CITY OF DOVER PLANNING COMMISSION
QUARTERLY WORKSHOP
November 19, 2013

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Tuesday November 19, 2013 at 12:00 noon with Vice Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Holt, Mr. Baldwin, Ms. Still and Mr. Tolbert. Dr. Jones, Mr. Ambruso and Colonel Welsh were absent.

Staff members present were Mrs. Townshend and Mrs. Melson-Williams.

PLANNING COMMISSIONER COMMENTS AND CONCERNS

Mr. Cregar stated that Mr. Tolbert has done a great job the last two months running the meetings.

Mr. Tolbert stated that he wished every member of the Planning Commission had an opportunity to sit in the Chairman's position.

Mr. Tolbert stated at one time they were talking about following Robert's Rules of Order. What happened with that? Responding to Mr. Tolbert, Mrs. Townshend stated that they do follow Robert's Rules of Order. It's only if they get something more complicated than normal that we need to prepare.

Mrs. Townshend questioned if everyone thought the three minute limit for speakers during the public hearing was working? There have been a few times when we have had to cut people off but she is not sure that they would have added anymore value to the discussion.

Mr. Cregar stated that he thought it was great but asked if they had heard from the public that they need more time? Responding to Mr. Cregar, Mrs. Townshend stated no, she has only heard issues brought up about Council.

Ms. Still stated that in her opinion it's better to air on the side of a shorter time frame that way you have the leniency to let people go a little bit longer if there is a real necessity.

Mr. Holden stated that two meetings ago they had the lobbyist who wanted a zoning change. He does not know what the applicant's plans are as far as what he is going to pursue. Responding to Mr. Holden, Mrs. Townshend stated that they have discussed amendments to the RG-1 zone. Mr. John Paradee has sent her a draft and she shared that draft with Ms. Tricia Arndt who she thinks has shared it with a few of her neighbors. She shared with both parties, some of the concerns that she had and some of the things that she thought could tighten it up some. She is actually meeting with Mr. John Paradee and Mr. Rhett Ruggerio this afternoon.

Mr. Holden questioned how that zoning change would get effective? Responding to Mr. Holden, Mrs. Townshend stated that it would go to a Council Committee, then it would be referred to the Planning Commission by City Council and there would be a public hearing for the Planning Commission and then in front of City Council. At this point, the draft that was sent to her was actually somewhat restrictive. She had made the suggestion about thinking about limiting it to certain roads. They could look at the road network and while it may make perfect sense on Division Street or State Street; it might not make sense on Delaware Avenue or on Bertrand Drive. If they use the street to kind of hone in the area, it may help. That is the discussion being

held at this point.

Mr. Cregar stated that he is leaning towards an actual change in zone as opposed to any kind of change in the way a Conditional Use operates.

Mrs. Townshend stated that the problem with the change in zone is that is opens it up to a whole lot of other uses. It would be a text amendment that would in RG-1 allow for professional offices as a Conditional Use, limiting the number of people that could work there, creating a minimum of off-street parking but a maximum as well. At some point, there will be something new because there are members of City Council who are interested in sponsoring it so it will end up coming to the Planning Commission probably in the beginning of next year.

DEPARTMENT OF PLANNING AND INSPECTIONS UPDATE

Summary of 2013 Applications

Mrs. Melson-Williams stated that they included the Summary of 2013 Application Chart in today's packet which provides a back history back to 2002 for each of the types of applications that the Planning Office handles. Some of which come to the Planning Commission, some do not but what they track is by each quarter and then totaling the numbers for the year. Basically for 2013, they are ahead of the last two years. That may somewhat be related to things that have been coded as Miscellaneous where they put a lot of studies that may not actually come to any particular body for action. Everything else seems to be trending about the same as it has in the past few years.

Mrs. Townshend stated that they actually have fewer Miscellaneous applications than they did last year.

Mrs. Melson-Williams stated that the increase in Miscellaneous applications has been related to some of the things that can be done administratively or just so Staff is able to find it years from now. Overall the numbers are still nowhere near where they were in 2006 and 2007.

There won't be many more applications that come in before the end of the year. All of the applications for the Planning Commission have been filed for the year and the Board of Adjustment and the Historic District Commission just had their filing deadline this past week. So there is only going to be a few more added to the overall total. They will be less than 100 overall applications for the year.

Mrs. Townshend stated that the numbers are up a little from 2011 but not significantly.

Mrs. Melson-Williams stated that the total for Subdivisions looks like it's up because it's at six (6), but those aren't major subdivisions. They were dividing less than ten (10) lots out of something. That is nowhere near the size subdivisions that were previously reviewed.

Mr. Tolbert questioned what was happening with the Eden Hill subdivision? Responding to Mr. Tolbert, Mrs. Townshend stated that at this point, the residential section is bank owned; the portion that has not been sold to individual home owners. They are waiting for someone to acquire the property.
Mr. Tolbert stated that he has been asked by people who have expressed an interest in the place.

