CITY OF DOVER PLANNING COMMISSION
November 19, 2012

The Regular Meeting of the City of Dover Planning Commission was held on Monday, November 19, 2012 at 7:00 PM with Vice-Chairman Tolbert presiding. Members present were Mr. Shomo, Mr. Tolbert, Mr. Holt, Mr. Ambruso, Mrs. Still, Mr. Holden, Mr. Baldwin and Dr. Bobby Jones (Newly Appointed Member to replace Francis Nichols). Colonel Welsh was absent.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mrs. Duca, and Ms. Metsch. Also present were Mr. David Braun, Mr. Nicholas Alessandro, Mr. Steven Turner, Mr. Brett Alexander, and Mr. Chris Nowalk. Speaking from the public was Councilman William Hare and Mr. Leroy Steadey.

Staff would note that Item #1: S-12-20 Rear Plaza Improvements at 22-24 West Loockerman Street under New Development Applications will be postponed until the next meeting due to the fact that the Historic District Commission has not reviewed the application.

APPROVAL OF AGENDA

Mr. Baldwin moved to approve the agenda as submitted, seconded by Mr. Shomo and the motion was unanimously carried 8-0 with Colonel Welsh absent.

Mrs. Still moved to approve the amended agenda, seconded by Dr. Bobby Jones and the motion unanimously carried 8-0 with Colonel Welsh absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF OCTOBER 15, 2012

Mrs. Still moved to approve the Planning Commission minutes of October 15, 2012, seconded by Dr. Bobby Jones and the motion unanimously carried 8-0 with Colonel Welsh absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the Planning Commission Quarterly Workshop scheduled for tomorrow November 20, 2012 has been cancelled. Staff will work with Colonel Welsh to come up with a training agenda to use the Quarterly Workshops as an opportunity for training and would hope to implement that early in the next calendar year. The next Planning Commission regular meeting is scheduled for Monday, December 17, 2012 at 7:00 PM in the City Hall Council Chambers.

Mrs. Townshend provided an update on the regular City Council and Legislative and Finance Committee meetings held on November 13, 2012 (Due to Holiday held on a Tuesday).

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

C-12-06 Dover First Christian School at 647 Wyoming Avenue – Public Hearing and Continuation of the Review of a Conditional Use Site Plan to allow for the construction of a 4,000 SF school building and associated site improvements. The application also includes a Conditional Use to allow

for the temporary use of the existing hall within the church as the school. The property is zoned R-8 (One Family Residence Zone). The property is located on the north side of Wyoming Avenue east of New Burton Road and west of Woodford Drive. The owner of record is Seventh Day Adventist Church. Address: 647 Wyoming Avenue. Tax Parcel: ED-05-76.20-01-78.00-000. Council District 2. *Waiver Requests: Elimination of Sidewalk along New Burton Road, Elimination of Sidewalk along Konschak Avenue, Elimination of Upright Curbing, Reduction in Parking. At the meeting of September 17, 2012, the Planning Commission referred the application to the Architectural Review Oversight Subcommittee and tabled the application until the October meeting. At the meeting of October 15, 2012 after hearing the Architectural Review Oversight Subcommittee Report, the Planning Commission set a Public Hearing on the application for November 19, 2012.*

Representatives: Mr. David C. Braun, Braun Engineering and Surveying; and Mr. Nicholas Alessandro, Diamond State Pole Buildings.

Mrs. Townshend stated that this is the third meeting where you have discussed this application. In September, the Planning Commission reviewed the application and held a public hearing. The architecture of the building was referred to the Architectural Review Oversight Sub-Committee. A report was received from that Committee at the last meeting on October 16, 2012. In front of you this evening is a revised architecture that depicts a brick building which is consistent with the request of the Architectural Review Oversight Sub-Committee.

Mrs. Townshend further stated that last month, you will recall, the public hearing had been closed so there was no public testimony given on the application; however, there were a number of the members of the public who were there that were interested in speaking. At that time, after the discussion between the Planning Commission and the applicant, the Planning Commission voted to schedule a public hearing for this evening where the public would be able to have some say over the application and express their comments. This was advertised in accordance with our normal procedures with the property being posted for this evening.

