LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

A G E N D A

June 13, 2011 - 6:00 P.M. - Council Chambers - City Hall - City of Dover

Public comments are welcomed on any item and will be permitted at appropriate times. When possible, please notify the City Clerk (736-7008 or e-mail at CityClerk@dover.de.us) should you wish to be recognized.

AGENDA ADDITIONS/DELETIONS

1. Discussion - Soliciting Heath Insurance Proposals

2. Discussion - Elimination of Medicare Part B Reimbursements for Current Non-Bargaining Employees

3. Proposed Ordinances
   A. #2011-11 - Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications
   B. #2011-14 - Appendix B - Zoning, Article 10 - Planning Commission
   C. #2011-15 - Appendix A - Subdivisions - Regarding Homeowners' Association Responsibilities

4. Public Comment Period

5. Adjournment by 7:00 P.M.

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THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

ACTION FORM

PROCEEDING: Legislative, Finance & Administration Committee **AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Finance **DATE SUBMITTED: 6/13/11**
PREPARED BY: Donna Mitchell, Controller/Treasurer on behalf of Councilman Hare
SUBJECT: Discussion Medicare Part B Premium Reimbursements for Non-bargaining Employee's
APPROVALS: City Council
EXPENDITURE REQUIRED: N/A **Total:** N/A **FUNDING SOURCE**: Other Post Employment & Retiree Health Insurance line items
TIMETABLE: Included in recommended action.
RECOMMENDED ACTION: Eliminate the Medicare B reimbursement for all non-bargaining employee's retired upon adoption of a revised ordinance.

Current Ordinance in Municipal Code –

Sec. 2-505. - Medicare part B premium reimbursements.

On July 27, 2009, counci1 approved the recommendation of the legislative, finance, and administration committee's recommendation not to provide for Medicare part B premium reimbursement for all nonbargaining employees which applied only to new hires after July 27, 2009.

The city currently provides Medicare part B premium reimbursement for all other nonbargaining employees and the legislative, finance, and administration committee recommends that this practice be continued provided that it is clearly stated and understood that the decision of council, if approved by council, is not vested and can be changed or eliminated at any time.

The city shall continue to provide Medicare part B premium reimbursements for all nonbargaining employees other than those new hires after July 27, 2009, as it has done in the past, provided that this is not to be considered a vested right and can be changed or eliminated by council at any time by ordinance or resolution enacted to that effect and, further, that as required by the Charter, section 3, the fund for payment of the costs of such premium reimbursement shall be continued as in the past.

Sec. 1-9. - Sponsoring, consideration, passage and effective date of ordinances and Charter amendments.

(a) *Requirements for passage.* No ordinance, except emergency ordinances, shall be passed by the council until it is:

(1) Announced at one regular council meeting, which announcement shall be made by the city clerk outlining the nature of the ordinance and stated when it will be considered for passage at a subsequent regular council meeting; and

(2) Read by synopsis, outline or otherwise at the subsequently announced meeting of the council prior to being voted upon by the council.

(b) *Emergency ordinances; effective date of ordinances.* Emergency ordinances may be passed by the council at any time, but must be designated as such that their immediate passage is necessary to serve the health and welfare of the city. Ordinances shall be passed in accordance with the provisions of section 10 of the Charter. All ordinances which do not state an effective date shall be effective immediately upon their adoption by the council and their approval by the mayor, except as otherwise provided in section 10 of the Charter.

(c) *Sponsors.* With the exception of emergency ordinances, zoning ordinances or map amendments, ordinance amendments submitted by council-appointed staff or a committee, and ordinances passed in consideration of a comprehensive review of the Code, all other ordinances or proposed Charter changes must have three sponsors, to consist of three members of the council, before they are presented to the appropriate committee for consideration and subsequent recommendation to the council.

ACTION FORM

PROCEEDING: Legislation, Finance, and Administration Committee
DEPARTMENT OF ORIGIN: City Manager\Economic Development **DATE SUBMITTED**: June 6, 2011
PREPARED BY: City Manager
SUBJECT: #2011-11 – Chapter 102 – Taxation, Article IV – Abatement of Real Estate Taxes, Section 102-113 - Qualifications
REFERENCE:
RELATED PROJECT:
REVIEWED BY: City Manager
EXHIBITS: Exhibit #1: Ordinance Amendment: Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113. Exhibit #2 –City of Dover Property Inventory – Qualifying Big Box Stores.
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**:
TIMETABLE:
RECOMMENDED ACTION: Approve proposed amendments to Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113.

BACKGROUND AND ANALYSIS

Over the past several years a number of large commercial buildings in Dover have become vacant and have remained vacant. These buildings include a variety of prior uses such as retail stores, warehouse space, manufacturing, and office buildings. Bringing these building back into the active economy would help bring jobs and boost the local economy. This ordinance acts as an incentive for potential buyers and lessees who would propose reoccupying the buildings or replacing them. In order to qualify, the building would have to lease 35,000 S.F. and have been vacant for 18 months or more. The new occupant would have to be committed to occupying the building for at least ten years and bring at least 15 full time jobs to the building.

CITY OF DOVER PROPOSED ORDINANCE #2011-11

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications, be amended by inserting the text indicated in bold, blue, italics and deleting the text indicated in red strikeout as follows:

Sec. 102-113. - Qualifications.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Control with respect to a corporation means ownership, directly or indirectly, of stock possessing 50 percent ***(50%)*** or more of the total combined voting power of all classes of the stock of such corporation entitled to vote and 50 percent ***(50%)*** or more of the shares of such corporation entitled to vote and 50 percent ***(50%)*** or more of the total number of shares of all other classes of such corporation's stock.

Control with respect to a trust means ownership, directly or indirectly, of 50 percent ***(50%)*** or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital of profits interest in a partnership or association, or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the Internal Revenue Code (26 USC 267(c)).

Expanded facility means any qualified property that is modified with an improvement or addition (other than a replacement resulting from the acquisition, construction, reconstruction, installation, or erection of improvements or additions resulting from repairing, refurbishing, retooling, recycling, or other similar process or procedure that merely preserves or restores the value of an existing facility and not including any improvement or addition that, in the determination of the council, does not constitute an integral part of a qualified activity), if such improvements or additions are placed in service by the taxpayer after January 1, 2001. Abatement will only be to the extent of the taxpayer's qualified investment in such improvements or additions.

Large vacant commercial facility means a building of 35,000 square feet or larger and vacant continuously for 18 months or more.

New facility means any qualified facility (other than an expanded facility or a replacement facility) constructed by the taxpayer after January 1, 2001. For the purposes of this article, the term "constructed" means the issuance of a building permit for $1,000,000.00 or more with regards to subsection (b)(1) of this section, and the issuance of a building permit for $3,000,000.00 or more with regards to subsection (b)(2) of this section.

Placed in service and *original use* have the meanings ascribed to such terms under section 167 of the Internal Revenue Code (26 USC 167) and regulations promulgated thereunder.

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Qualified activity means any activity constituting manufacturing (other than any repair, refurbishing, retooling, recycling or other similar process or procedure that merely preserves or restores the value of a product or that does not change the inherent nature of a product or material). Such term includes any activity engaging in business as a wholesaler; the CCBA and any subsequent legislation as enacted by the state; any home offices and operating units of insurance companies; and any combination of activities described herein.

Qualified employee means any person employed within the city/county on a regular and full-time basis.

Qualified facility means any qualified property located in the city that constitutes a new or an expanded facility, located within the industrial park manufacturing district, industrial park manufacturing 2 district, or manufacturing district, and that is used by a taxpayer in or in connection with a qualified activity.

Qualified investment for any taxable year is based on the value of a qualified facility as of the last business day of such taxable year.

Qualified property means any building and its structural components, and any other improvement to real property. Such term includes the land on which such building or other improvements are located, if ownership of said land and structural improvements is identical. If any property is owned or leased by the taxpayer in common with any other person or persons, such property may constitute "qualified property" only to the extent of the taxpayer's proportionate interest.

Related person means a corporation, partnership, association, or trust controlled by the taxpayer; or an individual, corporation, partnership, association, or trust that is in control of the taxpayer; or a corporation, partnership, association, or trust controlled by an individual, corporation, partnership, association, or trust that is in control of the taxpayer.

(b) *Established*. Industries/businesses may qualify for property tax abatement either by meeting the industry function qualifications detailed in the following subsection (b)(1) or the investment qualifications detailed in the following subsection (b)(2) ***or the occupancy qualifications detailed in the following subsection (b)(3):***

(1) *Qualifying industries/businesses by function.*

a. Manufacturers and financial institutions as defined by the FCDA, CCBAA, and subsequent legislation and home offices and operating units of insurance companies shall be qualifying industries, including, but not be limited to, distributors, transportation (air, rail, barge, truck), printing and publishing, and food processing.

b. *Investment and employees.* The qualifying industry must invest at least $1,000,000.00 in a qualifying new or expanded facility in the city and hire at least 20 qualified employees (including owners/operators), 75 percent ***(75%)*** of whom shall be city/county residents not employed by the qualifying industry/activity at the time of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent ***(75%)*** requirement to a lesser percentage, but not less than 50 percent ***(50%)***. The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

(2) *Qualifying industry/businesses by investment.* Industries/businesses that do not meet the

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qualifications as specified in subsection (b)(1) of this section can nevertheless qualify for property tax abatement by investing a minimum of $3,000,000.00 in a new or expanded facility in the city located within the industrial park manufacturing district, industrial park manufacturing 2 district, or the manufacturing district, and hire at least 15 qualified employees (including owners/operators), 75 percent ***(75%)*** of whom shall be city/county residents not employed by the qualifying industry/activity at the time of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent ***(75%)*** requirement to a lesser percentage, but not to less than 50 percent ***(50%)***. The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

(3) Qualifying industry/business by occupying a large vacant commercial facility. Entities that do not qualify for property tax abatement under subsection (b)(1) or (b)(2) of this section can qualify for property tax abatement by (a) purchasing a large vacant commercial facility if the purchase of the large vacant commercial facility will result in the employment of 15 or more full-time employees; or (b) leasing a large vacant commercial facility if the initial lease term is at least ten (10) years, the lease of the large vacant commercial facility will result in the employment of 15 (fifteen) or more full-time employees, and the occupying tenant submits a letter of intent to lease and requests the abatement for either their own benefit when the tax burden is the responsibility of the tenant, or on behalf of the owner when the tax burden is the responsibility of the owner. The demolition of a large vacant building and the construction of a new replacement 35,000 S.F. or greater that meets the conditions of (b)(3) of Sec. 102-113. - Qualifications shall qualify for abatement.

