along the far west side of the building. This project does have sidewalk along both the street frontage of White Oak Road and Spruance Road. There are some sidewalk improvements at the entrance from White Oak Road and they will also need to make a sidewalk connection from the street frontage sidewalk into the subject property. There is a waiver request in this case for the partial elimination of curbing. The existing parking does not include upright curb and they wish to continue that through the expansion as well. The other waiver request is related to

the Opaque Barrier Requirement. This property adjoins a residential property to its south. That Opaque Barrier Requirement includes an opaque barrier which can be a fence, wall or berm which is what they are seeking relief from. There is also a vegetative component to that barrier which they are providing with a series of evergreen tree plantings between the rear of the building and the residential property. They are seeking a waiver of the solid component because the adjacent residential property already has an existing fence on the residential side. So rather than having fence along fence with the landscaping in between, they are seeking relief from that item.

The Planning Staff provided a number of comments. They are supportive of both of the waiver requests: the one for upright curbing and for the elimination of the opaque barrier fence component, finding that there is already the existing fence on the residential property and that the evergreen screening should also take care of that screening element. Planning Staff did provide several advisory comments to the applicant. The signage for the property will have to be reviewed carefully in that the existing signage on the building appears to be non-conforming and with the expansion of the building, would have to come into conformance with the current Sign Regulations. Also, there are some proposed changes to C-1 (Neighborhood Commercial Zone) in the future that will change some of the requirements for C-1 (Neighborhood Commercial Zone). But she thinks this property can handle those changes if they are adopted. Other agencies also provided comments including the Public Works Department, the Fire Marshal's Office, and DelDOT, in the case of White Oak Road is a state maintained road. They will be working with DelDOT in regards to any kind of changes or work in the right-of-way for their entrance. Comments were also provided from the Kent Conservation District.

Mr. Redden stated that they do accept the list of comments regarding things like signage and the bicycle parking. They intend to comply with the *Zoning Ordinance.* They have to get approval to do this addition but they intend to be right on the line. There is one other reason they are requesting a waiver from the upright curbing. The existing building location is a little close the property line and the fire lane is already on the small side so adding curbing in will then cut even more out of the fire lane. They have talked to the Fire Marshal; they are going to work with them on this issue. He would like to give the Fire Marshal as much room as they can in the fire lane.

Mr. Holden questioned if the sidewalk on the east side of the building ran full along that boundary? Responding to Mr. Holden, Mr. Redden stated that the plan shows sixteen (16) feet of paving for the parking along the side of the building.

Mr. Holden further questioned if there was a sidewalk that runs along that side of the building? Responding to Mr. Holden, Mr. Redden stated no, there is no sidewalk along that side. It is a tight site so there would be no room for a real sidewalk.

Mr. Holden questioned where they were looking to not install upright curbing? Responding to Mr. Holden, Mr. Redden stated that the existing parking lot is not curbed. It's just asphalt laid on the ground with no curb on it. So installing curbing around that would be technically difficult without ripping the whole parking lot up. Since they are not going to be curbing the existing parking lot it would be kind of difficult to do it on the new portion of the parking lot. They also have an issue with getting the fire lane; every inch that he can get for the fire trucks would be greatly appreciated.

Mr. Holden further questioned what the applicant would propose to keep vehicles in the parking lot? Responding to Mr. Holden, Mr. Redden stated that they would be installing bumpers in the parking spaces so that it would not accidental drift into the street.

Mr. Cregar stated that there was a recommendation about any HVAC equipment, about its location and screening and to minimize impact of adjacent properties. Responding to Mr. Cregar, Mr. Redden stated that they do plan to place the condensing units on the rear of the building between the rear of the building and screen so they will not be visible from anywhere.

Mr. Tolbert questioned if he was correct to understand that they are in full compliance with Staff recommendations regarding the waivers? Responding to Mr. Tolbert, Mr. Redden stated yes.