One person lives in New York; she moved from Delaware and now wants to come back and has heard about Eden Hill.

Mr. Cregar questioned if they were starting anything on the commercial section of Eden Hill? He has noticed an entrance way at the front. Responding to Mr. Cregar, Mrs. Townshend stated that it is the circle that the City of Dover and DelDOT are working on. There is no activity on the front. The commercial district has been purchased by Pettinaro. With the West Dover Connector moving forward, hopefully that will help. She has heard, not officially, but from a number of people that the doctors are looking to move forward with the next phase of their piece.

Mr. Tolbert questioned if it was still significantly different from what was originally planned for Eden Hill? He thought it was going to be a village also. Responding to Mr. Tolbert, Mrs. Townshend stated yes and she thinks ultimately with the new owner, they will have the opportunity to press those issues. With Hill Farm Associates and Ryan Homes, they were constantly coming in and trying to deviate from the Pattern Book and go more toward the conventional type of residential development. Hopefully when the bank sells the property they will get people who will understand what the whole vision was and move forward in that regard.

Other Project and Research Activities

Bicycle & Pedestrian Sub-Committee

Mrs. Townshend stated that back in January 2013, City Council created a Sub-Committee of the Safety Advisory & Transportation Committee to look at bicycle and pedestrian issues. They did obtain the Honorable Mention status from the League of American Bicyclists which is a step in the right direction. Out of that they should be receiving a report at the end of this month from the League of American Bicyclists on where they think the City needs to improve. That Sub-Committee has been very much focused on that.

They have also done some exercises where they have given the members of the Sub-Committee and any members of the public who attend the meetings the opportunity to mark up maps to identify areas where the sidewalk network needs work. The intent is to work with the Public Works Department once they hire their new Civil Engineers to help move that into how they prioritize the areas that people who are regular pedestrians are identifying as a problem. This is something that will continue.

They are looking in the Planning Office as they have been for a while, when plans come in about how they are accessible if people are not in a car. The Planning Commission have always been into sidewalks; they are not very free with their sidewalk waivers. But she thinks with the bicycle component it's getting bigger.

Update on Commercial Zoning Research for Amendments

Mrs. Townshend stated that she has been working since January 2013 with members of the business community and real estate community through the Chamber to take our commercial zones and try to simplify them, make the categories broader and take the bulk standards and make them so they don't inhibit design. They had made a lot of progress and then Janelle left so she has not been able to get some of the follow-up done on her end. They were hoping by December that they would have a draft to go to the Committee. Obviously now she thinks it will be January or February. If anyone has any pressing interest and wants to see what they have

worked on, let her know. One of the examples that she uses is that they have had bowling alleys identified as a permitted use in some of the zones. If someone comes forward and wants to do laser tag, it's the same type of thing but it's not a bowling alley. By changing that category to Indoor Recreation and Amusement, they are not so restrictive and specific in their uses that they are cutting out something that may be the next trend.

Central Dover Community Plan

Mrs. Townshend questioned if anyone had heard anything about the Central Dover Community Plan? (No one had heard about it.) The Cen-Del Foundation started about a year ago when they brought together a group of stakeholders in the Downtown area and started what was informally called the Safety Task Force. The Community Policing Section of the Police Department went door to door surveying of residents in the Downtown area. They started having regular meetings about how to bring stakeholders in and how to get people to address the Downtown neighborhood. All of the efforts they spend on the Loockerman Street area. If they can't address the neighborhood that is adjacent to it and the housing then there will only be so much success. They found out about a grant through the Wells Fargo Foundation that is two phases. The first phase is a planning grant and after the planning efforts are done, there is money for implementation. NCALL has been the point person leading the effort. They were the primary applicant on the grant but the Cen-Del Foundation, the Downtown Dover Partnership, neighborhood groups and the City of Dover have all been working together on it. They were awarded almost $100,000 through the Wells Fargo Foundation. There is a planning consultant called Interface Studio that is doing the work and there are also community volunteers who are doing the work. For instance, there is a door to door survey that was developed and volunteers who have been trained by the consultant are going door to door administering the survey. They are going to use that information at what they are calling an open house. They will use a storefront and are open for people to come in and have conversations and use sticky dots to mark the map in terms of priority type things. They are doing a detailed Land Use Assessment and a Land Use Survey that includes an assessment of the building stock. It's a really comprehensive look at the Downtown area. The boundaries of the area are William Street at the north, State Street at the east, Hope Street at the south and the railroad tracks but also Lincoln Park at the west. They are in the process now of implementing the survey. The hope is at the end of January, once they have had the opportunity to crunch the results from the survey, they will go into the open house phase. There should be a very detailed plan for that defined area with implementation strategies and all of these types of things by April or May of 2014.

Mr. Holt questioned what types of question were asked on the survey? Responding to Mr. Holt, Mrs. Townshend stated that she had a copy of the survey for him to look at. The questions are primarily quality of life questions and preferences of what people would like to see.