Mrs. Townshend further stated that as a reminder, this is a Conditional Use application for a school at the Seventh Day Adventist Church that is a pre-school and kindergarten program. They have requested in addition to the Conditional Use a partial elimination of sidewalk along New Burton Road, a partial elimination of sidewalk along Konshack Avenue, combined parking spaces under the notion that you are not going to have people using the church and the school at the same time so they are looking to have combined spaces, and the elimination of curbing.

Mr. Braun stated that he would like to go over the sidewalk on New Burton Road and in order to do that he has some pictures that he would like to pass out at this time. (Photo copies to each Planning Commissioner; see application file). The *Zoning Ordinance* includes four (4) possible criteria for considering the waiver of installation of sidewalk along a road in conjunction with a development application. This site meets three (3) of those four (4) criterias. The first is that the property is isolated with respect to sidewalks primarily along New Burton Road as there is no other sidewalk in the area that this would connect to. The second is that the proposed use would not generate or attract additional pedestrian trips. Everyone anticipated to come to this site would be in vehicles. You typically do not have children walking to a pre-school type of facility of this nature from the neighborhood. The third and the reason for handing out the pictures is that the physical characteristics of the property make it difficult and impractical to install sidewalks. If you look at these pictures looking from the

intersection of Wyoming Avenue and New Burton Road looking up New Burton Road, a typical sidewalk would be a nominal distance of three (3) to five (5) feet off of the edge of the pavement and five (5) feet wide going up along the edge of the road. In this instance, there is a six (6) to eight (8) foot shoulder depending on the area on New Burton Road next to the travel lane and immediately after the edge of pavement for the shoulder there starts a ditch and the ditch is roughly eight (8) feet wide from top to top. At the top of the ditch, there is a pole line that runs down through the property where there are about four (4) more poles near the top of the ditch and in the middle of the property there are three (3) existing trees immediately behind that pole line. With the possibility of having to install sidewalk in this area, they would have to install culvert in this ditch, fill it in, and put the sidewalk over the culvert. Another possibility would be if you want to keep it closer to the road would be to take those trees out and move the other trees that have been shown on the Plan further back into the site. The most likely scenario in doing it would actually be to put the sidewalk back behind the trees which puts the sidewalk twenty-five (25) feet or more onto the property in the area of these trees. He is unsure if this would require an easement to the City or how it would be done; however, as a public sidewalk there would need to be something done in order to provide that path through the property.

There were no questions raised from any Planning Commission members at this time.

Mr. Alessandro stated that he would like to reiterate that the Planning Commission members have the drawings of the proposed exterior as being brick and asphalt roof to match the existing church. He would like to bring up one more point as there seems to be a lot of new faces here. The church felt so strongly about building the school that they are doing everything they can to have an attractive addition to the residential neighborhood. They are a part of the neighborhood and not excluded from it and a lot of the people that attend the church care very much about the neighborhood that they are in. It is very important for them to blend in and have an attractive addition.

Mr. Tolbert opened a public hearing.

Mr. William Hare – 23 Woodburn Circle and City Council Representative for the 2nd District – Stated that he was here on behalf of numerous residents (9 people stood in the audience). A copy of our correspondence was sent earlier and there are a few questions that he would like to address. As was stated, there is a concern regarding the traffic on New Burton Road and Wyoming Avenue. If something can be done about this because it is already a major hazard not just with this development adding more traffic; however, currently with everyone in this district in that area it is a problem. It was stated earlier that it is a problem or hardship for the children to be bused an hour to school when this already happens with a lot a local districts. When they get out of kindergarten, what is going to happen next, is this going to be something that is going to come back asking for first grade, second grade or third grade or will they then go back to being bused somewhere else? Also, what is the maximum number of students that would be allowed? Is it thirty-seven (37), fifty (50) or one hundred (100)? Is there a limit of how many can be in this size of a structure? One of the concerns is the buffer between the neighborhood and the church and the school. After hearing Mr. Braun's presentation, he thinks that everyone understands the New Burton Road sidewalk and does not think that it is a problem. There was a stand of trees and shrubs between the church and property on Konshack Avenue. They went in and tore out all the shrubs and trees on the property that is not deeded to them. It was a very nice buffer that prevented noise and wind barrier. If there is going to be new shrubs and buffer put in until that issue is resolved as it is currently in litigation, how do you know where that buffer needs to be until you find out where the property line is? It has also been

mentioned regarding the building itself and if this going to be approved we hope that the Architectural Review Oversight Sub-Committee recommendations are followed. Also, that the safety issues regarding the traffic will be looked into and that if nothing else, it is approved on condition of this litigation and who owns what property there is cleared up and taken care of because until that happens, you do not know the property line. There was complete removal of trees and shrubs off of property that did not belong to the church.