Mr. Holt questioned if the applicant was okay with the requirement of the sign having the possibly to be removed or changed? Responding to Mr. Holt, Mr. Redden stated yes, that came up during the DAC meeting. They are still finalizing where they plan to put the sign. They have to work it in with some of the other changes but it will go on some posts on the ground instead of on the roof.

Mr. Holt stated that the applicant would have to come back to apply for a separate Sign Permit. Responding to Mr. Holt, Colonel Welsh stated that this process would be done administratively.

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

Mr. Tolbert moved to approve S-14-12 Jolly Joe's Addition at 1160 White Oak Road to include the waivers requested along with the recommendations from Staff and the DAC requirements, seconded by Ms. Still and the motion carried by roll call vote 9-0. Mr. Holden voting yes, as the Site Development Plan is incompliance with zoning and other requirements and also DAC staff comments. Mr. Cregar voting yes, in accordance with the comments made by Mr. Holden. Mr. Tolbert voting yes, this application is consistent with the requirements of the Planning Commission, Zoning Ordinance and the Comprehensive Plan as well as the applicant's agreement to work with Staff and DAC requirements and recommendations. Mr. Holt voting yes, the application is incompliance with the plan and the DAC comments and is willing to work with Staff. Mr. Baldwin voting yes, the application meets the requirements. Dr. Jones voting yes, the application is incompliance and the applicant is mindful and plans to adhere to DAC and Staff recommendations. Ms. Still voting yes, based on the comments previously stated. Mr. Ambruso voting yes, based on the comments previously stated. Colonel Welsh voting yes, for reasons previously stated.

4) MI-14-10 Text Amendment: Revisions to Commercial and Office Zones – Public Hearing Review for Recommendation to City Council on 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.

Representatives: None

Mrs. Townshend stated this is a series of amendments to all of the Commercial and Office Zones within the *Zoning Ordinance*, minus the Recreational and Commercial Zone and the Shopping Center Zones. The ordinance came about through a series of meetings. About two years ago, Planning Staff brought forward amendments to the Sign Regulations that were amended in conjunction with the business community. This is the next phase of their working relationship through the Chamber with the real estate and business community. They have been meeting about these zones since the end of 2012. They have gone through all of the Commercial and Office Zones; both the uses and the bulk standards with a fine tooth comb. There have been a number of things that they have tried to do in this review. They are trying to make the categories more general and use specific. One example that she typically uses is currently the C-3 (Service Commercial Zone) allows bowling alleys. That's great but what about laser tag or an indoor batting cage? Something that would be another type of indoor amusement or recreational facility but it's not a bowling alley. They used broader language. Where a lot of zones refer back to others (ex. C-1A (Limited Commercial Zone) refers back to C-1 (Neighborhood Commercial Zone), C-2A (Limited Central Commercial Zone) refers back to C-1A (Limited Commercial Zone) which refers back to C-1 (Neighborhood Commercial Zone), there is a lot of flipping through the Code when trying to figure out what can be done in a certain zone. What they have done is made sure that they capture all of those uses rather than just referring to the other zones so that the *Zoning Ordinance* is easier to read. In doing that, they also tried to make sure that there's a better separation between what can be done in C-1 (Neighborhood Commercial Zone) versus what can be done in C-1A (Limited Commercial Zone), versus what can be done in C-2A (Limited Central Commercial Zone); seeing those as kind of progressive starting from C-1 (Neighborhood Commercial Zone) to C-2A (Limited Central Commercial Zone) which is less than Highway Commercial but a little more intense than C-1 (Neighborhood Commercial Zone) or C-1A (Limited Commercial Zone). They tried to really break out that progression of what's prohibited and what's permitted in each zone so that there is a continuum of zones. Her experience is that there is not a lot of difference between C-1A (Limited Commercial Zone) and C-2A (Limited Central Commercial Zone) right now. It really struck her when they looked at the Comprehensive Plan Amendment proposal by Mr. Ashburn that they couldn't put a zoning classification if someone wanted to do commercial there. There was no zoning classification that would allow some sort of commercial activity and retail activity but also prohibit gas pumps. They fixed this issue where C-1 (Neighborhood Commercial Zone) and C-1A (Limited Commercial Zone) expressly prohibit gas pumps. C-2A (Limited Central Commercial Zone) is how it is now, where someone would be able to get gas pumps as a conditional use similar to the way Wawa and Royal Farms was done.