Mr. Holt stated that how a question is asked can make a difference in the answer given.

Mrs. Townshend stated that the consulting firm Interface Studios has done a number of these types of plans throughout a region of the Country. They have won awards through APA. They are a very good planning firm and this is the type of work that they do. Hopefully by next spring they will have some really good information that can be used to make changes to the *Zoning Ordinance* and it could help non-profits in terms of how they invest their resources in the Downtown. The idea is that it's a plan that would be implemented across the community not just in the City. She thinks by it not being done by the City, they are able to get different involvement

than the City would. She will keep the Planning Commission involved and as events come up, they will let everyone know.

Review of *2008 Comprehensive Plan*
Under State Law, they are required to review their *Comprehensive Plan* every five (5) years which is now. They should update and re-adopt the *Comprehensive Plan* at least every ten (10) years. They are currently right at the five (5) year point. There are a number of ongoing Planning activities, the Central Dover Community Plan and also a couple of other things. They want to wait until these ongoing studies are done so that they can really use them in a more comprehensive update of the *Comprehensive Plan*. She would like to develop an addendum over the next few months. Their *Comprehensive Plan* has a deadline of December 15th for anyone to apply for a *Comprehensive Plan* Amendment. Her thought is using that December 15th deadline to take through an addendum to the *Comprehensive Plan* to treat it as an amendment so that it can have the teeth that it needs specifically for the Transportation Improvement District. When all of these planning studies are done, Staff would be able to use that information to do a full update of the *Comprehensive Plan.* She would expect to be able to start at this time next year.

Mr. Tolbert stated that two (2) years ago there was a plan for Dover. Responding to Mr. Tolbert, Mrs. Townshend stated yes and it is mentioned. In terms of the ongoing Planning activities, there is the Central Dover Community Plan and the Transportation Improvement District. There is also going to be a city wide Parks/Recreation Needs Assessment Plan. She has talked to the State's Division of Parks and Recreation and they will assist with some of the data. They have a lot of good stuff that the City can use. The idea is that it would help the City prioritize their capital investment but then it also becomes a key component to the *Comprehensive Plan*. In addition, they have the Dover Transit Center Neighborhood Plan and design book. With having all of these very current plans, it will put the City in a good position to do a good job of updating the *Comprehensive Plan*. The staffing issue needs to be resolved but this is the priority in the December, January and February time frame.

EDUCATION AND TRAINING OPPORTUNITES
Mrs. Townshend stated that in the packet there is the Institute for Public Administration Planning classes that are offered for local governments. If members have not attended any of the classes, the Planning 101 which starts with the basics of Comprehensive Plan Land-Use Law will be held in January. In February is Planning 102 which is a more detailed review of the Land-Use Law. There will also be more classes offered in the spring. If anyone is interested, the Planning Office is glad to pay for them to attend.

In addition, she handed out information today from the Dover Kent County MPO website. In March is the Heels and Wheels Walk/Bike Summit. She has not seen an agenda yet but it may be something of interest. She believes that it is actually free.

TRAINING: PLANNING COMMISSION ACTIONS

Request for Waivers
Mrs. Townshend stated that Mrs. Melson-Williams was going to talk about the different types of waivers. She has done a handout to make it clear because it does seem like there are a lot of waivers coming forward these days. Some of them the Planning Commission has the authority to approve and some of them have to go to Council through various Committees.

Mr. Holt stated that there are so many waivers that sometimes they almost seem the same. He has never seen so many waivers on upright curbs. Responding to Mr. Holt, Mrs. Townshend stated that they talked about changing the Code to take that out. There are a few things that she thinks could be addressed through Code changes.

Mr. Holden wondered if they would see fewer waivers for the upright curbs with the new Stormwater Regulations. With the current Stormwater Regulations, so many people use filter strips for the stormwater. For the new Stormwater Regulations, filter strips don't do anything for quality storms anymore. It has to infiltrate the water and so you don't get TSS treatment through filtering, they get TSS treatment by default because they infiltrate the quality storm.

Mrs. Townshend stated that there would still be places where you can't infiltrate. Responding to Mrs. Townshend, Mr. Holden stated yes but a filter strip would not do anything for you at a regulatory standpoint. Why flow water across a filter strip if it doesn't give any regulatory benefit? If you can't infiltrate then there will be a fee-in-lieu under the new regulations. He thinks they will see fewer waivers for upright curbs.