(c) *Benefits.*

(1) The council may abate city real estate taxes on a ten-year sliding scale as follows, or upon any other scale or method deemed most advantageous by the council for the public welfare:

~~Year of Operation~~	~~Reduction of Taxes (Percent)~~
Fiscal Year Construction Ended	***100 Percent (100%) Reduction of Taxes***
First (1st) Year of Operation	90 ***Percent (90%) Reduction of Taxes***
Second (2nd) Year of Operation	80 ***Percent (80%) Reduction of Taxes***
Third (3rd) Year of Operation	70 ***Percent (70%) Reduction of Taxes***
Fourth (4th) Year of Operation	60 ***Percent (60%) Reduction of Taxes***
Fifth (5th) Year of Operation	50 ***Percent (50%) Reduction of Taxes***
Sixth (6th) Year of Operation	40 ***Percent (40%) Reduction of Taxes***
Seventh (7th) Year of Operation	30 ***Percent (30%) Reduction of Taxes***
Eighth (8th) Year of Operation	20 ***Percent (20%) Reduction of Taxes***
Ninth (9th) Year of Operation	10 ***Percent (10%) Reduction of Taxes***
Tenth (10th) Year of Operation	0 ***Percent (0%) Reduction of Taxes***

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(2) Unless otherwise directed by the council, year one of the abatement period will commence with the first property tax billing following the completion of the qualifying new or expanded facility and the meeting of all requirements as detailed in subsections (b)(1) and (b)(2) of this section. Abatement for expanded facilities will be limited to expansion value only.

(3) All quarterly property taxes for new construction, as defined in section 49A of the city Charter, will likewise be abated for qualifying new or expanded facilities.

(4) The property tax abatement program will have no effect on both citywide revaluations of property values for taxation purposes and the institution of those new values.

(d) ***Downtown Residential Tax Abatement.*** Any persons purchasing residential real property in which they will reside within the area defined as Mary Street to Loockerman Street and Governors Avenue to West Street during the effective date of this section shall be given tax relief from the payment of real estate taxes in the following manner: first year of ownership, total tax abatement; second year of ownership, 75 percent ***(75%)*** tax abatement; third year of ownership, 50 percent ***(50%)*** tax abatement; fourth year of ownership, 25 percent ***(25%)*** tax abatement; fifth year of ownership, no tax abatement. Provided however that the homeowner is required to occupy the home as their principal place of residence during the entire time that the taxes are abated and if the property ceases to be their principal place of residence at any time during the four-year period of abatement, then they shall lose their right of abatement and shall be required to pay immediately all taxes abated up to the time that the home ceases to be their principal residence. In order to obtain the tax abatement, the homeowner must make application by affidavit submitted to the city clerk showing qualification for the abatement and each year thereafter, submit a similar affidavit showing their continued right to the abatement. If qualification for the abatement ceases within the four-year period of abatement the homeowner is required to notify the city clerk of the lack of qualification for the abatement and within 90 days from the date the qualification ceases, pay all taxes abated in the past. In order to be eligible for this program, application must be received by the city prior to August 1, 2010.

~~Year of Owner Occupancy~~	~~Reduction of Taxes (Percent)~~
First (1st) Year of Owner Occupancy	100 ***Percent (100%) Reduction of Taxes***
Second (2nd) Year of Owner Occupancy	75 ***Percent (75%) Reduction of Taxes***
Third (3rd) Year of Owner Occupancy	50 ***Percent (50%) Reduction of Taxes***
Fourth (4th) Year of Owner Occupancy	25 ***Percent (25%) Reduction of Taxes***
Fifth (5th) Year of Owner Occupancy	0 ***Percent (0%) Reduction of Taxes***

(Code 1981, § 19.5-33; Ord. of 12-11-2000; Ord. of 8-8-2005(3))

ADOPTED: *

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SYNOPSIS

This amendment would provide property tax abatement to an industry/business that occupies, purchases, or leases a large, vacant commercial facility if it is 35,000 square feet or larger, and has been vacant continuously for 18 months or longer, the sale or lease of the building results in the employment of 15 or more full-time employees, and, if the building is leased, the lease must be for ten (10) years or more with the tax burden being the responsibility of the lessee.

Actions History

06/13/2011 - Scheduled for Consideration by the Legislative, Finance, and Administration Committee

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CITY OF DOVER PROPERTY INVENTORY

QUALIFYING BIG BOX STORES

25,000 SF - PLUS

PETTINARO								
BLUE HEN CORP CTR								
STORE #1 NORTH	62,611	SF +/-				1		
STORE #2 SOUTH	79,000	SF +/-	141,611	SF +/-		2		
Section 2 & 3	129,000	SF +/-	208,000	SF +/-		3		
Section 4 & 5	129,000	SF +/-	258,000	SF +/-		4		
WAL - MART	117,777	SF +/-	117,777	SF +/-		5		
METRO FOOD STORE	65,066	SF +/-	65,066	SF +/-		6		
SUPER FRESH	38,845	SF +/-	38,845	SF +/-		7		
VALUE CITY	70,000	SF +/-	70,000	SF +/-		8		
COMMERCE WAY (FEDEX)	30,000	SF +/-	30,000	SF +/-		9		
AIRLIFTER SUNROC	150,000	SF +/-	150,000	SF +/-		10		
SARA LEE MAST	80,000	SF +/-	80,000	SF +/-		11		
ENTERPRISE BUSINESS PK								
35 Commerce Way	145,000	SF +/-				12		
97 Commerce Way	25,000	SF +/-	170,000	SF +/-		13		
McKEE BUSINESS PARK								
1575 McKee	67,000	SF +/-				14		
1565 McKee	210,000	SF +/-	277,000	SF +/-		15		
1567 McKee	65,000	SF +/-	342,000	SF +/-		16		
STATE ST COMMONS	31,000	SF +/-	31,000	SF +/-		17		
COMPASS POINTE	13,000	SF +/-	13,000	SF +/-		18		
TOTAL			1,365,688	SF +/-		18	75,872	SF +/- AVERAGE

ACTION FORM

PROCEEDING: Legislative, Finance & Administration Committee
DEPARTMENT OF ORIGIN: Planning & Community Development **DATE SUBMITTED**: June 2, 2011
PREPARED BY: Ann Marie Townshend, AICP, Director of Planning & Community Development
SUBJECT: Proposed Amendments to Article 10 of the *Zoning Ordinance* (Appendix B)
REFERENCE: Appendix B – Zoning, Article 10 – Planning Commission
RELATED PROJECT:
REVIEWED BY:
EXHIBITS: Draft Ordinance, *Summary of Proposed Changes to Zoning Ordinance, Article 10 – Planning Commission*, Code Mark-Up, Comments Received
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: First Reading at City Council on June 27, 2011; Public Hearing before Planning Commission on July 18, 2011; Public Hearing and Final Action by City Council on August 8, 2011
RECOMMENDED ACTION: Staff recommends that the proposed ordinance be forwarded to City Council with the proposed timetable above.

BACKGROUND AND ANALYSIS

Last year, the City Council assigned two goals to the Planning Office, including streamlining of our application processes and expansion of our public notice requirements. To meet this goal, the Planning Office began a thorough review of Article 10 of the *Zoning Ordinance*. This article specifies the requirements for all applications that appear before the Planning Commission and Historic District Commission, as well as administrative plan review and amendments to the *Zoning Ordinance*. In reviewing the article, the staff worked to improve the consistency throughout sections of the article, standardize processes where possible, and streamline zoning review for small projects and changes of occupancy that do not include site disturbance.

The Planning Office released a draft ordinance in late April and held subsequent meetings with the real estate, development, and engineering communities. The draft ordinance was also shared with the Historic District Commission. Overall feedback has been positive. Comments received are attached. Many of the questions asked at the outreach meetings related to the increase in public notice distance requirements from 200 feet to 300 feet and the addition of a physical posting requirement.

The attached *Summary of Proposed Changes to Zoning Ordinance, Article 10 – Planning Commission* details the changes that are proposed.

Comment	Submitted by	Planning Staff Recommendation
Recommend allowing a two-year extension, total plan life of four years.	Matt Spong	Staff recommends keeping a one-year extension and total three year plan life.
Historic District Commission should review all projects on the Green and Constitution Place	Historic District Commission	This can be addressed in the Standards and Guidelines.
Add back in the requirement of the Historic District Commission to produce an annual report of its activity	Historic District Commission	Staff supports this change

CITY OF DOVER
ORDINANCE #2011-14

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Appendix B - Zoning, Article 10 – Planning Commission be amended by deleting it in its entirety and replacing it with the following:

ARTICLE 10. PLANNING COMMISSION

Section 1. Approval of conditional uses.