In terms of the Bulk Standards, they have tried to relax the Bulk Standards to allow property owners and their design staff to come up with a design that works for the site and isnt based on setbacks. They pulled the setbacks back to what was really needed to adequately buffer the property from another property so that is doesn't cause people to design in a building envelope that might not make as much sense as if they had more flexibility on the site.

The next piece was changing the threshold for what comes to Planning Commission versus what can be done administratively. The Commissioners have an amendment (Staff Amendment #1) on their desks. In terms of the changing of the thresholds, she would specifically look at the amendments because Mr. Perza, who is a member of the Parks Recreation and Community Enhancement Committee and a member of City Council, was concerned that the wording in the ordinance as proposed could be confusing. Coming out of the First Reading, they worked to break that out. What is proposed now is new structures of 5,000 square feet or greater would come to the Planning Commission; currently it's 3,000 square feet. Additions to existing structures that constitute 15% or more of the existing floor area and are greater than 5,000 square feet in new floor area would come to the Planning Commission. Impervious cover additions don't change and disturbance adjacent to residential would increase from 1,500 square feet to 2,500 square feet. In terms of additions to existing structures, the example she uses is Proctor and Gamble. They have an 800,000 square foot facility. It gives more flexibility where the proportionality of it is so small at 3,000 square feet or 5,000 square feet they have to come to the Planning Commission. They are referring to 1% of their floor area or less. The idea is that it would come to the Planning Commission when it reaches a proportion of the existing square footage that would be noticed. With any Administrative Site Plan, if there is something that makes staff uncomfortable it can be brought before the Planning Commission; this is already in the Ordinance. The idea is that some of these very large facilities that are doing something minuscule in comparison to what they have there could really go through an administrative process.

The last piece of this Text Amendment is adding some definitions of things that are currently not in the *Zoning Ordinance* (ex. personal service establishments, place of public assembly, restaurant, retail, service establishment, vocational training). They also added definitions for transitional housing and emergency shelters which are not addressed in this ordinance but at some point they do look to bring forward an ordinance under other circumstances that would help to address these because emergency shelter and transitional housing are kind of absent from the *Zoning Ordinance* in terms of how they are supposed to deal with them. They want to make sure that it's clear that those facilities are permitted and in which zones they would be permitted in. That's a different ordinance for a different day but since they were working on definitions they added these definitions.

Removing the words "and outdoor sales areas" from line 33 just acknowledges that they are working in a zone that does not allow retail so they don't need to talk about outdoor sales areas. Line 95: they had taken out the allowance of fuel pumps as a conditional use in the C-1A (Limited Commercial Zone) but they thought that since they were prohibiting other motor vehicle uses they should make it clear that fuel pumps would also be prohibited in that zone. Amendment (item) 3 refers to C-2 (Central Commercial Zone) which is the Downtown zone which again the idea is that fuel pumps shouldn't be right on Loockerman Street in that C-2 (Central Commercial Zone) area. Amendment (item) 4 removed the language where it refers to another zone and adds that language into it. There is also a correction to the definition of retail because the definition that was in there could in theory, prohibit something like a Sam's Club because it says directly to the ultimate consumer or persons without a resale license and at some of the box stores, things are resold. This was just more to clarify retail is where someone is selling to a consumer; it's not a wholesale facility.