Mrs. Melson-Williams stated that the request for waivers happen a number of different places in the City Code. There are some that Planning Commission deals with, there are others that the City Planners are given the authority to deal with and in other cases it takes the Planning Commission, a Council Committee and City Council to make the decision on the waiver. The first page of the chart is the *Land Subdivision Regulations* and this is actually fairly broad. There are a number of the general requirements for subdivisions and it's multiple pages of the Code that deal with things like streets, sidewalks, easements, blocks and lots (which is kind of how they are laid out) and grading and improvements. For the most part, the waivers of Subdivision Regulations that the Planning Commission has seen have fallen into one of the requirements for streets. Something about the street doesn't quite work so they seek a waiver. In the *Land Subdivision Regulations*, Article 7 is where you find special provisions that establish the process for dealing with a waiver of this particular section of Code, the *Land Subdivision Regulations*. This is what the Planning Commission saw last night with The Meadow Subdivision. It was two (2) waivers of the *Land Subdivision Regulations* related to a cul-de-sac street. In this case, it started with the applicant making a written request as part of their application. The Planning Commission as part of their review of the project makes a recommendation on the waiver request which is then forwarded to the appropriate City Council Committee. The questions about the street would go to the Safety Advisory and Transportation Committee. That Committee looks at the waiver request; they see the Staff recommendation, the Planning Commission recommendation and the applicant's original request and they again make a recommendation. All of that information then goes to City Council and they make the final decision. It is not subject to public hearing at City Council. It is only subject to public hearing because it is part of the plan review process for the Planning Commission. Examples of waivers seen by the Planning Commission would be the length of the cul-de-sac street. That typically comes into play because the Code doesn't exactly tell someone how to measure the length of a cul-de-sac street; where you start and where you stop. In the instance of last night, if starting from the center line of Monroe Terrace and went to the center of the cul-de-sac it's one measurement but if taking it all the way to the far side of the curb of the cul-de-sac it's then over the maximum length of a cul-de-sac street. Would a fix in the Code work? Maybe, but a lot of times it may be very clearly over. The unusual waiver from last night was the percentage of lots that front on the turnaround

of a cul-de-sac. Typically, the Planning Commission won't see that. If it's a subdivision it's usually much larger and the overall lot count is much higher so it wouldn't end up with a percentage issue of the number of lots in the overall development fronting on the cul-de-sac. In this case, the whole subdivision is basically the cul-de-sac. That is why this is established in the Code because it gives the ability to consider something different and it gives reasons if there are unusual circumstances.

The second page is a number of the instances from the *Zoning Ordinance* that trigger waivers. There is a laundry list of instances where there may be the ability for the applicant to seek a waiver. The Planning Commission has seen them typically related to the Arterial Street Buffer which is a buffer from Route 13. They have seen requests to reduce that buffer; it's required at 30 feet. The opaque barrier which is between non-residential and residential areas, that's where there has to be a fence, wall, or berm and the landscaping component. The Planning Commission can consider waivers for that fence component.

Mr. Tolbert questioned if it spells out who is responsible for the opaque barrier? Responding to Mr. Tolbert, Mrs. Melson-Williams stated that the fence is going to be on the property of the development. The landscaping is also on that commercial property. The landscaping has to be on the residential side of the fence but it is still on that commercial property. It doesn't get imposed on the adjacent residential piece; it is all planted on the commercial property.

Mr. Tolbert further questioned the cases where the barrier is trees that are already there, who is responsible for it? Responding to Mr. Tolbert, Mrs. Townshend stated whoever owns it.

Mr. Tolbert questioned if the developer would not always own that land where the trees are a barrier between residents? Responding to Mr. Tolbert, Mrs. Townshend stated that if they are accepting existing landscaping, it's on that property not on the residential property.

Mrs. Melson-Williams stated that you have to care for what's on your land; that's the simple answer.

For the most part, most of the waivers in the *Zoning Ordinance* have a process where the applicant makes a written request as part of their application and then Planning Commission makes the recommendation and acts on it with their motion. Planning Commission has the final say. The one exception to that is dealing with the emergency rear access requirements for residential development. That is the requirements in the Code that are related to fire protection needs and they come into play for townhouses and multi-story apartment buildings and not a single family detached house. In this case for a waiver of those emergency rear access requirements, Planning Commission makes a recommendation, it goes through a City Council Committee and the City Council makes the final determination. This is a section of Code that Staff thinks is outdated because the fire codes that the City deals with typically take care of any fire protection needs and issues well above this kind of requirement would do. We may ultimately be removing this out of the Code.

Mrs. Townshend stated that one of the challenges they have is the City Council Committee reviewing it will say if this is an emergency access requirement why is it being waived? The answer is always because the current regulations are based on an incident that happened in the early 1990's.

Mrs. Melson-Williams stated that it was in response to a fire situation where apartments were back to back and there was no clear access between the two and fire jumped, so this was a reaction to that to ensure that this would not happen on new construction. Once you get into apartment buildings that are multiple floors, in most cases you end up with units that have to be sprinklered anyway so it's a very different approach to fire protection.

Mr. Holt stated that he normally goes by what the Fire Marshal comments.

Mrs. Townshend stated that in discussion with the Fire Marshal, he also agrees that this is a section that's dated. The only reason they haven't brought forward anything to take out is because they just want to make sure that they don't take out something accidentally that is needed. They want to spend a little more time reviewing it.