On application and after public notice and hearing, the commission may authorize the issuance by the city planner of permits for any of the conditional uses for which this ordinance requires, in the district in which such use is proposed to be located. In approving any such use, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

1.1 Accessibility for emergency response. That all proposed structures, equipment or material shall be readily accessible for fire, ambulance, police, and other emergency response;

1.2 Harmony of location, size and character. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;

1.3 Residential zones. That, in addition to the above, in the case of any use located in, or adjacent to, a residential zone:

1.31 The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood; and

1.32 The location and height of buildings, the location, nature and height of walls and fences, the nature and extent of landscaping, and other improvements on the site shall

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be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

1.4 Conditional use permits.

1.41 Conditional use approval. Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:

(A) The provision in this ordinance under which such permit was issued is still in effect;
(B) Such permit was issued in conformity with the provisions of this ordinance; and
(C) Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

1.42 Periodic renewal of conditional use permit. The commission may require that conditional use permits be periodically renewed. Such renewal shall be granted following public notice and hearing in accordance with subsection 1.53. The commission may withhold approval of the renewal upon a determination by the city planner to the effect that such conditions as may have been prescribed by the commission in conjunction with the issuance of the original permit have not been, or are being no longer, complied with.

1.43 Revocation of conditional use permit. If the city planner determines that the conditions prescribed by the commission in conjunction with the issuance of the conditional use permit have not been, or are no longer complied with, he shall initiate the process for revocation of the permit according to the following procedure:

(A) The city planner shall notify the permit-holder in writing of the noncompliance with the permit conditions and allow the permit-holder 30 days to comply with the permit conditions.
(B) If, after 30 days, the city planner determines that the permit-holder has not come into compliance with permit conditions, he shall notify the permit-holder that the planning commission will hold a public hearing on revocation of the conditional use permit.
(C) The planning commission shall hold a public hearing for which notice shall be completed by the planning office in accordance with the provisions of subsection 1.53 of this article.
(D) Following the public hearing, the planning commission shall take action in the following regard:
    (1) Revoke the conditional use permit.

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(2) Issue a probationary period after which the commission shall review the permit in accordance with the provisions regarding periodic renewal of conditional use permit.
(3) Determine that the conditional use may continue as initially authorized.

1.5 Application procedure.

1.51 Preapplication Meeting. Prior to the submission of a conditional use application, the applicant or his representative shall meet in person with the city planner or his designee with a sketch plan. The purpose of this meeting shall be to discuss proposed uses or developments and to review the process and submission requirements.

1.52 Application. Application for a conditional use permit shall be submitted to the city planner, on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval of the permit is to be requested. Each application for a conditional use permit shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

1.53 Public hearing. Prior to the review and action on the conditional use permit application, the commission shall hold a public hearing subject to the following public notification procedures:

(A) The applicant shall advertise the public hearing in a newspaper of general circulation at least 15 days prior thereto.
(B) The applicant shall notify by mail all property owners within 300 feet of the extreme limits of the subject property as their names appear on the municipal tax record at least 15 days prior thereto.
(C) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property at least 15 days prior to the planning commission hearing. Such notice shall be designed in accordance with standards set forth by the planning commission.
(D) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating the date of mailing for all letters on or before the meeting date.
(E) Said notices shall state the date, time and place of the hearing, the site location, a brief description of the conditional use and shall state that a copy of the conditional use application and plan is filed with the planning office for public review.

1.54 City planner report. For each application for a conditional use permit, the city planner shall issue a report to the planning commission including comments from

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other agencies and detailing how the application conforms to the requirements of the zoning ordinance and other provisions of city and state codes.

(A) The city planner shall transmit copies of the report and summary of the application to the planning commission at least seven days prior to the date of the meeting at which approval of the permit is to be requested.

1.55 Planning commission action. The planning commission shall act to approve or disapprove any such request for a conditional use permit within 45 days after the meeting at which approval is requested or within such additional time as may be consented to by the applicant. Planning commission disapproval shall include written findings upon any element found contrary to the provisions or intent of the zoning ordinance.

1.56 Notice of decision. The planning office shall send the applicant a letter notifying the applicant of the planning commission's decision on the conditional use permit application. Such letter shall document any conditions and waivers approved as part of the application approval. Whenever the planning commission denies an application for conditional use, such application for conditional use, or an application on the same property which is substantially similar, shall not be accepted for consideration by the planning commission sooner than one year from the date of denial.

1.57 Amendments. Substantial amendments to conditional use permits shall be acted upon in the same manner as the original request for a conditional use permit. The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be referred to the planning commission for consideration at the discretion of the city planner.

1.58 Transfer of property. If the property is sold by the applicant or by any affiliated member of a single corporate family of which the applicant or its parent company is a member, after approval of the conditional use but before the proposed use or construction of the proposed use is started, or if, within 24 months of the approval, the proposed use or construction of the proposed use is not undertaken by or for the applicant or any affiliated member of a single corporate family of which the applicant or its parent company is a member, the conditional use approval shall be null and void, unless an extension of time is granted by the planning commission.

1.59 Final plans and working drawings. Following approval by the planning commission, the applicant shall develop final conditional use permit plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments, and outside regulatory agencies, prior to issuing final plan approval. No building permit shall be issued until

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such time that the planning office has issued final conditional use permit plan approval.

1.6 Expiration of planning commission approval.

1.61 Conditional use approval shall expire on the last day of the 24th month after the date of final or conditional approval of the planning commission, if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year, unless an extension of time is applied for and granted by the planning commission.

1.62 Requests for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such requests, the matter shall be considered at the next regularly scheduled meeting of the planning commission.

1.63 In considering a request for an extension of approval, the planning commission shall consider, but not be limited to, the following:

(A) Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

(B) Whether the applicant has made substantial progress toward obtaining final approvals.

(C) Whether there has been any significant changes in the surrounding neighborhood.

(D) Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

1.64 Requests for extensions shall be submitted in writing to the planning office.

1.65 Under no circumstances shall the planning commission grant extensions beyond 36 months from the date of first approval.

1.7 Submission requirements for conditional use permits requiring site development plan approval by the planning commission. The following submission requirements shall accompany applications for conditional use permits where site development plan approval by the planning commission is required by subsection 2.1. The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, or architect. The applicant shall submit copies of the site map to the city planner, who shall transmit copies to the planning commission at least seven days prior to the meeting at which approval of the permit is to be requested. Elements to be included on the site map are listed below:

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1.71 Scale and dimensions. The map shall be at least 11 inches by 17 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

1.72 Legal data:

(A) Tax parcel identification number.
(B) Name and address of the owner of record.
(C) Name and address of the equitable owner, if any.
(D) Name and address of the person, firm or organization preparing the map.
(E) Date, north point and written and graphic scale.
(F) Sufficient description of information to define precisely the boundaries of the property and that portion of the property for which a conditional use permit is requested, and the approximate total acreage of that portion of the property for which a conditional use permit is requested. All distances shall be given in feet and tenths of a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.
(G) The locations, names and existing widths of adjacent street rights-of-way and curblines.
(H) The locations and owners of record of all adjoining lands.
(I) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
(J) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.
(K) Existing zoning, including two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersection.

1.73 Existing structures.

(A) Location of uses and outlines of structures, drawn to scale on or within 100 feet of the property.
(B) Paved areas, sidewalks and vehicular access between the site and public streets.
(C) Other existing development, including fences and landscape screening.

1.74 Proposed use:

(A) A written description of the proposed use.
(B) A designation of that portion of the existing structures to be devoted to the proposed use and for which a conditional use permit has been requested.

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(C) A designation of that portion of the property to be devoted to the proposed use, not requiring structures and for which a conditional use permit has been requested.

(D) A designation of the parking area and indication of the number of off-street parking spaces.

(E) Indication of on-site circulation pattern and access to the property from adjacent roads.

1.75 Proposed development:

(A) Conditional use applications involving construction of new buildings and structures shall include a site plan which reflects compliance with the minimum requirements of subsection 2.5.

1.76 Natural features:

(A) Topography of the site.

(B) Location of different soil types, as indicated by the Soil Survey of Kent County prepared by the Natural Resources Conservation Service. The soils information shall be supplemented by soil boring and percolation test data if requested by the city.

(C) Location of flood hazard areas as identified on the FEMA flood insurance maps.

(D) Location of significant natural features, including, bodies of water, wetlands and forest areas.

1.77 Requested information: Full and complete information requested by the city planner in accordance with the development information requirements set forth in section 4.

1.78 Miscellaneous information: Other information deemed by the planning commission to be necessary to determine conformity with the intent of this ordinance.

1.8 Submission requirements for conditional use permits where site development plan approval by the planning commission is not required. The following submission requirements shall accompany applications for conditional use permits where site development plan approval by the planning commission is not required by subsection 2.1, where the applicant is seeking conditional use approval to occupy an existing structure. The applicant shall submit copies of the site map conforming to the specifications listed below to the city planner, who shall transmit copies to the planning commission at least seven days prior to the meeting at which approval of the permit is to be requested. Elements to be included on the site map are listed below:

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1.81 Scale and Dimensions. The map shall be at least 8.5 inches by 11 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that, if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

1.82 Existing Conditions. The existing building and conditions on the lot must be depicted. It is permissible to utilize the most recent mortgage survey of the property for this purpose. If conditions, such as buildings and building additions, paved areas, landscaping and accessory structures, on the lot have changed since the survey was completed, the applicant shall depict these changes on the plan to the best of his ability. However, the nature and extent of such revisions must be approved by the city planner at the required preapplication meeting.