Mr. Leo Steadey – 42 Konschack Avenue – Stated that he has resided in the Sherwood subdivision for thirty-five (35) years plus as well as most of the residents. The resident that borders the property has been there longer than he has been there which speaks for a lot for the community. We maintain this property and have been well supported by the City and we in response return to them what they give to us. We keep the place well maintained with our houses in good condition with the property in excellent condition. If in the event this program that is being presented is accepted by this Commission, he would request two (2) things. That the church, whatever they decide to put there, stays in the context of what their Sherwood subdivision has right now. He does not want a pole building. He knows what they are as he has built some before. He has been in them and has used them and it does not leave much to be desired. On the commercial side it would be okay; however, for residential he does not think so. If they are going to have that then at least meet the standards that we have, something that lives with us propertywise, setup-wise, and facilitywise. He does not have any problems with the church; they have been good neighbors to him and he has never had a problem with anyone over there. He has known for years about them cutting down the line of trees. With traffic at the intersection, he is glad he does not have to go down this way anymore in the morning as he is retired and does not have to go out onto the roadways. New Burton Road and Wyoming Avenue have had fatalities and numerous accidents. There is a congestion problem in that area as there is no control whatsoever for traffic inbounding north to Dover from south of them and people coming off of New Burton Road are shoving out onto this road. Safety should be taken into consideration for this situation. For the kids, if they are not going to go there then they are going to commute and will put more people in the area with more vehicles in the morning. If you do not live in this area, you want to go down there some morning and watch these guys try to get out it is extremely frustrating. Tempers get short as people do not want to be late for work and it just escalates from there.

Mr. Tolbert closed the public hearing after seeing no one else wishing to speak.

Mr. Ambruso questioned Mr. Hare since he is basically the spokesperson for the group, would you say that subsequent to the changes that the church has been willing to make, do most people feel comfortable with this in their neighborhood? Responding to Mr. Ambruso, Mr. Hare stated that the first thing is that they don't want it there. However, putting that aside if it is going to be approved and is following the Architecture Review Oversight Sub-Committee's recommendations and the issue of the property line and the shrub and tree buffer that is supposed to go in is resolved before anything is done, they could live with that. The sidewalks along Konschack Avenue that is an issue; however, the ones on Woodford would still be required and a nice tree and bush buffer between everything along with the Architecture Review Oversight Sub-Committee recommendations. The traffic issue is going to always be there; however, this is just going to make it worse.

Mr. Ambruso questioned what the realistic figure as to how many children will be enrolled here and its maximum capacity. Responding to Mr. Ambruso, Mr. Braun stated that the maximum would be fifty (50) children.

Mr. Ambruso further questioned if they were happy with fifty (50) as a capacity? Responding to Mr. Ambruso, Mr. Braun stated that yes, that is why the building was sized the way that it is.

Mrs. Still questioned regarding the property line that is in contention, is that where the line of trees is depicted on the Plan? Responding to Mrs. Still, Mr. Braun stated that the land that is in contention is the triangle piece shown on the Plan from taking that line straight across and the triangle piece that goes next to the house to the north.

Mr. Tolbert questioned the ownership of the land, do you own the land that is in question and is it deeded to the church? Responding to Mr. Tolbert, Mr. Braun stated that the church feels that it is and has been questioned by others of whether it is or not.

Mr. Tolbert further questioned if this issue would be resolved? Responding to Mr. Tolbert, Mr. Braun stated that this matter is currently in litigation. He would ask because of the timing of what the church is trying to do with the school that if the Commission wants to put a condition of putting up some form of buffer along wherever the property line is, that the church would agree to do that once it is finalized as to where the line is by litigation rather than holding up the approval of the Conditional Use.