Mrs. Melson-Williams stated that Page 3 included some other people who have the ability to waive sections of the Code. There are some that are very specifically given to the City Planner.

Mr. Holden asked if the wetland buffer was an example of this from last night. Responding to Mr. Holden, Mrs. Townshend stated that it is not called a waiver. It is something that can be reduced (subject to conditions).

Mrs. Melson-Williams stated that there are some things in the Code that don't call it out as a waiver but there is a procedure to reduce it in the Code. One of the things that they always deal with is dumpsters. It's not a waiver to only build one when you need two by code. It just says you can build one and you placehold the second. Years ago she thinks they treated them like waivers but it's not actually spelled out as a full waiver in the Code. There's a process for an exception; there are a number of things that are exceptions in the Code as well.

The City Planner has waiver ability related to lots in the RG-1 zone that were existing lots a number of years ago. They are continually finding that the re-development of lots in the RG-1 zone which is a lot of the northwest section of Downtown Dover had to go to Board of Adjustment to be able to re-build anything on the property. It was happening often enough that the Board of Adjustment asked if Staff could look at a different type of process for dealing with those. In most cases, there was no public opposition to it; it just made sense. They still have to make the request in writing. It has to come to the Planning Director which she looks at them on a case by case basis. For example she would look at things like if it makes sense to reduce the setback. Such as for the lots only twenty-five (25) feet wide and they want to put a fifteen (15) foot wide house on the property and they can't get ten (10) foot wide side yards on it.

The Sign Regulations have a number of things that the Planner is given the ability to deal with. Window signs and temporary signs especially related to grand opening events. There are a number of things that the Planning Commission doesn't even see that Staff has the ability to deal with.

Some of the actions that the Historic District Commission takes could be termed as waivers. As part of their Architectural Review Certification process which in some cases Planning Commission also participates in, allows the ability to reduce things like building setbacks to allow the building to be placed closer to the street in order to fit the character of the district. It's

somewhat like a waiver of the code requirement if it needed to be twenty (20) feet but they are going to let it be five (5) feet. It's all tied up in that Architectural Review Certification process. The same thing happens for signage in the Historic District. There's the ability to waive some requirements to make it fit the character of the area that they are dealing with.

All of these waivers are different than going to the Board of Adjustment for a variance or an appeal. The applicant could seek a variance from any code requirement. The waivers are specifically spelled out that there is a process here for it if the applicant can't meet this parking requirement. They would go before the Board of Adjustment if there was a setback of twenty (20) feet for their front yard and they want a porch that goes right up to their property line on the front of the house, if not in the Historic District. Separation distances for certain types of signs would also go to Board of Adjustment.

Mrs. Townshend stated that they have an application this month where the lot is well below the minimum lot size for the zone and there is no way they can place a house and meet the setbacks. She met with the applicant and went over different scenarios but they flat out cannot put a house there unless it's a very small one. So that application is going to the Board of Adjustment.

Mrs. Melson-Williams stated that the Board of Adjustment has Area Variances and Use Variances. They do not tend to see a lot of Use Variances but there is one pending. Board of Adjustment has filing procedures and criteria where they have to judge each variance and whether or not it's appropriate for it to be granted.

Mr. Tolbert questioned if Mr. K.C. Sheth was still on the Board of Adjustment? Responding to Mr. Tolbert, Mrs. Townshend stated yes, he was the Chairman.

Mrs. Townshend stated that they do want to work on some code issues for stormwater. The curbing waiver only relates to stormwater. There have been other areas where curbing has been asked to be flush not upright. For example, around Wawa and Royal Farms where it's more for handicap accessibility. She knows these are areas of the Code that they need to look at.

Mr. Tolbert questioned if there was the potential for the Board of Adjustment and the Planning Commission to have the same case and come to different conclusions? Responding to Mr. Tolbert, Mrs. Townshend stated no. If it's something that the Planning Commission can decide, it does not go to the Board of Adjustment. The Board of Adjustment is really the last resort if it cannot be dealt with administratively.

Mr. Holden questioned what appeals go to the Board of Adjustment, administrative decisions? Responding to Mr. Holden, Mrs. Townshend stated yes which typically it's an appeal on interpretation of the Code. If something is very clearly stated in the Code it's a waste of time to go to the Board of Adjustment for an appeal. When she first started there was one application where someone simply didn't like the decision and they went on to an appeal. It was whether or not a deck was a structure. It's right in the Code that it's a structure. But if it's something where it's more of a judgment call then it will go to the Board of Adjustment. They see very few appeals because typically it's something that would be easier for them to make a case for a variance than get the Board to overturn something.

Mr. Tolbert questioned if an applicant could go to court from a Board of Adjustment decision?

Responding to Mr. Tolbert, Mrs. Townshend stated yes, or for a Planning Commission decision as well.

