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