1.83 Proposed use:

(A) A written description of the proposed use.
(B) A designation of that portion of the existing structures to be devoted to the proposed use and for which a conditional use permit has been requested.
(C) A designation of that portion of the property to be devoted to the proposed use, not requiring structures and for which a conditional use permit has been requested.
(D) A designation of the parking area and indication of the number of off-street parking spaces.
(E) Indication of on-site circulation pattern and access to the property from adjacent roads.

1.84 Additional Information. The city planner and/or planning commission may request more detailed information, including but not limited to architectural floor plans, on a case-by-case basis at their discretion.

1.85 Legal data:

(A) Tax parcel identification number.
(B) Name and address of the owner of record.
(C) Name and address of the equitable owner, if any.
(D) Name and address of the person, firm, or organization preparing the map.
(E) Date, north point, and written and graphical scale.
(F) The location and names of adjacent streets.
(G) The location, zoning, and owners of record of all adjacent properties.

Section 2. Site development plan approval.

2.1 Required. Site development plan approval shall be required for the erection or enlargement of all structures and the establishment of any use for which site development plan approval is required by this ordinance. Site development plan shall be required according to the following criteria:

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2.11 Planning commission site plan review. Site development plans shall be referred to the planning commission for consideration and review include any of the following:

(A) Site plans for new structures and building additions of 3,000 square feet or greater in floor area; or
(B) Site plans with a total of 5,000 square feet or greater of new or added impervious surface, including new structures or building additions; or
(C) Nonresidential site plans with site disturbance greater than 1,500 square feet and adjacent to residential uses or residential zones.

2.12 Site development master plan. Site development master plans shall be subject to review and approval by the planning commission in accordance with subsection 2.44.

2.13 Zoning review. For site development plans involving construction of a single family detached, single family attached, or single family semi-detached dwelling; an accessory structure; or a non-residential change of use for which no building addition or increase in impervious cover is proposed, the city planner or his designee may approve the site development plan in conjunction with building permit review.

2.14 Administrative site plan. All site development plans that do not meet the thresholds for zoning review in accordance with subsection 2.13 or planning commission site plan review in accordance with subsection 2.11 shall be reviewed as administrative site development plans.

2.2 Objectives. In considering and acting upon site development plans, the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular shall be taken into consideration and appropriate conditions and safeguards may be prescribed as may be required that the results of approval may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

2.21 Maximum safety and convenience of vehicular, transit, bicycle, and pedestrian traffic by ensuring that all proposed and impacted streets, driveways and walkways are adequate, but not excessive in number, adequate in width, grade, alignment, capacity, and visibility, and suitably located, particularly with respect to their connections with public streets.

2.22 The provision of adequate access to all proposed structures, equipment, or material on the site for fire, ambulance, police, and other emergency services.

2.23 The provision of adequate off-street parking to accommodate the vehicles of persons connected with or visiting the use and to obviate the parking of such vehicles in public streets.

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2.24 A site layout (including the location, power, direction, and time of any outdoor lighting of the site) which would have no adverse effect upon adjacent properties.

2.25 Landscaping of the site in a manner which is in character with that generally prevailing in the neighborhood and which provides reasonable screening, at all seasons of the year, of all playgrounds, parking areas, and service areas from the view of adjacent residential properties and streets.

2.26 In applicable cases, a drainage system and layout which would afford the best solution to any drainage problems.

2.27 Ensure that large scale development projects involving extended construction periods are planned and implemented in accordance with an approved site development master plan.

2.28 Consideration shall be given to the physical orientation and architectural characteristics of proposed buildings, the relationship of proposed buildings to existing buildings and to other proposed buildings, and their contributions to the overall image of the immediate vicinity by considering the building and architectural design guidelines as set forth in article 5, section 19. Design characteristics of proposed buildings and building additions shall not detract or devalue existing buildings in the immediate vicinity.

(A) If the planning commission determines that the proposed physical orientation and architectural characteristics of the proposed buildings do not meet the intent and objectives of this section, then the planning commission shall refer the proposal to the architectural review oversight subcommittee for review and comment.

(B) The subcommittee shall meet and review the proposal with the applicant, and return its comments to the planning commission by the next regularly scheduled meeting.

(C) The architectural review oversight subcommittee shall be appointed by the commission at its annual meeting, and membership shall consist of two planning commission members, and two design professionals with experience in construction, and the mayor or the mayor's designee. Two alternate design professionals with experience in construction shall also be appointed.

2.3 Effect of site development plan approval. No building permit will be issued for any structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant. No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

2.4 Application Procedure.

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2.41 Preapplication Meeting. Prior to the submission of a site development plan, the applicant or his representative shall meet in person with the city planner or his designee with a sketch plan. The purpose of this meeting shall be to discuss proposed uses or developments in order to determine, first, whether the site development plan application shall be submitted to the city planner for consideration and review as an administrative site plan or shall be referred to the planning commission.

If the application is to be referred to the planning commission, the applicant shall be informed at the preapplication meeting which elements listed in subsection 2.5 below will be required in determination of conformity with the provisions and intent of this section, along with any other comments and suggestions intended to bring about conformity with the provisions and intent of this section.

2.42 Administrative site plan review.

(A) Process for administrative site plan application. If, as a result of the preapplication meeting as described in subsection 2.41, it is determined that the proposed uses or development is of a type that may be approved by the city planner, the applicant shall submit the application for site development plan approval on forms approved for that purpose, to the city planner with the required documentation under the provisions of subsection 2.5, and a fee as provided for in Appendix F: Fees and Fines. The city planner shall coordinate the reviews of the various administrative departments of the City of Dover and outside regulatory agencies and approve the application within thirty (30) days of the date of submission or refer it to the planning commission at their next scheduled meeting.

(B) Final plans and working drawings. Following initial review and comment by the city planner, the applicant shall develop final construction plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments and outside regulatory agencies prior to issuing final plan approval. No building permit shall be issued until such time that the planning office has issued final site plan approval.

(C) Expiration. Administrative site development plan approval shall expire on the last day of the 24th month after the date of final approval by the planning office if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the city planner. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the city planner.

(D) Circumventing zoning requirements. Administrative site plans shall not be used to circumvent the requirement of planning commission site plan review.

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If the city planner determines that cumulative administrative site plans on a property are being used to circumvent the requirements of the zoning ordinance or other provisions of the Dover Code of Ordinances, he shall refer the application to the planning commission, subject to the requirements of subsection 2.43.

2.43 Planning commission site plan review.

(A) Site development plan. If, as a result of the preapplication meeting as described in subsection 2.41, it is determined that the proposed uses or development is of a type that would be reviewed by the planning commission and approval or disapproval of the application given by that body, the application for site development plan approval shall be submitted to the city planner on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval is to be requested. The application for site development plan approval shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

(B) Land subdivision. If a proposed use or development requires planning commission review under the land subdivision regulations of the City of Dover as set forth in appendix A, the application for conditional approval of the preliminary layout, under article IV, section B of that ordinance appendix A, and the application for site development plan approval under this ordinance shall be submitted and reviewed concurrently. The application for site development plan approval shall be revised and all changed elements resubmitted and reviewed concurrently with the application for plan approval under article IV, section C of the land subdivision regulations set forth in appendix A.

(C) Public hearing. Prior to the review and action on the site plan application, the commission shall hold a public hearing subject to the following public notification procedures:

(1) The applicant shall advertise the public hearing in a newspaper of general circulation at least 15 days prior thereto.

(2) The applicant shall notify, by mail, all property owners within 300 feet of the extreme limits of the site plan property as their names appear on the municipal tax record at least 15 days prior thereto.

(3) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission.

(a) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail

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receipts including the date of mailing for all letters on or before the meeting date.

(4) Said notices shall state the date, time and place of the hearing, the site location, a brief description of the site plan and shall state that a copy of the site plan application and plan is filed with the planning office for public review.

(D) City planner report. For each site plan application to the planning commission the city planner shall issue a report to the planning commission including comments from other agencies detailing how the application conforms to the requirements of the zoning ordinance and other provision of city and state codes. The city planner shall transmit copies of the proposed site development plan and the city planner's report to the planning commission at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

(E) Planning commission action. The planning commission shall act to approve or disapprove any application for site development plan received by it either as an original review or as a referral from the city planner under the provisions of subsection 2.42(A) of this article within 45 days or within such additional time as may be consented to by the applicant. Planning commission disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of the zoning ordinance.

(F) Notice of decision. The planning office shall send the applicant a letter notifying the applicant of the planning commission's action regarding the site plan application. Such letter shall document any conditions and waivers approved or recommended as part of the application approval.

(G) Final plans and working drawings. Following approval by the planning commission, the applicant shall develop final site plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments and outside agencies regulating street access and stormwater management, prior to issuing final plan approval. No building permit shall be issued until such time that the planning office has issued final site plan approval

(H) Amendments. Substantial amendments to an approved site development plan shall be acted upon in the same manner as the original plan. The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be referred to the planning commission for consideration at the discretion of the city planner.

(I) Expiration of planning commission approval.

(1) Site development plan approval shall expire on the last day of the 24th month after the date of final or conditional approval of the planning

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commission if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the planning commission.

(2) Request for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such request, the matter shall be considered at the next regularly scheduled meeting of the planning commission.