Mr. Tolbert further questioned if City Council could reverse the Board of Adjustment decision? Responding to Mr. Tolbert, Mrs. Townshend stated no, nor can they reverse anything that the Planning Commission does. If somebody doesn't like the action taken on a Site Plan, it doesn't go to Council. That would be an appeal to the Court.

Mr. Holden questioned how often that has happened? Responding to Mr. Holden, Mrs. Townshend stated a few times. The Maple Dale PND was appealed to the Court. They made the argument that it was inconsistent with the *Comprehensive Plan* and the City won that case. It was getting appealed to the Supreme Court from there and she thinks Maple Dale and the Plaintiff settled. The ones prior to that were the Friends of Old Dover cases against Zimmerman's building which is now State Street Commons. It went to Court twice and was kind of pending in Court when the demolition happened. The Village of Cannon Mill was a Supreme Court case that helped establish the State's Law on Vested Rights. The Village of Cannon Mill came through as a Subdivision. It had been through the preliminary stage. The land next to it went into an Agricultural Preservation District. The State Law is that for an Agricultural Preservation District you have fifty (50) feet from that where you cannot place a structure. The court case was whether that fifty (50) foot buffer applied to these lots that pre-dated the change. Ultimately the answer was no, it did not apply.

Mr. Holt stated that it's important when they make motions on applications that run against the grain that they state the reasons in the motion why they are doing it.

Mrs. Townshend stated for instance, denying a Conditional Use is a really fine line because the Code has already said that it is okay with conditions. Planning Commission members need to be able to be clear of why they can't apply conditions and why it needs to be denied.

Mr. Cregar questioned if the daycare was the most recent Conditional Use that was denied? Responding to Mr. Cregar, Mrs. Townshend stated yes, she is only aware of two (2) Conditional Uses that have been denied since she has been with the City of Dover. The day care was one and then the Pregnancy Health Center that was looking to go on South State Street near South Dover Elementary School; this application has been 3-4 years ago.

TRANSPORTATION IMPROVEMENT DISTRICTS

Mrs. Townshend stated that this was something that they were watching but didn't think they were going to get involved with. They figured they would let other people try it first. She went to a scoping meeting for a development project at the old Berry Van Lines. That had come through as a Site Plan several years ago but it's now expired. There is a developer that wants to put a shopping center there. They went to DelDOT for the scoping meeting and because of the change in the DelDOT Subdivision Manual the developer, in order to develop that site, would have to study the intersections as far as north of Scarborough Road and as far south as Division Street. That's just the scope of the Traffic Impact Study. With the Traffic Impact Study they determine the deficiencies in the intersections and what needs to be done. The question is then how much is the developer on the hook for? She was sitting in the scoping meeting and this was the first time that she had ever been in a meeting where the DelDOT staff starting looking at each other and said this isn't what they wanted and needed to figure something out.

The other thing that was added to the Regulations was the ability to develop a Transportation Improvement District. They determined that this would be an issue that they would figure out how to resolve for this site and then the next site on Route 13 that gets developed, they would be in the same position again. They decided that the best approach was to develop a Transportation Improvement District that would comprise the entirety of Route 13 in the City limits and Bay Road. They have now begun the discussions with DelDOT and this is a presentation that DelDOT gave to City Council last week. City Council's motion was to authorize she and Mr. Scott Koenig to meet with DelDOT to begin to develop a Transporation Improvement District.

First question is what is a TID? It's a geographic area defined for the purpose of securing improvements to transportation facilities in that area.

Second question is why to do it? She thinks to make things better. More equitable is really important because what happens now is if an intersection is kind of teetering near its maximum, you can have a development that comes through and absorbs all of the capacity and then the next developer is responsible for fixing all of the problems that have been there for years.

Mr. Holden stated that they have some intersections that are already well out of the level service but the next person who comes in and added one car has to do a thousand cars worth of improvements.

Mrs. Townshend stated that the Playtex sites at Maple Parkway and Kings Highway are an example of where every developer ends up walking away because of the transportation issues. It's predictable because this master Traffic Impact Study will be done and there will be an agreement that lays out how the improvements get split up and what the developers will be responsible for. It links land-use and transportation as part of the study that's done. They have to go through and model based on land-use assumptions. That's why this is going to be something that's going to blend itself right into the *Comprehensive Plan* because they are going to have to talk about what properties are going to be later.

It looks at all aspects. One of the problems with the Traffic Impact Study system is that Traffic Impact Study is looking at intersections and looking at moving vehicles. One of the things that she frequently says especially as it relates to the core area of the City, is every improvement that you make to accommodate vehicles is making it harder for someone on foot or on a bicycle. Under this approach they are looking at all modes of transporation, not just cars and the ability to incorporate smart growth principles. One of the ideas is that areas that have the Transportation Improvement Districts will actually be ranked higher in the Capital Transportation Plan for the State. That is definitely a benefit.

