CITY OF DOVER PLANNING COMMISSION
July 16, 2012

The Regular Meeting of the City of Dover Planning Commission was held on Monday July 16, 2012 at 7:00 PM with Chairman Welsh presiding. Members present were Mr. Baldwin, Mr. Shomo, Mr. Tolbert, Mr. Nichols, Mr. Holt, Mr. Ambruso, Colonel Welsh, Mrs. Still and Mr. Holden. (Note: Mr. Dean Holden was appointed as a Commission member on June 25, 2012)

Staff members present were Mrs. Townshend, Ms. Cornwell, and Ms. Metsch. Also present was Mr. Herbert Konowitz. Speaking from the public was Mr. Conny Malmberg.

APPROVAL OF AGENDA

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

Mrs. Townshend stated that she would like to amend the agenda to move Item #1 under New Business to before Communications and Reports and #5 under Communications and Reports to the same.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 18, 2012

Mr. Shomo moved to approve the regular Planning Commission meeting minutes of June 18, 2012, seconded by Mr. Holt and the motion was unanimously carried 9-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that after twenty (20) years with the Planning Commission, Mr. John Friedman is moving on. A Resolution has been prepared that Staff would like the Planning Commission to approve.

Resolution

Whereas, John Friedman *became a member of the City of Dover Planning Commission on August 24, 1992 and has served with diligence and distinction in this capacity as an advocate for sound land use planning in the public interest; and,*

Whereas, John Friedman *has played a key role in ensuring fundamental fairness and careful forethought in the planning and development of the Capital City through his service on the Planning Commission; and,*

Whereas, John Friedman *has provided leadership on the Planning Commission through his role as Chairman of the Commission from July 17, 1995 to July 19, 2010; and,*

Whereas, John Friedman *has influenced the pattern and appearance of development in Dover through his contributions to the City's Comprehensive Plans including the 1996 Comprehensive Plan known as The Dover Plan, the 2003 Comprehensive Plan Update, the 2008 Comprehensive Plan; his participation in the development of numerous amendments to the City of Dover Zoning*

Ordinance including the *COZ-1, C-2, IPM-2, AEOZ, TND, SWPOZ, and ROS zones; and,*

Whereas, John Friedman *completed his term of service on the City of Dover Planning Commission on June 25, 2012.*

Now Therefore Be It Resolved That*, the City of Dover Planning Commission does hereby express its sincere appreciation to* ***John Friedman*** *for his faithful and exemplary service to the Citizens of the City of Dover as an active member of the City of Dover Planning Commission, and extends its very best wishes to* ***John Friedman*** *for a bright and prosperous future.*

Mr. Holt moved to approve adoption of the resolution to John Friedman for his years of service, seconded by Mr. Shomo and the motion was unanimously carried 9-0.

Mr. Townshend further stated that she would like to welcome the newest Planning Commission member, Mr. Dean Holden who will now represent the third (3rd) District.

Mr. Holden stated that he is a lifelong City resident having been born here. He went to school out of State and then came back. He spent ten (10) years working for Cabe Associates and just started working with Becker Morgan Group, Inc. He feels that it is worth mentioning that he knows that Becker Morgan Group, Inc. has a lot of plans that come before this Commission and he has talked to them in length about it. He will never be a Becker Morgan employee in front of the Commission if he is sitting here on this Commission. He would recuse himself if they had any plans that came forward that would come in front of this Commission with his involvement.

Mrs. Townshend stated that it was also worth noting that Mr. Holden is the Chairman of the Silver Lake Commission serving several years on it. He has done a lot of volunteer activities with the City through the Silver Lake Commission and with an Adhoc Committee to help look for skate park locations within the City.

Mrs. Townshend stated that the next regular Planning Commission Meeting is scheduled for Monday, August 20, 2012 at 7:00 PM in the City Hall Council Chambers. The next Planning Commission Quarterly Workshop is scheduled for Tuesday, August 21, 2012 at 4:00 PM in the City Hall Conference Room. Staff is working on getting someone to come in and do some Fair Housing Training.

Mrs. Townshend further stated that the Annual Review of the Conditional Use permit for the House of Pride was directed to be reviewed at the July meeting annually. This has been rescheduled for August to allow completion of the inspections and to report the status. It took a little more time to schedule the inspections because one of the Inspectors conducting the inspections was attending the Police Academy. The inspections were conducted last week and Staff is in the process of compiling the inspection reports.