(3) In considering a request for an extension of approval, the planning commission shall consider, but not be limited to, the following:

(a) Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

(b) Whether the applicant has made substantial progress toward obtaining final approvals.

(c) Whether there has been any significant changes in the surrounding neighborhood.

(d) Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(4) Requests for extensions shall be submitted in writing to the planning office.

(5) Under no circumstances shall the planning commission grant extensions beyond 36 months from the date of first approval.

2.44 Site development master plans. Conceptual site development master plans shall be reviewed by the planning commission in accordance with the provisions of subsection 2.43. Conceptual site development master plans shall depict a site development proposal that reflects general compliance with the provisions of the zoning ordinance and shall also reflect the following information on the plan:

(A) Conceptual Master Plan. Conceptual Master Plan shall include the proposed general layout of building, streets, parking, open space, landscape concepts, and stormwater management areas.

(1) Detailed site construction plans, details, and specifications are not required as part of a site development master plan submission.

(2) The plan shall illustrate distinct phase boundaries for each proposed construction phase and shall depict proposed construction and site improvements planned for each phase. Bulk quantities and area totals for each construction phase, and for the total site, shall be tabulated in a data column on the plan.

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(3) Each construction phase shall be enumerated in sequential order on the site development master plan according to the order of construction contemplated by the plan. Phases shall be implemented in accordance with the approved site development master plan unless the city planner approves an alternate phasing.

(4) Each construction phase represented on the master plan shall be planned and designed to function independent of construction and site improvements contemplated in future construction phases in all respects, including but not limited to bulk area provisions of the zoning district in which the site is located, off-street parking requirements, site entrances, emergency access requirements, site utilities, and stormwater management improvements except where the requirements and needs of a later phase are met and remain met by a previous phase of completed construction.

(5) Any special agreements or conditions of approval relative to the overall development that have been specified by regulatory agencies shall be documented on the site development master plan.

(B) Phased site plan approval. Individual phased components of the Conceptual Master Plan are to be reviewed and approved as an Administrative Site Plan. Final site construction plans, including detailed site grading, paving, utilities, stormwater management, and tree planting and preservation plans shall be submitted for final approval by the city planner and/or authorized designee, and to other agencies having jurisdiction, on a phase by phase basis in accordance with the approved site development master plan, and all regulations of the City of Dover governing the approval of site plans as set forth in subsection 2.4 and 2.5.

(C) Amendments. Substantial amendments to an approved site development master plans shall be acted upon in the same manner as the original plan. The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be referred to the planning commission for consideration at the discretion of the city planner.

(D) Expiration of planning commission approval. For projects which are reviewed and approved by the planning commission as conceptual master plans, approval of the conceptual master plan shall remain valid for a period not to exceed five years from the date of planning commission approval, provided that the authorized construction or use has commenced within two years of approval and is proceeding toward completion. In addition, the time between the completion of one phase and the initiation of the next phase shall not exceed a period of two years.

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2.5 Site development plan elements submission requirements accompanying applications for site development plan approval. The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, or architect. The applicant shall submit copies of the site development plan to the city planner at the time of filing the formal application for site development plan approval under the provisions of subsection 2.42, subsection 2.43, or subsection 2.44. If the application is under the provisions of subsection 2.43 or 2.44, the city planner shall transmit copies of the site development plan map to the planning commission at least seven days prior to the meeting at which approval of the application for site development plan approval is to be requested. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated in the preapplication meeting required by the provisions of subsection 2.41.

2.51 Scale dimensions: Ten, 20, 30 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

2.52 Legal data:

(A) Tax parcel identification number.
(B) Name and address of the owner of record.
(C) Name and address of the equitable owner, if any.
(D) Name and address of the person, firm or organization preparing the map.
(E) Date, north point and written and graphic scale.
(F) Sufficient description of information to define precisely the boundaries of the site, and total acreage of the site. All distances shall be given in feet and tenths of a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.
(G) The locations, names and existing widths of adjacent street rights-of-way and curblines.
(H) The locations and owners of record of all adjoining lands.
(I) Locations, widths and purposes of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
(J) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.
(K) Existing zoning on the site and adjacent properties.
(L) Two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersections.
(M) Record of any agreements between the applicant and the city regarding the proposed development.

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2.53 Natural features:

(A) Contour lines at vertical intervals of two feet for land with an average existing slope of four percent or less, and at intervals of five feet for land with an average existing slope greater than four percent.

(B) Location of different soil types, as indicated by the soil survey of Kent County, prepared by the Natural Resources Conservation Service, and including locations of flood hazard areas as identified in the FEMA Flood Insurance Maps. The soils information shall be supplemented by soil boring and percolation test data, if requested by the city.

(C) Location of significant natural features, including bodies of water, wetlands, and forest areas.

2.54 Proposed development:

(A) Existing buildings and other structures.

(B) Location and width of all proposed streets and rights-of-way. Speed bumps or speed dips for the purpose of slowing down traffic on any street shall not be permitted.

(C) Location of all proposed structures, except one-family detached dwellings, and an indication of the total number of dwelling units.

(D) Location and dimensions of all lot lines.

(E) Building setback lines on all lots.

(F) Location of all uses not requiring structures, including parks, playgrounds and other open space areas.

(G) Location and plans for any outdoor signs.

(H) Location, direction, power and time of use for any proposed outdoor lighting.

(I) The location, size and arrangement of proposed sidewalks, driveways, loading areas, off-street parking areas and other paved areas.

(J) Indication of the total amount of impervious surfaces and the development coverage.

(K) Any proposed changes in elevation of the site and elevations of all streets, parking areas, and building foundations. The datum to which all elevations, including existing contour elevations, refer shall be clearly indicated on the plan.

(L) Plans for surface drainage of the site. Such plans shall include stormwater run-off calculations and shall show the proposed method of accommodating the anticipated run-off.

(M) Any proposed below-ground or above-ground utilities and any contemplated public improvements, including road improvements, on or adjoining the property. Plans for such utilities and improvements shall indicate whether the developer, the city, or other agency will bear the financial responsibility for

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the construction, and which improvements are intended to be dedicated to the city.

(N) Proposed grading, screening and other landscaping, including types and locations of proposed street trees.

(O) Architectural elevation drawings or other graphic representations illustrating exterior building characteristics of proposed buildings and/or building additions that would be visible from the public right-of-way. Elevation drawings shall be drawn to scale and shall reflect major architectural elements such as exterior surface materials, windows, doors, columns, and wall-mounted signage. Elevation plans are intended to provide a general depiction of the physical appearance, massing and scale of the proposed construction.

2.55 Requested information. Full and complete information requested by the city planner in accordance with the development information requirements set forth in section 4.

2.56 Development in stages. If the site development plan indicates more than one stage of the development, supplementary material shall be included to show compliance with section 9, development in stages.

2.57 Miscellaneous information. Other information deemed by the planning commission to be necessary to determine conformity with the intent of this ordinance.

Section 3. Historic district commission and architectural review.

3.1 Historic district commission established.

3.11 Creation and purpose. There shall be a historic district commission for the purpose of assisting the planning commission and city planner in reviewing applications for architectural review certifications as specified in subsection 3.2; and for making recommendations for designation of historic district zones; and for establishing guidelines for the preservation and conservation of historic district zones; and for advising other officials and departments in the City of Dover in matters concerning historic preservation; and for reviewing all proposed National Register nominations in the City of Dover; and for acting as a liaison on behalf of the City of Dover to individuals and organizations concerned with historic preservation; and for carrying out programs of historic preservation education in the City of Dover.

3.12 Appointment. The commission shall consist of five members nominated by the mayor and approved by the city council, who are residents of the City of Dover and who have demonstrated special interest, experience, or knowledge in history, architecture, or historic preservation. Two of the members, to the extent available, shall be professional members representing the professions of architecture, history, archaeology, planning, historic preservation or related disciplines. At least two

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members shall be residents of the district, and at least one shall represent the business within the district.

3.13 Term. The members of the commission shall serve for three-year staggered terms. Vacancies shall be filled within 60 days in accordance with subsection 3.12 of this section.

3.14 Organization. The commission shall meet at least four times per year in a place that is advertised in advance and open to the public and shall keep minutes of its meetings that are available to the public. All review decisions shall be made in public. The commission shall establish bylaws for its general procedure, which shall include a section addressing conflicts of interest.

3.2 Architectural review certification.

3.21 Effect of architectural review certificate. No building permit or certificate of occupancy may be issued for any structure in the historic district until an architectural review certificate is issued as required under article 3, section 21, subsection 21.3 for the historic district.

3.22 Architectural review certification by the city planner.

(A) An architectural review certificate for specific classes of building permits, including fences, signs, siding, window and door replacement, roofing, the addition or replacement of decorative features, minor demolition, residential additions, and other construction of a minor nature, may be issued by the city planner, after a review and determination that the proposed construction is in general accordance with the standards set forth in subsection 3.25.

(B) The city planner may refer any permit application for demolition or construction in the historic district for consultation with commission.

(C) All decisions of the city planner pursuant to this subsection shall be documented on the building permit. When the city planner grants a conditional approval under this section, all conditions of approval shall be set forth in writing on the building permit. In the event of a denial, the reasons for such denial shall be documented in a written notice of decision which shall identify all elements of the application found to be contrary to the provisions or intent of this section.

(D) An applicant may appeal the decision of the city planner to the historic district commission and such appeal shall be considered as an architectural review certification application to the historic district commission and shall meet all of the requirements set forth in subsection 3.23.