Where will they look at doing TID's? They will do them in Municipal and County growth areas; areas that are colored on the display map which is the State's Strategies for Policies and Spending. DelDOT, the local government which would be the City of Dover, and the Dover Kent County MPO would all be involved. Three entities would engage in an agreement. There is a monitoring program, a master plan and an infrastructure fee program. There could be a fee per square foot for commercial use or a fee per dwelling unit per residential use. They would figure out what that fee is, the plan is already there so the developer could either make a portion of the improvement or they could pay a fee into a fund. As discussed so far, the City would collect the

money. They would hold on to it until it's time to implement the project. Again, there could be fees or there could be road improvements made by developers. There is also the idea that if they could get projects into the Capital Transportation Plan it would help.

The example she used on the Kings Highway property, she uses all of the time because it has been a problem. You don't really hear people complaining about it other than the people who live on Kings Highway. But you don't really hear people complain about how long it takes at that light or they don't like that light but it's a failing intersection. People aren't complaining about it; it's never made it into the Capital Transportation Plan but the fact that it's failing is preventing anything from re-developing on that corner. The other thing in the agreement is that they can agree on a lower level of service. In certain areas, they might not need level of service D; they might be able to accept failure during certain hours of the day.

The League of Local Governments will be discussing this on Thursday night. She and Mr. Koenig are meeting with DelDOT on December 3, 2013 to really start the process but in their case they do need to amend the *Comprehensive Plan*. She thinks they are going to work with the City and they can do all of the ground work because they know the City will do it but they are going to work to amend the *Comprehensive Plan* to allow it before they can sign the TID Agreement.

Mr. Bill Brockenbrough is with the Department of Transportation. His job is County Coordinator but he really is the person who oversees all of the Traffic Impact Studies. He is the person they will be dealing directly with.

There is a FAQ that went out in the packet.

Mr. Holden questioned if they were thinking of doing a TID at the location on Kings Highway? Responding to Mr. Holden, Mrs. Townshend stated that they were talking about the entirety of the Route 13 Corridor so it would include that Kings Highway piece. If they came up with a small geographic area they are going to find that somebody is going to come in and they're going to be right outside of the area and are going to have the same problems.

Mr. Holden stated that it allows them to have pieces developed within that corridor which may be the highest priority item but they may not get a developer to come there until the area is improved. So they may need to be able to take the benefits or monies from the others to be able to get action at that location.

Mrs. Townshend stated that for a number of years, DelDOT has some type of a regional study where they have allowed developers to contribute toward regional studies in-lieu of doing a TIS and that's the money that they've got for these projects.

Mr. Holden stated that the intersection on Kings Highway is such a dangerous one for pedestrians.

Mrs. Townshend stated that she goes across that intersection on her bike and it's not that bad.

Mr. Holden stated that as you go east on Division Street, the viewshed going around that curve or if you are going west on Park Drive trying to cross, when there are leaves on trees, the trees on

the high side of the St. Jones River on the south side, impede that vision. He would suggest cutting the first fifteen (15) feet of those trees back, adjacent to the bridge so that a pedestrian trying to go from Park Drive into the park and the car that's going east, getting ready to go around that dropping right hand corner can see each other. Right now if cars are going fast, you have to take off at a sprint to get through that lane before a car would hit you.

Mrs. Townshend stated that the Capital City Trail is another thing that's been ongoing. The Capital City Trail, runs long Public Safety Boulevard and along Route 13 and then up Martin Luther King Boulevard and stops there. The next phase will go behind Public Archives and out to right across from Treadway Towers.

Mr. Holden stated that they have put curb ramps at this location. Responding to Mr. Holden, Mrs. Townshend stated yes, they have already done that part. The next phase is Park Drive.

Mr. Holden questioned if the issue was building a sidewalk in a flood plain? Responding to Mr. Holden, Mrs. Townshend stated that she didn't think a lot of the flood plain stuff related to infrastructure but now that she has to issue a Building Permit for the West Dover Connector where it crosses the Puncheon Run, she needs to figure out how to deal with it. Part of the thing is that they need to make sure it does not alter conditions in the flood plain. She doesn't think it will.

Mr. Holden stated that a couple feet of sidewalk if anything, reduces the chance for erosion as the river overflows on Park Drive.

Mrs. Townshend stated that the flood plain goes all the way up to the houses. Those houses may want to look at doing a map amendment. When we had Hurricane Irene a few years ago, Park Drive was under water.

Mr. Holden stated that the intersection at Park Drive is better when the leaves are off of the trees but he thinks fifteen (15) feet of trees makes the intersection much more dangerous than it could be. If it's in the morning, people coming around that corner would have the sun in their eyes and they are never going to see a pedestrian trying to cross there. The trees in this area are all small.

Mrs. Townshend stated that she had a meeting coming up on that trail shortly so she will talk about that issue.

Mr. Holt questioned if they were dredging in Mirror Lake? Responding to Mr. Holt, Mrs. Townshend stated no, they were doing activated charcoal, it binds to the sediment.