The one issue that did come up among the Planning Staff and she wasn't able to figure out how or if they needed to do an amendment, was the issue of parking in the C-1 (Neighborhood Commercial Zone), C-1A (Limited Commercial Zone) and C-2 (Central Commercial Zone). It used to be that there was no parking requirement at all in the C-2 (Central Commercial Zones). In 2007, they added 1/2 space per 300 square feet for new construction. A lot of the discussion in the *Dover Transit Center Neighborhood Plan* talks about not requiring parking as a site by site basis but pushing toward large public parking facilities. The idea is that they should not necessarily require flat surface parking in their Downtown. With the C-1 (Neighborhood Commercial Zones) and C-1A (Limited Commercial Zones), these are Neighborhood Commercial facilities so what they are proposing at this point is taking the parking requirement out. There is language in Article 10 of the *Zoning Ordinance* as it relates to Site Plans that states, "In considering and acting upon Site Development Plans, the public health safety and welfare, the comfort and convenience of the public in general and of residents in the immediate neighborhood in particular shall be taken into consideration. Appropriate conditions and safe guards may be prescribed as may be required that the results of approval may to the maximum extent possible. Further, the expressed intent of this ordinance and accomplishment of the following objectives in particular." She thinks that the discretion is in the *Zoning Ordinance* for the Planning Commission. If a C-1 (Neighborhood Commercial Zone) site came to the Commission to build something new and they knew that there was a parking issue in the area, it could be dealt with based on the language in the Code. For instance, the Grocery Basket is an area that the residential areas could propose and go through the application process for C-1 (Neighborhood Commercial Zone). If there was a neighborhood store like that where the intent is really to get your neighbors to walk to the corner store but there is a parking requirement it could make it out of character with that area. The idea is by eliminating it, it could be dealt with on a case-by-case basis. If there's public testimony that there are concerns or if it's in an area where there is no on-street parking and there is no way that it would work or there is no public parking, it could be added as a condition. From a market standpoint, any business owner is going to want to make sure whether the parking is on their site, on the street or at a lot down the road that people can conveniently access their stores. The idea is that it allows the discretion but doesn't lock them into a parking requirement that could be out of character with the surrounding area.

Mrs. Townshend stated that Mr. Scott Kidner, Mr. Phil McGinnis and Mr. Tom Burns are here this evening. They have worked with her along with Ms. Judy Diego, Mr. Connie Malmberg, Mr. John Paradee, Mr. Keith Kooker and Mr. Bob MacLeish. They have all been very helpful in helping to move this forward and have been reasonable when she has stood her ground on things that she did not think things were necessarily an improvement of the ordinance. She has worked on the amendments to the ordinance very vigorously with these people and she is comfortable, not that they can anticipate all unintended consequences but she thinks that it does set things up to be more streamlined, easier to understand and to allow the property owner and their designer flexibility to do something that works for a site.

Colonel Welsh stated that this is something that he thinks is long overdue. It simplifies the process, streamlines the process and makes it a whole lot easier for the business community to get things done. He commended those who worked on this project for their work as well as the Planning Staff for their hard work in getting this done. Hopefully, this is going to make it easier for everybody including the Planning Commission.

Mr. Holden stated that he agreed with Colonel Welsh's comments. He thinks that these are good changes that are going to help our community.

Mr. Cregar questioned if the change in the square footage would cause any issues for Planning Staff? Responding to Mr. Cregar, Mrs. Townshend stated no. Staff has brought things forward to the Planning Commission before that they thought didn't need to be seen by the Commission.

Mr. Cregar further questioned if the Jolly Joe's application from tonight would have been handled administratively? Responding to Mr. Cregar, Mrs. Townshend stated that it could have been. Under the proposed changes to the C-1 (Neighborhood Commercial Zone), the liquor store wouldn't be permitted but it is legal non-conforming. But yes, something like that would not have to come to the Planning Commission.

Mr. Holt stated that it was long overdue.

Dr. Jones questioned if the Jolly Joe's application was handled by Staff, does that mean there is no public hearing? Responding to Dr. Jones, Mrs. Townshend stated yes, for an Administrative Plan there is no public hearing.

Mr. Holden questioned if the application was handled administratively but the applicant is asking for curb or fencing waivers? Responding to Mr. Holden, Mrs. Townshend stated that the waivers would have to come to the Planning Commission. Staff has seen a few of those applications before where otherwise they wouldn't need to come before the Planning Commission.

Colonel Welsh opened the public hearing.