3.23 Architectural review certification by the historic district commission

(A) The historic district commission shall issue architectural review certificates for the construction or demolition of single-family and two-family homes, and

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nonresidential structures or additions involving a gross floor area of 3,000 square feet or less, after review of the proposed construction and after a determination that the construction is in general accordance with the standards set forth in subsection 3.25 below.

(B) All applications to the historic district commission for architectural review certification shall be subject to the procedures set forth in subsection 3.26.

(C) All decisions of the historic district commission pursuant to this subsection shall be formalized in a written notice of decision. When the commission grants a conditional approval under this subsection, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial and shall identify all elements of the application found to be contrary to the provisions or intent of this subsection.

(D) An applicant may appeal the decision of the historic district commission to the planning commission, and such appeal shall be considered as an architectural review certification application to the planning commission and shall meet all of the requirements set forth in subsection 3.24 and subsection 3.26.

3.24 Architectural review certification by the planning commission.

(A) The planning commission shall issue architectural review certificates referred or appealed to it, upon review of the recommendations of the historic district commission and upon a determination that the proposed construction is in accordance with the standards set forth in subsection 3.25.

(B) All applications to the planning commission for architectural review certification shall be subject to the procedures set forth in subsection 3.26.

(C) All decisions of the planning commission pursuant to this subsection shall be formalized in a written notice of decision. When the planning commission grants a conditional approval under this subsection, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial and shall identify all elements of the application found to be contrary to the provisions or intent of this subsection.

3.25 Architectural review standards.

(A) An architectural review certificate may be issued if it is found that the architectural style, general design, height, bulk and setbacks, arrangement, location and materials and structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the historic district as set forth in the historic district design guidelines and standards adopted by the planning

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commission and as set forth in the United States Secretary of the Interior's Standards for Rehabilitation.

(B) The city planner, historic district commission or planning commission shall not consider normal maintenance and repair (see definitions, article 12), interior arrangement, or building features not subject to public view.

3.26 Procedures for an architectural review by the historic district commission and/or planning commission.

(A) Architectural preapplication meeting. Prior to action on any application for an architectural review certificate, the applicant shall meet in person with the city planner or his delegated representative. The purpose of such conference shall be to discuss the proposed construction or other action requiring the certificate in order to determine what information is useful in the determination of conformity with the provisions and intent of the historic district regulation as expressed in this ordinance.

(B) Application and fee. The application to the historic district commission for an architectural review certificate and related information shall be submitted to the city planner at least 30 days prior to the historic district commission meeting at which review is requested and shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

(C) Public hearing. Prior to the review and action on a architectural review certification, the historic district commission shall hold a public hearing subject to the following public notification procedures:

(1) The applicant shall advertise the public hearing newspaper of general circulation at least 15 days prior thereto.

(2) The applicant shall notify, by mail, all property owners within 300 feet of the extreme limits of the subject property as their names appear on the municipal tax record at least 15 days prior thereto.

(3) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission.

(4) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating date of mailing for all letters on or before the meeting date.

(5) Said notices shall state the date, time, and place of the hearings before the historic district commission, a brief description of the project and shall state that a copy of the application and plan is on file with the planning office for public review.

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(6) If the planning commission is reviewing a project in accordance with other sections of this article, then the public hearing notice on those applications must also give notice of architectural review certification.

(D) Application information. The applicant shall provide such information and documents listed below which will satisfactorily illustrate the proposed action as indicated in the architectural preapplication meeting required in subsection 3.26(A):

(1) All plan elements required in subsection 2.5.

(2) Plans and specifications indicating existing and proposed development, including structures, architectural elevation drawings, trees and any other landscaping, existing and proposed, including the general design, location and orientation of structures in relation to curb line, right-of-way line and neighboring buildings, colors, and materials to be used on exterior surfaces, detailed plans for any signs, photographs of the existing site and neighboring buildings, and such other information as will enable the historic district commission or planning commission to determine conformity with the ordinance.

(E) City planner report. For each application to the planning commission the city planner shall issue a report to the planning commission including comments from other agencies detailing how the application conforms to the requirements of the zoning ordinance and other provision of city and state codes. The city planner shall transmit copies of the proposed site development plan and the city planner's report at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

(F) Historic district commission action. The historic district commission shall act to review and render a recommendation to approve any such application within 45 days of transmittal to the commission or within such additional time as may be consented to by the applicant. The recommendation of the historic district commission shall be forwarded to the planning commission and acted upon by the planning commission in conjunction with action on the associated site development plan. If a site development plan application is not filed in accordance with the provisions of subsection 2.4 of this article within one year of recommendation, the recommendation shall expire. The historic district commission may grant a one-year extension of its recommendation upon written request by the applicant. Such request shall be made in writing to the planning office at least thirty days prior to the expiration of the historic district commission's recommendation.

(G) Substantial Amendments. Substantial amendments to an application or an architectural review certificate shall be acted upon in the same manner as the original plan.

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(H) Expiration of architectural review certification issued by the historic district commission.

(1) Architectural review certification approval shall expire on the last day of the 12th month after the date of approval if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the historic district commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the historic district commission.

(2) Request for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such request, the matter shall be considered at the next regularly scheduled meeting of the historic district commission.

(3) In considering a request for an extension of approval, the historic district commission shall consider, but not be limited to, the following:

(a) Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

(b) Whether the applicant has made substantial progress toward obtaining final approvals.

(c) Whether there have been any significant changes in the surrounding neighborhood.

(d) Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(4) Requests for extensions shall be submitted in writing to the planning office.

(5) Under no circumstances shall the historic district commission grant extensions beyond 24 months from the date of first approval.

3.3 Historic district amendments.

3.31 Historic district commission review required. Any motion or petition to amend, supplement, or repeal a historic district by the city council in accordance with section 5, amendments, shall require a report by the historic district commission as set forth in article 3, subsection 21.4.

3.32 Review criteria for placing individual structures in a historic district. The historic district commission may recommend that an individual structure or property be placed in an existing contiguous historic district or be placed in a historic district specifically created for the property or structure upon considering the following criteria and factors:

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(A) Significant value as part of the historical, cultural, artistic, social, ethnic or other heritage of the nation, state or community;
(B) Association with an important person or event in national, state, or local history.
(C) Representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous material;
(D) Notable work of a master builder, designer, architect, or artist whose individual genius has influenced an era;
(E) The desire of the owner to have the property designated;
(F) Increased potential of economic or community development.

3.33 Review criteria for amendments or creation of new historic districts. The historic district commission may recommend amendments to an existing historic district, recommend repeal of an existing historic district or recommend the creation of a new historic district upon considering the following criteria:

(A) Any criteria listed in subsection 3.32.
(B) Distinctive character or homogeneity of architectural design or dates of construction throughout the area.
(C) Identifiable by clear and distinctive boundaries.
(D) Repetition of distinguishing architectural or land use characteristics throughout the area.

3.34 Public hearing required. For all proposed amendments to the boundary of the historic district, the historic district commission shall hold a public hearing subject to the following public notification procedures:

(A) The planning office shall advertise the public hearing in a newspaper of general circulation at least 15 days prior thereto.
(B) The planning office shall notify, by mail, all directly affected property owners and all property owners within 300 feet of the extreme limits of the properties proposed for addition to or removal from the district as their names appear on the municipal tax record at least 15 days prior thereto.

3.4 Demolition by neglect.

3.41 Responsibility of property owners. Property owners of properties within the historic districts shall not allow their buildings to be demolished by neglect (see definitions, article 12) by failing to provide ordinary maintenance or repair.

3.42 Responsibility of the historic district commission. The historic district commission shall monitor the condition of historic properties and existing buildings in the historic district to determine if they are being demolished by neglect by failing to provide ordinary maintenance and repair (see definitions, article 12). In the event

that the commission determines a demolition by neglect is occurring, it shall carry out the following:

(A) Determine and set forth steps required to remedy the situations or defects.
(B) Direct the city planner to inform the property owners of its findings, determination, and recommended remedies.
(C) In the event that the property owners fail to commence work within the reasonable time allotted by the commission, the commission may direct the building inspector to begin proceedings under chapter 22, buildings, and building regulations, article XI, dangerous buildings, of the Code of Ordinances for the City of Dover to bring about the repair or demolition of the building.

3.43 Responsibility of the city planner. The city planner shall notify the historic district commission of buildings within the historic district that meet the definition of dangerous buildings under the provisions of chapter 22 buildings and building regulations, article XI dangerous buildings, of the Code of Ordinances for the City of Dover. In such cases the commission shall determine if the building is being demolished by neglect. Before referring a property to the commission for consideration as demolition by neglect, the city planner shall give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building, as shown by the records of the recorder of deeds of the county, to appear before historic district commission at the time, date and location specified.

Section 4. Development information requirements.

4.1 In order to more effectively evaluate the probable impact of proposed development and thereby to carry out the purposes of this ordinance when making decisions and recommendations regarding development proposals, the planning commission, historic district commission, or city planner may adopt a standard set of information requirements, which may be updated from time to time as necessary.

4.2 The information requirements shall be administered by the city planner and shall be a part of submission requirements for all applications to the planning commission.

Section 5. Amendments.

This ordinance or any part thereof may be amended, supplemented or repealed, from time to time, by the city council on its own motion or upon application, as provided in chapter 3 of title 22, Municipalities of the Delaware Code Annotated (22 Del. C. § 301 et seq.). Every such proposed amendment shall be referred by the city council to the planning commission for a report before the public hearing. The city council shall not take action on any such amendment without a report from the planning commission unless the

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planning commission fails to render such a report within 75 days after its regularly scheduled meeting following such referral.