Mr. Holden stated that it's like a Brita filter but they basically have spread these pellets of activated carbon all across the bottom that gets absorbed into the top layer. It is a sponge that locks up PCB's, the lead and other stuff that's in the sediment and takes it out of the food chain. It absorbs it like a sponge and locks it up and doesn't release it.

Mr. Tolbert questioned if it stays there forever? Responding to Mr. Tolbert, Mr. Holden stated that it stays there forever, it captures it and removes it from the food chain. Even as a catfish digs in the dirt those pollutants are inside those activated carbon molecules and they won't allow it to stay in the food chain.

Mr. Holt stated that he thought they were going to try to deepen that lake by dredging it to push the limits of the flood plain. Responding to Mr. Holt, Mr. Holden stated that the he would argue that the depth of that doesn't change how it floods. The issue is the tide and size of the culverts under Court Street. Whether that pond is one hundred (100) feet deep or one (1) foot deep, it's the surface water elevation in that pond that Mirror Lake is tidal. How deep it is doesn't affect how it floods.

Mr. Tolbert questioned if dredging would remove the pollutants? Responding to Mr. Tolbert, Mr. Holden stated that dredging could remove all of the pollutants but there are a couple problems with that. One, DNREC said they wouldn't permit it, it doesn't increase commerce, it's not for navigation and it doesn't necessarily affect recreation. There is no grand economic benefit or navigation. They get concerned with dredging because when you dig it up you mix it up and it's expensive. You have to incinerate the material that you pull out and then you have to put it in a landfill.

Basically with Mirror Lake they said they would love to try this new solution and implement and pay for it or you are still going to have to address this problem. So they spread the activated carbon and returned the mud bar. They have kind of added material and feathered that sediment bar that you see at low tide. He is not sure if they have started but they're going to do plantings along that area and make it like an emergent wetland.

Mr. Tolbert questioned if there would be fish in there? Responding to Mr. Tolbert, Mr. Holden stated that there were fish there now but they have issued a fish advisory. They said that they thought it would take seventy-five (75) years naturally for the contaminates to be either washed out or covered up so that you could eat a fish. They have modeled that within a few years they think they will be able to remove the fish advisory. But it's also new; they have used it on some Department of Defense contaminated sites.

Mr. Tolbert questioned what kind of fish were in the lake? Responding to Mr. Tolbert, Mr. Holden stated that when they had the fish kill below Silver Lake Damn last summer, 60,000 fish in the first one-hundred (100) yards of St. Jones River. Those were only the ones that died. If you went down there and looked there was still fish coming to the surface. There were hog chokers, catfish and carp. It was an unreal amount of fish from the foot bridge to the damn. He knows people right below Court Street have caught 36 inch strippers. You don't realize the amount of wildlife in this area. The owner of Fraizer's says that there are river otters and beavers that play on the lily pads. There are bald eagles that eat fish there. People fish there constantly because it's good fishing. But it's going to improve the water quality and soak up the pollutant. DNREC likes it because it's working with Mother Nature that is working to turn Mirror Lake into a tidal stream.

Mr. Tolbert questioned if fish come in naturally? Responding to Mr. Tolbert, Mr. Holden stated yes he has never heard of it being stocked but it's tidal. It's got a 1.5 feet tide change on the typical tides. There is a wood damn if you go to Court Street and look downstream at low tide you see the top of an old wood damn. He was in Silver Lake Park with a bunch of DNREC people and he was swearing to them that the tide never came into Silver Lake Park. He walked back to work and the little concrete low head damn behind Murphey School, the tide was coming in and coming up over that into Silver Lake Park.

Mr. Tolbert stated that the City has resources that should be utilized.
Mr. Holt stated that he always thought that a lot more could be done with the St. Jones River and Silver Lake Park.

Mr. Holden stated that the Capital Trail is being done now. There is talk of putting a trail on the other side of St. Jones back into the library, DNREC, the Governor's Mansion so that they will have a loop like they have in Milford, DE.

Mr. Baldwin questioned what happened to Transporation Hub that was supposed to be on Water Street? Responding to Mr. Baldwin, Mrs. Townshend stated that they actually did an RFP for public private partnership (for a building) and she doesn't think it really went anywhere. She doesn't think that the State wants to invest any money into it so it's kind of on hold.

Mr. Baldwin stated that last Saturday he was on South Governors Avenue where the Greyhound bus is. He doesn't know if the passengers or the driver set the luggage on the roadside of the bus but that's where it was sitting and there were some kids coming around to pick up the luggage. Traffic was rolling by and it was a dangerous situation especially for those kids. He doesn't know how often that happens.

Mrs. Townshend stated that the Transit Center itself is constructed and she thought that at some point they were talking about moving the Greyhound operation over there but they wanted a ticket area. At this point, there is just no money for a building. The private sector didn't find it to be advantageous to build it.

Meeting adjourned at 1:29 PM

Sincerely,

Kristen Mullaney
Secretary