Mrs. Townshend provided an update on the regular City Council meeting of June 25, 2012 where Mr. Ambruso and Mr. Holt were re-appointed to the Planning Commission as Second District representatives for a three (3) year term. Mr. Dean Holden was appointed to represent the Third District for a three (3) year term, the June 27, 2012 Safety Advisory and Transportation Committee meeting, the July 9, 2012 the regular City Council, and on July 11, 2012 joint meeting of the

Legislative, Finance and Administration Committee, and Election Board.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

NEW DEVELOPMENT APPLICATIONS

C-12-05 Transitional Housing for Dover Interfaith Mission for Housing, Inc. at 319 West Water Street - Public Hearing and Review of a Conditional Use Plan to allow for the establishment of a philanthropic use consisting of transitional housing in an existing single family residence. The parcel is zoned C-1A (Limited Commercial Zone) and is subject to SWPOZ (Source Water Protection Zone) Tier 3 – Excellent Recharge Area. The property is exempt from the requirements of the SWPOZ Tier 3 as the site is located within the Downtown Redevelopment Target Area. The property is located on the north side of West Water Street in the block between South Queen Street and South New Street. The owner of the property is Mockfaul, LLC and the lessee is Dover Interfaith Mission for Housing, Inc. Address: 319 West Water Street. Tax Parcel: ED05-077.09-03-05.00-000. Council District 2.

Representative: Mr. Herbert Konowitz – Vice-Chairman for the Dover Interfaith Mission for Housing.

Ms. Cornwell stated that this use would allow for the Dover Interfaith Mission for Housing to run a Transitional House. The house has four (4) bedrooms with typically four (4) men living there. The Transitional House is for men from the shelter who are employed and will stay there while they become self-reliant. The C1-A zoning district permits uses within the RG-1 (General Residence) zoning district. The General Residence zoning district permits uses within the one family residence zone. Within the one-family residence zone, philanthropic uses are a Conditional Use to the Planning Commission.

Ms. Cornwell further stated that in making your decision, the Planning Commission shall take into account the location, size, and character of the surrounding uses. If the Planning Commission grants approval for this Conditional Use, Staff has made a number of recommendations. Included in those recommendations is that an annual housing inspection be conducted during June on an annual basis, that not more than four (4) reside in the house at any one time, that the owner maintain an active City of Dover Rental Dwelling License, and that the Conditional Use be reviewed by the Planning Commission at their July 2013 meeting.

Ms. Cornwell further stated that the other reviewing agencies have provided their comments.

Mr. Konowitz stated that he would like to comment on the caliber of the Planning Office and the help that they provided us during this process as they made it very easy for us. They accept all DAC comments of recommendations.

Mr. Holt stated that his question would be with regards to fire alarms to ensure that in case something happens that the fire would not get out of hand. Responding to Mr. Holt, Mrs. Townshend stated that the Fire Marshal's Office included their comments. There are hard-wired smoke detectors in the residence and the applicant has been very receptive to the recommendations of the Fire Marshal's Office.

Mr. Konowitz stated that they have an evacuation plan also posted.

Mr. Baldwin questioned if they had a maximum time that each participant would stay in the house? Responding to Mr. Baldwin, Mr. Konowitz stated that he would provide some history. The Dover Interfaith Mission for Housing takes homeless men in for thirty (30) days and within the thirty (30) days, they are obligated to try and find employment. If they actively pursue employment, we allow them to stay a little longer to sixty (60) days. If they do achieve employment, they can stay in the shelter for up to ninety (90) days and then they are moved to the Transitional House if they want to. They have to be employed and are charged $125.00 a week. If they pay that on time for a quarter, $25 of the $125 goes into a savings plan. If they do this for a whole year, they could walk away with a check for $1,200 so that they can get into their own facility or apartment.

Mr. Baldwin further questioned if they would be allowed to own automobiles while they are staying there? Responding to Mr. Baldwin, Mr. Konowitz stated that yes they would.

Mr. Baldwin further questioned if there would be enough parking spaces if four (4) of them were to own vehicles? Responding to Mr. Baldwin, Mr. Konowitz stated that yes; this would not be a problem.

Mr. Nichols questioned if meals would be prepared here such as what you did when you were on Forest Street? Responding to Mr. Nichols, Mr. Konowitz stated that they would do their own meals. Once they leave the homeless shelter, they turn into different type of people by becoming very independent with using food stamps to buy food. They can eat their own food or can come back into the shelter; however, they hardly ever come back as they want to do their own thing.