5.1 Types of amendments to the ordinance. The following are the types of amendments that may be made to the ordinance:

5.11 Zoning text amendments. Amendments to ordinance text may be made upon initiation of the city planner or under sponsorship of three members of city council.

5.12 Map amendment by application. A property owner may make application to the city for amendment of the zoning map as it relates to his property. Amendments to the zoning map may also be initiated by sponsorship of three members of city council and shall be considered under the procedures of subsection 5.3 as it relates to applications for map amendments.

5.13 Comprehensive zoning map amendment. Amendment to the zoning map as a result of a new, revised, or amended comprehensive plan, or other formal plan or study shall be considered as a comprehensive zoning map amendment and shall be initiated by the planning office.

5.2 Procedure for zoning text amendments in accordance with subsection 5.11.

5.21 Public hearing and notice. An amendment to the ordinance text shall be subject to public hearing before the planning commission and city council prior to adoption. Such hearing shall be advertised in a newspaper of general circulation at least fifteen (15) days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning text amendment, and specify that documents are available in the planning office for review.

5.22 City planner report. For each proposed zoning text amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that evaluates the following factors:

A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and
B) Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.

5.23 Report of the planning commission. Regarding each proposed amendment to the ordinance text, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

A) Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and

B) Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.

5.3 Application procedure for zoning map amendments in accordance with subsection 5.12.

5.31 Preapplication Meeting. Prior to the submission of a zoning map amendment application, the applicant or his representative shall meet in person with the city planner or his designee to discuss the rezoning request. The purpose of this meeting shall be to discuss proposed uses or developments and to review the process and submission requirements.

5.32 Application. Application for a zoning map amendment shall be submitted to the city planner, on forms approved by the planning commission, along with a fee as provided for in Appendix F--Fees and Fines, and copies of a site map as described below.

(A) Submission requirements accompanying applications for amendments to the zoning map. The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, or architect. The applicant shall submit copies of the site map to the city planner. The elements to be included on the site map are listed below:

(1) Scale and dimensions. The map shall be at least 8.5 by 11 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

(2) Legal data.

(a) Tax parcel identification number.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of the person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

(f) Sufficient description of information to precisely define the boundaries of the property and that portion of the property for which a rezoning is requested; and total acreage for which a rezoning is requested. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest second or closer. The error of closure shall not exceed one in 10,000.

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

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(h) Location, width and purpose of all existing and proposed easements, reservations and areas dedicated to public use within or adjoining the property.
(i) Existing and proposed zoning.
(j) Any existing development on the property, including buildings, fences and landscape screening.
(k) Full and complete information requested by the city planner in accordance with the development information requirements set forth in section 4.

5.33 Setting of hearings and referral to planning commission. For any application to amend the zoning map, city council shall refer the proposed amendment to the planning commission and set dates for the public hearings to be held before the planning commission and city council.

5.34 Advertisement of public hearing. Following referral of a zoning map amendment application to planning commission by city council, the applicant shall advertise the public hearing as follows:

(A) The applicant shall notify by mail all property owners within a distance of 300 feet of the extreme limits of the subject property of the public hearing dates, times and locations.
(B) The applicant shall advertise the public hearings in a newspaper of general circulation at least fifteen (15) days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning map amendment, and specify that documents are available in the planning office for review.
(C) The applicant shall also post a notice outlining the date, time, place, and nature of the hearings in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission and city council.
(D) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating the date of mailing for all letters on or before the planning commission meeting date.

5.35 City planner report. For each application for a zoning map amendment, the city planner shall transmit a report to the planning commission and city council, including comments from other reviewing agencies that evaluate the following factors:

(A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;

(B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and

(C) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.36 Report of the planning commission. Regarding each application for a zoning map amendment, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

(A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;

(B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and

(C) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.37 Amendment of zoning map. Following action by city council with regards to an application to amend the zoning map, the planning office shall update the zoning map to reflect the action of city council.

5.38 Notice of decision. The city clerk shall send the applicant a letter notifying the applicant of the city council's action regarding the application for a zoning map amendment.

5.4 Procedure for comprehensive zoning map amendment in accordance with subsection 5.13.

5.41 Public hearing and notice. A comprehensive zoning map amendment shall be subject to public hearing before the planning commission and city council prior to adoption. The planning office shall advertise the public hearings as follows:

(A) The planning office shall advertise the public hearing in two newspapers of general circulation at least fifteen (15) days prior to the planning commission hearing.

(B) The planning office shall notify all affected property owners by mail at least 15 days prior to the planning commission hearing, informing them of the proposed zoning map amendment as it relates to their property.

(C) Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning map amendment, and specify that documents are available in the planning office for review.

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5.42 City planner report. For any comprehensive zoning map amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that identifies:

A) The reasons for the comprehensive zoning map amendment;
B) All properties where a change in zone is proposed; and
C) How the proposed changes to the zoning map support the city's current comprehensive plan.

5.43 Report of the planning commission. Regarding each application for a comprehensive zoning map amendment, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

(A) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;
(B) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and
(C) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.44 Adoption of comprehensive zoning map amendment. Upon adoption of the comprehensive zoning map amendment by city council, the zoning of properties shall be as reflected in the adopted map.

5.45 Notice of decision. The city shall notify all affected property owners in writing with regards to any amendments to the zoning map that affect their properties.

5.5 Amendment protests. In the case of a protest against any amendment, such amendment shall not become effective, except in accordance with the provisions of section 305 of chapter 3 of title 22, Municipalities, of the Delaware Code Annotated (22 Del. C. § 305).

5.6 Zoning map amendment approvals. In all cases where the city council shall approve an amendment to the zoning map, the said council shall find that, for reasons fully set forth in the said findings, such amendment is in conformity with the comprehensive plan for the city.

5.61 Reconsideration, one-year limitation.

(A) Whenever an amendment has been denied by the city council, such amendment, or one substantially similar, shall not be reconsidered sooner than one year from the date of the prior denial, except as provided in subsection (B) hereof.

(B) Notwithstanding the provisions of subsection (A) hereof, the planning commission may request the council to reconsider an application within the one-year period from the denial of the same if the land use in the area has changed to such a degree that failure to do so would prevent proper planning and development of the area in question.

5.7 Closed zones. Where the city finds that new development in a certain zone would be inconsistent with the purposes of this ordinance, but that elimination of or substantial changes to the zone would create a hardship for many owners of existing buildings and land in that zone, the city may declare the zone closed. The city council shall not accept or approve amendments to the zoning map which would place land in a closed zone. Closed zones include:

(A) R-7;
(B) RG-4;
(C) RG-O, except in the downtown redevelopment target area as described in appendix C of the City of Dover Code of Ordinances.

BE IT FURTHER ORDAINED:

That Appendix F – Fees and Fines be amended by deleting the text shown in red bold strikethrough and replacing it with the text shown in blue bold italics as follows:

Appendix B—Zoning—Article 10—Planning Commission			
Sec. 1	Approval of conditional uses		
	Subsec. 1.52	Application procedure; Conditional use permit; each application	$325.00, plus $15.00 per acre of the area or multiple thereof involved in the application
Sec. 2	Site development plan approval		
Subsec. ~~**2.45**~~ ***2.42***	Fees		~~**Application for site development plan approval—$325.00**~~ Application for administrative site plans—$125.00
Subsec. 2.43	***Fees….***		***Application for site development plan approval—$325.00***
Sec. 3	Historic district commission and architectural review		
	Subsec.	Procedures for an architectural review by the historic district commission or	

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	~~3.25~~ *3.26*	planning commission		
		Subsec. (b)	Application and fee for an architectural review certificate	$250.00
Sec. 5	Amendments			
	Subsec. ~~5.12~~ *5.32*	Fees		
			Each ~~petition~~ ***application*** for a rezoning amendment	Minimum fee of $325.00, in addition to required district supplemental fee
			Residential and single-family (R-7, R-8, R-10, R-15, and R-20); supplemental fee	$10.00 per acre
			Multifamily (RG-0, RG-1, RG-2, RG-3, RG-4, RG-5, RM-1, and RM-2), cluster and MHP; supplemental fee	$30.00 per acre
			Commercial and institutional (C-1, C-1A, C-2, C-2A, C-3, CPO, RC and IO); supplemental fee	$50.00 per acre
			Shopping center development (SC-1, SC-2 and SC-3); supplemental fee	$60.00 per acre
			Manufacturing and industrial development (M and IPM); supplemental fee	$60.00 per acre
			~~All applications for amendment to the zoning ordinance (appendix B) .....~~	~~$250.00~~

BE IT FURTHER ORDAINED:

That the amendments shall be affective upon adoption of this ordinance and that any unexpired conditional use permit, site development plan, or architectural review certificate approval shall

be eligible for extension of approval by the approving body for a period of time not to exceed 36 months from the last day of the month during which initial approval was granted by that body.

SYNOPSIS

The proposed ordinance would amend the procedures for conditional use permits, site development plans, architectural review certificates and amendments to the zoning ordinance. Included in the proposed amendments are measures to clarify and streamline certain review processes and expand public notification requirements.

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Summary of Proposed Changes to Zoning Ordinance
Article 10 – Planning Commission

Background

Article 10 of the *Zoning Ordinance* includes the processes and procedures associated with Planning Office, Planning Commission, and Historic District Commission applications, as well as the procedure for amending the *Zoning Ordinance*. Application types included in this Article include Conditional Use Permits, Site Development Plans, Architectural Review Certificates, and Zoning Map Amendments.