Mrs. Townshend stated that the question is what kind of impact would it have on the approvals and she believes that the setbacks of the building are nowhere near where the dispute is and if it is determined that they need to plant the buffer along this property line or wherever that property line is determined to be, those issues would be resolved during the Final Plan review.

Mr. Holden stated that there has been a lot of discussion over the exterior architecture of the building and we have received a new schematic. He is curious as to the source or who put together the all brick with asphalt shingles and is this now the position of the church that this is their proposal to build? Responding to Mr. Holden, Mr. Alessandro stated that yes it is, brick exterior with an asphalt roof that is the closest match to what the church has.

Mr. Holden further questioned if this followed the Architectural Review Oversight Sub-Committee's recommendations? Responding to Mr. Holden, Mr. Alessandro stated that there were just a few minor small details nothing of consequence.

Mr. Holden further questioned if the church was interested in making a request on any future changes to the number of students or grades that the school would entertain? Responding to Mr. Holden, Mr. Alessandro stated no.

Mr. Holt moved to approve C-12-06 Dover First Christian School located at 647 Wyoming Avenue with the Architectural Review Oversight Sub-Committee's new plans on architecture and to include that a tree buffer be placed between the school and New Burton Road along the north property line to also include all the waiver of requests and the DAC comments of record, seconded by Mr. Shomo.

Mr. Holden questioned if the motion followed Staff recommendations regarding the waivers or does it approve all the waiver requests? Responding to Mr. Holden, Mrs. Townshend stated that the motion was to approve the waivers.

Mr. Ambruso questioned the sidewalk along Konschak Avenue, how many feet is that? Responding to Mr. Ambruso, Mrs. Townshend stated that with the sidewalk along Konschak Avenue Staff recommend that the sidewalk be waived because it does not provide any meaningful purpose. They have proposed along Woodford Drive to provide sidewalk there that is not part of the waiver request.

Mr. Holden noted that the Staff recommendation was for denial of the waiver request for the sidewalk along New Burton Road. He recognizes the challenges there are and that it is an area where there is no sidewalk adjacent to. He recognizes the challenge of creating a sidewalk and entrance pathway in areas where there are none; however, there has to be someone who goes that way first. What is the path for potential reconsideration to include Staff's recommendation versus approving the waiver? Responding to Mr. Holden, Mrs. Townshend stated that if you would want to not approve the sidewalk waiver along New Burton Road you would need to make a motion to amend the motion on the floor.

Mr. Holden moved to amend the motion on the floor to include the Staff recommendation to deny the sidewalk waiver along New Burton Road, seconded by Mr. Shomo.

Mr. Holt questioned if they would be agreeing to try and put the sidewalk on New Burton Road? Responding to Mr. Holt, Mr. Tolbert stated that the first motion was for approval of all the waivers which would allow them to not construct the sidewalk on New Burton Road. Mr. Holden has made an amendment to require the sidewalk be constructed.

Mr. Ambruso stated that we are basically talking about constructing a sidewalk that goes nowhere.

Mrs. Townshend stated that Mr. Holden's motion would require the sidewalk. First, you vote on Mr. Holden's motion to amend and then you vote on the motion either as amended or the initial motion.

Mr. Ambruso stated that he thinks it is derelict to draw attention or promote sidewalks to have people walking in this area as it is such a dangerous area.

Mr. Holt stated that from looking at the pictures, the sidewalk would be impractical to construct along the roadway. It would be difficult to put in and would be expensive and the question would be where to put it as there are not many options there.

Mrs. Townshend stated that currently, you are on the motion to amend the initial motion. At this time a roll call was taken.

Nay (5), Yes (1), and there were two abstentions, Dr. Bobby Jones and Mr. Baldwin and Colonel Welsh absent.

Mrs. Townshend stated that the motion to amend failed so you are now back to the original motion.

The original motion carried 6-0 with Dr. Jones and Mr. Baldwin abstaining and Colonel Welsh absent.

NEW BUSINESS

Appointment to Architectural Review Oversight Subcommittee.