Mrs. Still questioned with regards to parking, she drove back in that area which is behind Water Street in the back up the alley where the gravel part is and saw the space. It is marked for only two (2) spaces and if each person has a car that would be four (4) cars is this correct? Responding to Mrs. Still, Mr. Konowitz stated that the residents on Water Street do not have any cars, they use bicycles. When they come into the shelter, we try to outfit them with used bicycles.

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

Mr. Holt moved to approve C-12-05 Transitional Housing for Dover Interfaith Mission for Housing, Inc. located at 319 West Water Street including all DAC comments of record, seconded by Mr. Nichols and the motion was unanimously carried 9-0.

MI-12-13 Text Amendment: Revisions to *Zoning Ordinance*, Article 3 Section 23 Agricultural Zone - Public Hearing and Review for Recommendation to City Council of a Text Amendment to the *Zoning Ordinance*, Article 3 Section 23 Agricultural Zone (A) relating to permitted uses. The proposed ordinance adds Section 23.16 to permit the sale of agricultural supplies and products, accessory to the principal agricultural use on a parcel within the A Zone. Ordinance #2012-14.

Representative: Staff

Mrs. Townshend stated that this amendment would add the language under the "Uses Permitted" within the A Zone: "Sales of agricultural supplies and products as accessory to the principle agricultural use on the parcel." Essentially what it would allow for is if you have a farm, you could sell your products or farming supplies. There is not a whole lot of farmland left in the City; however, some of what is left is permanently protected so we want to keep it viable. This was requested by the owner of agricultural property with three (3) sponsors from City Council.

Mr. Holt questioned if you were talking about more like roadside farmstands? Responding to Mr. Holt, Mrs. Townshend stated that it could be that or it could be agricultural supplies such as grass seed, fertilizer or agricultural products other than heavy equipment.

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

Mr. Tolbert moved to forward recommendation of approval to City Council for MI-12-13 Text Amendment: Revisions to Zoning Ordinance, Article 3 Section 23 Agricultural Zone, seconded by Mr. Holt and the motion was unanimously carried 9-0.

MI-12-14 Text Amendment: Revisions to *Zoning Ordinance*, Article 3 Section 9 General Residence and Office Zoning (RG-O) - Public Hearing and Review for Recommendation to City Council of a Text Amendment to the *Zoning Ordinance*, Article 3 Section 9 General Residence and Office Zoning (RG-O) Zoning District. The ordinance would remove the prohibition of the sale of alcohol within restaurants that are located within the RGO Zoning District by amending Article 3 Section 9.14(b)i. The use as a restaurant is subject to Conditional Use approval by the Planning Commission. Ordinance #2012-15.

Representative – Staff

Mrs. Townshend stated that this is another amendment that was sponsored by members of City Council. It would eliminate the language "With no alcoholic beverages" from the Conditional Use provisions allowing restaurants and properties that are zoned both RG-O and H (Historic District). Currently, the Code reads "With no alcoholic beverages." This amendment would eliminate that language. It would not necessarily permit alcohol; however, would take off the prohibition.

Mrs. Townshend further stated that since this is a Conditional Use, this is something the Planning Commission would be able to consider during the review of the Conditional Use application. Alcohol sales are subject to regulations including a license through the State of Delaware from the Alcoholic Beverages Control Commission. Included in your packet is a map where it shows the Historic District Zone and with the blue hatching in that map showing the area where the amendment could be applicable.

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

Colonel Welsh opened a public hearing.

Mr. Conny Malmberg – Representing the Applicant that requested the Ordinance Change – Stated that after consultation with the Planning Office, this Ordinance is applicable and feels that it is a

good idea for the City. His particular client is the Governors Club Café which is the large Victorian house located across from the Governor's house. Currently, Mr. Sorrels runs a sandwich shop there that has been fairly successful on a daily basis. People have been asking him if he could do a wine bar at 5:00 PM and let people sit on his front porch and wind down. In further support of this amendment, if you look at any of the nice historic towns around the State, all of them convert the older buildings to neat old eateries such as the "Buttery" in Lewes, Delaware and several others in Lewes and places in New Castle County. It helps small businesses with the kind of quaint feeling of a town. This would be a plus to permit this use as a potential use with the property location and eatery such as this one.

Mr. Malmberg further stated that this remains a Conditional Use so if there were any particular circumstances with conditions or restrictions, they would still maintain control over that. He does not feel that this is a risk; however, a positive thing for the City of Dover. He would request that you approve it.

Colonel Welsh closed the public hearing after seeing no one else wishing to speak.