Mr. Phil McGinnis – 555 East Loockerman Street Dover DE 19901

Mr. McGinnis stated that on behalf of his colleagues present tonight and those who didn't bother to come out this evening he wants to thank everyone for the consideration of these changes. Mrs. Townshend is correct, they being gentlemen they didn't wrestle her to the floor when they felt strongly on issues that they wanted to change. They reached amicable consensus and arm wrestled. Certainly, they approve the changes; they want to be on the record as supporting the changes. It isn't much of a public hearing when there is no public here. He thinks that these changes to these districts sort of move them towards smart growth development. It adds some great changes; they will be the envy of the League of Local Governments with these changes. He whole heartedly asks the Commission to support them unanimously.

Mr. Cregar stated that it seemed like Dr. Jones had some reservation earlier. He questioned if she got answered what she needed answered? Responding to Mr. Cregar, Dr. Jones stated that there was an answer to her questions. Take a project that is going to go into a residential facility or very near residential.

Mrs. Townshend stated that if something is adjacent to residential that threshold is lowered to 2,500 square feet of disturbance. It could be a small building but if they are added parking and the parking area and the building add up to 2,500 square feet that's a pretty low threshold. If it's adjacent to residential, they have a lower threshold to get to Planning Commission for that reason. One thing that it does in the C-2 (Central Commercial Zone), which is the Downtown zone, is that personal

service establishments and offices would no longer be conditional uses. Things like Janaid's, Bee Hive Salon, EZ Pass, Joe Petrosky's request for offices in the Loockerman Exchange would be allowed. The idea of that is that it's really the form over the function. Mr. McGinnis talked about moving towards smart growth. She doesn't think they are ready for a form based code where it's more about the building representation to the street and more on subjective standards. The idea with the form based code is that they are not as worried about what's happening in the buildings as long as they're not incompatible with what the character of the area is. They are looking at how the buildings present themselves. So whether it's an office behind that wall or a salon or restaurant isn't as important as what that wall looks like.

Colonel Welsh closed the public hearing.

Mrs. Townshend stated that the Commission should probably do a separate motion on the amendment (Staff Amendment #1) and then a motion on the ordinance unless they want to do the ordinance with the amendment (Staff Amendment #1).

Colonel Welsh stated to do the amendment (Staff Amendment #1) with the ordinance because it is all part of the package.

Mr. Cregar questioned if they were satisfied with the parking question? Responding to Mr. Cregar, Mrs. Townshend stated that she can live with it. Again, she can't sit here and tell the Commission won't at some point have an unintended consequence but she does believe that there is flexibility in the *Zoning Ordinance* that they can deal with the issue.

Mr. Cregar further questioned if at some point Staff questions something could it come to the Planning Commission for review? Responding to Mr. Cregar, Mrs. Townshend stated yes. Any Administrative Site Plan can be referred to the Planning Commission.

Ms. Still moved to recommend approval to City Council for MI-14-10 Text Amendment: Revisions to Commercial and Office Zones as listed in the agenda and inclusive of Staff Amendment #1, seconded by Mr. Holt and the motion carried by roll call vote 9-0 Mr. Holden voting yes, as per the discussion and due to the fact that these changes are going to help streamline some processes and applications within our community. Mr. Cregar voting yes, this provides us with a better and improved process for these business and institutional office zones. Mr. Tolbert voting yes, this change does facilitate a user friendly approach to their work and it's something that was very much needed. Mr. Holt voting yes, the amendment to the Commercial and Office Zones will help to streamline the operations for the Planning Commission. Mr. Baldwin voting yes, based on the information provided this evening and to help streamline the process. Dr. Jones voting yes, in concurrence with the previous comments supporting the changes. Ms. Still voting yes, in concurrence with all the reasons cited previously. Mr. Ambruso voting yes, based on all the comments previously stated. Colonel Welsh voting yes, for reasons that have been previously stated and once again thanking Mrs. Townshend, Planning Staff, Mr. McGinnis, Mr. Burns and everybody on the business side who participated in this; a win-win for the city and for the business community.

Meeting adjourned at 8:26 PM

Sincerely,

Kristen Mullaney
Secretary