Mrs. Townshend stated that Mr. Nichols was serving on that committee and has now left the Planning Commission that now leaves a vacancy.

Dr. Jones recommended Mr. Holden be appointed to the Architectural Review Oversight Sub-Committee, seconded by Mr. Holt and the motion was unanimously carried 8-0 with Colonel Welsh absent.

NEW DEVELOPMENT APPLICATIONS

SB-12-02 Lands of First National Bank of Wyoming at 219 Beiser Boulevard – Public Hearing and Review of a Minor Subdivision to create two (2) parcels of land from the existing 3.78 acre ± parcel. The parcel will be subdivided into a 1.39 acre ± parcel and a 2.39 acre ± parcel. The property is zoned IPM (Industrial Park Manufacturing Zone). The property is located in the Enterprise Business Park and is on the west side of Beiser Boulevard. The owner of record is First National Bank of Wyoming. Address: 219-229 Beiser Boulevard. Tax Parcel: ED-05-076.15-01-03.08-000. Council District 1. *The previous Site Plan S-07-23 Office Buildings at Enterprise Business Park Lot 2 has expired.*

Representatives – Mr. Steven Turner, Atlantic Group, Surveying Company for the Subdivision.

Mrs. Harvey stated that the area of land to be subdivided into two (2) parcels zoned IPM in an area of that consists of commercial and administrative offices. The applicant has submitted a minor revision on the location of the property line which is still in compliance with the code. The revision request will not have any effects on the DAC Comments of record. The previous Site Plan application for the construction of two (2) office buildings that was granted conditional approval by the Planning Commission in May of 2007 has expired and the buildings have not been constructed. At this time, there are no other plans that have been submitted to the Planning Office for construction.

Mr. Turner stated that they have changed the new line of division slightly and wanted to make sure that this was approved before they went forward with it and it sounds like it was.

Mr. Holden questioned with regards to the existing water and sewer lines through the parcels that have easements, you are not aware of any issues with the proposed plans for the lines that pose an issue there? Responding to Mr. Holden, Mr. Turner stated not at this point, there were some plans submitted in the past so that the building and structures would have to stay outside of those areas which are the reason that we changed the line to accommodate the building.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mr. Ambruso moved to approve SB-12-02 Lands of First National Bank of Wyoming located at 219 Beiser Boulevard to include all DAC Comments of record, seconded by Mr. Holt and the motion unanimously carried 8-0 with Colonel Welsh absent.

US-12-01 Dover Mall at 1365 North DuPont Highway: Comprehensive Signage Plan – Public Hearing and Review of a Unified Comprehensive Signage Plan application to permit the construction and implementation of signage for the Mall consisting of a pylon sign, wall signs for the anchor

tenants, and directional signage. The property is zoned SC-3 (Regional Shopping Center Zone) and is subject to the SWPOZ (Source Water Protection Overlay Zone) Tier 3 - Excellent Recharge Area. The property is located on the east side of North DuPont Highway south of Rustic Lane. The owner of record is Dover Mall, LLC. Address: 1365 North DuPont Highway. Tax Parcels: ED-05-057.00-01-14.00-000, ED-05-057.00-01-13.01-000, ED-05-057.00-01-13.02-000, ED-05-057.00-01-13.03-000, and ED-05-057.00-01-14.03-000. Council District 3.

Representative – Mr. Brett Alexander, Simon Property Group, Representative for Dover Mall.

Ms. Cornwell stated that the Dover Mall originally came in with a Comprehensive Sign Plan in 2001. Based on the last Site Plan Application for Dick's Sporting Goods, Staff recommended that they update the Plan to address additional signage needs for Dick's Sporting Goods and other changes to the Mall. The intent of the Plan is to address signage for the large complex. The Mall is proposing one (1) free standing pylon sign, eleven (11) existing directional signs, and multiple wall signs for the mall entrance and the large tenant spaces. There is currently one pylon sign that they are looking to update at the same location. Staff is proposing that they keep the same location with the sign area increasing slightly (for the pylon sign).