Mr. Ambruso moved to forward recommendation of approval to City Council for MI-12-14 Text Amendment: Revisions to Zoning Ordinance, Article 3 Section 9 General Residence and Office Zoning (RG-O). The new Ordinance would remove the prohibition of the sale of alcohol within restaurants that are located within the RG-O Zoning District, seconded by Mr. Holt and the motion was unanimously carried 9-0.

MI-12-15 Text Amendment: Revisions to *Zoning Ordinance*, Article 4 Section 5 Supplementary Sign Regulations - Public Hearing and Review for Recommendation to City Council of a series of Text Amendments to the *Zoning Ordinance*, Article 4 Section 5 Supplementary Sign Regulations. The proposed ordinance is a comprehensive amendment to the City's Sign Regulations. Proposed amendments allow for additional signage, increase in the allowable sign area, allowances for additional signage and sign placement, increased flexibility for temporary signage, revised definitions, updates the Sign Regulations using the United States Sign Council's Model Sign Code, and a revised Sign Table outlining permitted signage based on property use, adjacent uses, and road type. The series of text amendments amend Article 4 Section 5 of the *Zoning Ordinance*. Ordinance #2012-13.

Representative: Staff

Mrs. Townshend stated that after hearing a lot of feedback from members of City Council and the business community regarding the Sign Regulations being too stringent, she reached out to the Chamber of Commerce and the Real Estate community. Beginning in January, Staff started to meet specifically regarding signs as there will be other things that we will be meeting on in the fall. Mr. Malmberg was part of that group where we had a very good assemblance of people representing the business community.

Mrs. Townshend further stated that what was included in your packet is a bullet point list of the substantial changes to the Sign Regulations. In some cases, we took language from the *United States Sign Council Model Sign Code*. In addition to being the industry voice, they are also the body that has done the most research in terms of signage and the safety aspects of signage. Staff looked at their illumination standards and definition of sign area and electronic messaging centers.

Mrs. Townshend stated that Staff changed some definitions regarding the monument sign. Currently, it requires that it be wider than tall which means that there is nowhere in the Code that addresses whether it is taller than wide. In some cases if taller than wide, it looks perfectly fine. The idea that these should be prohibited did not make sense so we changed the definition of monument signs so that the "wider than tall" comes out.

Mrs. Townshend further stated that the way that we define "sign area" in the current Sign Regulations has you put one geometric figure over the print. In the case where you have something that is taller in one area and lower in another, you have to box out that whole area. You would be boxing out a lot of white space that has to be counted towards the sign area; however, it is really not signage. We looked again to the United Sign Council in their definition and it can be a series of geometrical shapes.

Mrs. Townshend further stated some other changes included: increasing the sign area for directional signage and a number of changes to the Sign Table such as removing the maximum height for wall signs that would be regulated by the building height where we obviously can't have a wall sign higher than the building. This is an area that we have seen things come forward in the past that we have been stuck with. It also includes increasing the maximum sign area square footage; elimination of the mountable wall area requirement while there is still a maximum percentage of the wall face that you can use; a reduction in the exclusion zones for monument and pylon signs; a change in the number of wall signs per frontage from one (1) to two (2); increasing the amount of the window that can be covered by window signage; and allowing more flexibility for Temporary Signs.

Mrs. Townshend further stated another change included the removal of the requirement that a non-conforming sign has to be brought into compliance when a change of use is involved. An example of that would be having an existing building with non-conforming signage such as a restaurant and it closes and a new restaurant comes in, you would be able to reface the sign because there would be no change of use. However, if it is a restaurant and the restaurant closes and it becomes an insurance office, the signage would need to come into compliance. We have found that to be very onerous for small business owners.

Mrs. Townshend further stated that there was a lot of compromise in these changes; however, she believes that it is certainly more generous than what we have now. However, it is strong enough to prevent the sign clutter that you see outside of the City.

Mr. Nichols questioned what is the limitation of entrances on State Street only? Does that mean new entrances or no more? Responding to Mr. Nichols, Mrs. Townshend stated that this is the RG-O Zoning District and is language that is just in there. This is the Ordinance that was the last item on the agenda. What this means is that for the restaurants in the RG-O Zone, if they are located on State Street, they would have to take their entrance from State Street. This would be physical not a driveway; however, a door.

Mr. Holden questioned with regards to the non-conforming signs, there are a large number of non-conforming signs. Is there another mechanism to bring them into conformance if businesses change hands or are we essentially saying that this is the way that the sign is and will stay that way forever? Responding to Mr. Holden, Mrs. Townshend stated that it would have to come into compliance if it is removed or if there is a certain degree of alteration to the property. For instance, if you tear down the building and rebuild something there, the new signage would have to comply.