Ms. Cornwell further stated that the Plan includes eight (8) existing wall signs for Boscov's, two (2) existing wall signs for the cinema, four (4) existing, and one proposed wall sign for the JC Penney's, three (3) existing and one proposed wall sign for the mall entrance, two (2) proposed wall signs for the proposed Dick's Sporting Goods, eight (8) existing wall signs for Sears, six (6) existing and one proposed wall sign for Macy's, and one existing sign for the Old Navy Store. The Plan also includes the new pylon sign at the existing height which is forty-four (44) feet six (6) inches with a sign area increasing to three hundred fifty-eight (358) feet. The Plan also includes the ability for any future tenants with an exterior mall entrance to have one wall sign at seventy-five (75) square feet. This is in keeping with the wall sign that the Old Navy would have with the same sign area.

Ms. Cornwell further stated that Staff has made a number of recommendations which include that landscaping be provided at the base of the pylon sign and that the pylon sign be allowed to have more than three (3) tenant spaces on the sign. The other agencies reviewing this application have provided their comments.

Mr. Alexander stated that they agree with all Staff DAC Comments of record.

There were no questions raised from any Planning Commission members at this time.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mrs. Still moved to approve US-12-01 Dover Mall located at 1365 North DuPont Highway: Comprehensive Signage Plan to include all of the DAC Comments of record, seconded by Mr. Holt and the motion was unanimously carried 8-0 with Colonel Welsh absent.

US-12-02 Redevelopment of Former Wal-Mart Site at 1574 North DuPont Highway: Comprehensive Signage Plan – Public Hearing and Review of a Unified Comprehensive Signage Plan application to permit the construction and implementation of signage for the proposed

redevelopment of the former Wal-Mart building consisting of two pylon signs and wall signs for the future tenants. The property is zoned C-4 (Highway Commercial Zone). The property is located on the west side of North DuPont Highway, north of Rustic Lane. The owner of the property is Onix Dover, LLC. Address: 1574 North DuPont Highway. Tax Parcel: ED-05-057.00-01-05.01-000. Council District 4.

Representative – Mr. Christopher Nowalk, Goldleaf Associates on behalf of the Property Owner, Onix Dover, LLC.

Ms. Cornwell stated that this site qualifies for a Unified Sign Plan as it has more than four hundred (400) feet of frontage on an Urban Principal Arterial which is North DuPont Highway. The Plan includes two free standing pylon signs and multiple wall signs for potential tenants. The first pylon sign is the south pylon sign proposed at 440 square feet in sign area. This would replace the existing pylon sign in almost the exact location which is at the intersection of North DuPont Highway and the access road leading into the site. This sign also includes the existing Sam's Club sign. They have an agreement to share signage as Sam's Club does not have actual frontage on North DuPont Highway. Staff is recommending that the pylon sign be narrowed from its proposed twenty feet in width to sixteen feet. This would reduce the sign area to 352 square feet which is more in keeping with the surrounding pylon signs.

Ms. Cornwell further stated that the second proposed pylon sign is the north pylon sign that would be 224 square feet in sign area and twenty-four (24) feet in height located in the middle of the property closer north when travelling on North DuPont Highway. Staff recommends that this pylon sign not be constructed until signage is needed for more than three (3) tenants on this site and that no tenant shall have signage on both of the pylon signs and that the maximum sign area for one tenant on the north pylon sign be set at 64 square feet.

Ms. Cornwell further stated that the wall signs proposed are for the first largest tenant to have four (4) wall signs with each additional tenant being permitted to have up to three (3) wall signs. Staff would request that there be a maximum of sixteen (16) wall signs to be placed on the building that would allow for multiple tenants.

Ms. Cornwell further stated that Staff is recommending that landscaping be provided at the bottom of the pylon sign and to allow for more than three (3) tenant spaces to be located on the pylon sign. The other agencies reviewing this application have provided their comments.

Mr. Nowalk stated that they agree with all the DAC Comments of record and have no objections.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mr. Holden moved to approve US-12-02 Redevelopment of Former Wal-Mart Site located at 1574 North DuPont Highway: Comprehensive Signage Plan to include all Staff and DAC Comments of record, seconded by Mrs. Still and the motion was unanimously carried 8-0 with Colonel Welsh absent.

Meeting Adjourned at 8:01 PM

Sincerely,

Diane Metsch
Secretary