Colonel Welsh questioned the changes to the Sign Table that include the following: the removal of the maximum height for wall signs. Would wall signs be restricted by the building height? Responding to Colonel Welsh, Mrs. Townshend stated that this is something that we did for new buildings back in 2009 when we made changes. Staff put it in the pervue of the Planning Commission to allow signage that exceeded thirty (30) feet. What we were finding is if something comes in and it is an existing building and a new tenant, they cannot place the sign high on the building because it is limited by thirty (30) feet. There are plenty of times where something taller than thirty (30) feet works with the building so we wanted to be able to allow that administratively. When you are looking in terms of the scale of the building, it will not exceed the building height. Part of the reason you control sign height is largely the pylon thing where you do not have a hundred foot tall pylon sign that you can see from Jupiter. In the case of a wall sign, if you have a building that is sixty-five feet tall limiting the wall sign height to thirty (30) feet, it could be in a really bad spot.

Colonel Welsh further questioned by more flexibility related to Temporary Signs, how will this be regulated? Responding to Colonel Welsh, Mrs. Townshend stated that no matter what we do with Temporary Signs, it is going to be a challenge to enforce as they have always been a challenge to enforce. We are going to have to put the Inspectors in a position of monitoring it by checking to see when a sign goes up and when it goes down.

Colonel Welsh opened a public hearing

Mr. Conny Malmberg – Stated that he was selected for the Sign Regulations Committee because he has had several applications before the Board of Adjustment for signs that just did not make sense. He feels that a lot of the impetus for this Ordinance was to try and not have stuff that is plainly obvious coming before the Board of Adjustment all of the time. He feels that a lot of these issues were addressed. Mrs. Townshend stated that there was a lot of compromise; however, it was not all of us versus Staff. It was really a lot of different participants with different points of view that were doing most of the compromise. Staff did a fantastic job with a lot of background work and the way that different jurisdictions handle this and were generally very supportive. He feels that these changes are a great idea in that it will not turn into Las Vegas around here and it is getting rid of things that would not make sense if we started to apply them and saving the Board of Adjustment some time.

Mrs. Townshend stated that while she was at the table with the business community, Janelle Cornwell had the tedious task of making sure that everything was incorporated correctly.

Colonel Welsh closed the public hearing after seeing no one else wishing to speak.

Mr. Ambruso moved to forward recommendation of approval to City Council for MI-12-15 Text Amendment: Revisions to Zoning Ordinance, Article 4 Section 5 Supplementary Sign Regulations, seconded by Mr. Baldwin and the motion was unanimously carried 9-0.

NEW BUSINESS

Nomination and Election of Officers (Chairman and Vice-Chairman)

Mr. Tolbert moved to nominate Colonel Robert Welsh as Planning Commission Chairman, seconded by Mr. Nichols and the motion was unanimously carried 9-9.

There were no other nominations for Chairman.

Mr. Ambruso moved to close the nominations for chairman. (There was no second called for closing the nominations).

Mr. Nichols moved to nominate Mr. Tolbert for Vice-Chairman, seconded by Mr. Holt and the motion was unanimously carried 9-0.

Mr. Shomo moved to close the nominations for Vice-Chairman, seconded by Mr. Nichols and the motion was unanimously carried 9-0.

Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with Zoning Ordinance, Article 10 §2.28)

Colonel Welsh stated that presently, the two (2) members from the Planning Commission were Michael Hemmig who has departed and myself on this Subcommittee. He would be very interested in staying on this committee since he was one of the people who pushed through the architectural review process that we have.

Mrs. Still stated that she would volunteer to serve on the Architectural Review Oversight Subcommittee.

Colonel Welsh stated that Mrs. Still has a degree in architectural engineering and would be very valuable.

Mr. Nichols stated that he too would also like to serve on the Architectural Oversight Review Subcommittee.

Colonel Welsh suggested that he step aside since he has been on this committee for a while.

Colonel Welsh appointed Mr. Nichols and Mrs. Still as the two (2) Planning Commission members to serve on the Architectural Review Oversight Subcommittee.

Colonel Welsh stated that all who are favor of these nominations please signify by stating aye, all were in favor and the motion was unanimously carried 9-0.

Mrs. Townshend stated that Staff will need to find a second alternate as Mr. Jack Pepper is now deceased. Staff will look for another architect to fill this position.

Meeting Adjourned at 7:52 PM

Sincerely,

Diane Metsch
Secretary