Over the past nine months, the Planning Office has been reviewing the provisions of Article 10 and developing proposed changes aimed at improving consistency within the ordinance, streamlining review processes, removing antiquated language, and expanding public notification requirements.

Because the review of Article 10 is extensive and detailed, this summary is provided in effort to highlight the changes so that they may be more easily reviewed and understood.

Overview of Proposed Changes

Consistency in Wording and Process
For all applications for Conditional Use Permits, Site Development Plans, Architectural Review Certificates, and Amendments to the Zoning Map, the following steps in the process are made consistent with practice and with each other.

- Pre-application Meeting – References to "presubmission conference" are replaced with "pre-application meeting." In areas where code does not reference either of these, the pre-application meeting is added.
- City Planner Report – Several existing sections call for a report of the building inspector. This was replaced with the City Planner's Report, which is the report of the Development Advisory Committee. Consistent language is added for all application types.
- Notice of Decision – Language is added for all application types stating that the City will issue a notice of decision to the applicant.
- Amendments to Plans – Currently the ordinance reads that amendments "shall be acted upon in the same manner as the original plan." The proposed ordinance would make this the case for substantial amendments. Amendments deemed by the City Planner not to be significant may be referred to the Planning Commission at the discretion of the City Planner without requiring a new public hearing. This is consistent with current practice. If we were to hold to the letter of the current ordinance requirements, all amendments would be subject to public hearing. Substantial amendments would continue to be subject to a public hearing.

- Final Plans – For Conditional Use Permits and Site Plans, the proposal adds language regarding completing the final plans following the Planning Commission's approval, which includes obtaining agency approvals.

Expiration of Plans

Currently, Conditional Use Permits and Site Development Plans expire after one year following Planning Commission approval if construction has not commenced. The current ordinance allows for one 12-month extension. The proposed ordinance would have plans expire two years after Planning Commission approval if construction hasn't commenced. It would also allow for one 12-month extension. This would extend the life of Conditional Use Permits and Site Development Plans from two years to three years. The proposed ordinance would also clarify the timeframe for expiration of recommendations of the Historic District Commission regarding Architectural Review Certificates.

Additionally, amendments to the Zoning Map (rezoning) expire after one year under the current provisions, unless an extension is granted by City Council. The proposed ordinance would remove this provision.

Public Notice

The table below compares the current public notification requirement with what is proposed for Conditional Use Permits, Site Development Plans, and Architectural Review Certificates.

Media	**Current**	**Proposed**
Mailed Notice	Sent to all property owners within 200 feet of subject property at least 10 days prior to Planning Commission or Historic District Commission meeting	Sent to all property owners within 300 feet of subject property at least 15 days prior to Planning Commission or Historic District Commission meeting
Newspaper Ad	In one local newspaper at least 10 days prior to Planning Commission or Historic District Commission meeting	In one local newspaper at least 15 days prior to Planning Commission or Historic District Commission meeting
Physical Posting of Property	Not currently required	Notice posted in conspicuous location on subject property at least 15 days prior to Planning Commission meeting

The draft proposal also clarifies the public notice requirements for Comprehensive Rezonings and Zoning Text Amendments.

Proposed Changes to Conditional Use Permit Requirements

- Clarifies different requirements for a Conditional Use Permit requiring Planning Commission Site Development Plan Approval and a Conditional Use Permit not requiring Planning Commission Site Development Plan Review.
- Sets forth clear procedures for revocation of a Conditional Use Permit, which includes a public hearing to be advertised by the City.
- Requires that a description of the proposed use accompany the Conditional Use Permit application.

Proposed Changes to Site Development Plan Requirements

- Sets four types of reviews and the processes for each:
    - Planning Commission Site Plan
        - New buildings or building additions of 3,000 SF or greater (same as current)
        - Addition of 5,000 SF of impervious cover (same as current)
        - Non-residential site plans that includes more than 1,500 SF of disturbance (current threshold set at 500 SF)
    - Site Development Master Plan
    - Zoning Review
        - New process – Currently these projects are required to be reviewed as an Administrative Site Plan
        - No building or impervious cover expansion proposed
        - Change of use within existing building
        - Review with building permit review
    - Administrative Site Plan
        - New buildings, building additions, impervious cover, or disturbance below the Planning Commission Site Plan thresholds
        - Same as current Administrative Site Plan Process

Historic District Commission

- Clarifies three types of Architectural Review Certification:
    - Review and approval by City Planner at building permit submission
    - Review and approval by Historic District Commission
    - Review and recommendation by Historic District Commission for final action by the Planning Commission
- Clarifies process for amendments to the boundary of the Historic District
    - Public hearing before the Historic District Commission
    - Notice of hearing in newspaper and mailed to affected property owners and owners of properties within 300 feet of affected properties – all 15 days prior to Historic District Commission Hearing
- Clarifies the procedures for "Demolition by Neglect" determination.

Amendments to the Zoning Ordinance

Establishes clear processes for applications to amend the Zoning Map (rezoning), amendments to the Zoning Map as a result of a Comprehensive Rezoning, and amendments to the Zoning Text.

Code Mark-up Document

DRAFT Amendments to Zoning Ordinance, Article 10

ARTICLE 10. PLANNING COMMISSION

Section 1. Approval of conditional uses.

On application and after public notice and hearing, the commission may authorize the issuance by the city planner of permits for any of the conditional uses for which this ordinance requires, in the district in which such use is proposed to be located~~, the approval of such use by the planning commission~~. In approving any such use, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

1.1 Accessibility for ***emergency response*** ~~fire and police protection~~. That all proposed structures, equipment or material shall be readily accessible for fire***, ambulance,*** ~~and~~ police***, and other emergency response*** ~~protection~~;

1.2 Harmony of location, size and character. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;

1.3 Residential zones. That, in addition to the above, in the case of any use located in, or ~~indirectly~~ adjacent to, a residential zone:

a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood; and

b. The location and height of buildings, the location, nature and height of walls and fences, ~~and~~ the nature and extent of landscaping***, and other improvements*** on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

1.4 ***Conditional use p***~~P~~ermits.

a. Conditional use approval. Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:

1. The provision in this ordinance under which such permit was issued is still in effect;

2. Such permit was issued in conformity with the provisions of this ordinance; and

3. Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

b. Periodic renewal of conditional use permit. The commission may require that conditional use permits be periodically renewed. Such renewal shall be granted following ~~due~~ public notice and hearing ***in accordance with subsection 1.53.*** ~~, and may be withheld only~~ ***The commission may withhold approval of the renewal*** upon a determination by the city planner to the effect that such conditions as may have been prescribed by the commission in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. ~~In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of the said permit.~~

~~Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:~~

~~a. The provision in this ordinance under which such permit was issued is still in effect;~~

~~b. Such permit was issued in conformity with the provisions of this ordinance; and~~

~~c. Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.~~

c. Revocation of conditional use permit. If the city planner determines that the conditions prescribed by the commission in conjunction with the issuance of the conditional use permit have not been, or are no longer complied with, he shall initiate the process for revocation of the permit according to the following procedure:

1. The city planner shall notify the permit-holder in writing of the noncompliance with the permit conditions and allow the permit-holder 30 days to comply with the permit conditions.

2. If, after 30 days, the city planner determines that the permit-holder has not come into compliance with permit conditions, he shall notify the

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permit-holder that the planning commission will hold a public hearing on revocation of the conditional use permit.

3. The planning commission shall hold a public hearing for which notice shall be completed by the planning office in accordance with the provisions of section 1.53 of this article.

3. Following the public hearing, the planning commission shall take action in the following regard:

a. Revoke the conditional use permit.

b. Issue a probationary period after which the commission shall review the permit in accordance with the provisions regarding periodic renewal of conditional use permit.

c. Determine that the conditional use may continue as initially authorized.

1.5 Application procedure.

1.51 Preapplication Meeting. Prior to the submission of a conditional use application, the applicant or his representative shall meet in person with the city planner or his designee with a sketch plan. The purpose of this meeting shall be to discuss proposed uses or developments and to review the process and submission requirements.

1.52 ~~1.51~~ *Application.* Application for a conditional use permit shall be submitted ~~in triplicate~~ to the city planner, on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval of the permit is to be requested.

~~1.52~~ Each application for a conditional use permit shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

1.53 *Public hearing.* Prior to the review and action on the conditional use *permit* application, the commission shall hold a public hearing *subject to the following public notification procedures:* ~~to be advertised by the applicant~~

(a) The applicant shall advertise the public hearing in a newspaper of general circulation at least *15* ~~ten~~ days prior thereto.

(b) The applicant shall notify by mail all property owners within *300* ~~200~~ feet of the extreme limits of the *subject* ~~site plan~~ property as their names appear on the municipal tax record at least *15* ~~ten~~ days prior thereto.

(c) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property at least 15 days prior to the planning commission hearing. Such notice shall be designed in accordance with standards set forth by the planning commission.

(d) The applicant shall provide the ***planning office*** ~~commission~~ with a copy of the notice, verification of newspaper publication, ***a date-stamped photo of the property posting,*** and post office ***mail*** ~~return~~ receipts ***indicating the date of mailing*** for all letters on or before the meeting date.

(e) Said notices shall state the ***date,*** time and place of the hearing, ***the site location,*** a brief description of the ***conditional use*** ~~site plan~~ and shall state that a copy of the conditional use application and plan is filed with the planning ***office*** ~~department~~ for public review.

1.54 ***City planner report. For each application for a conditional use permit, the city planner shall issue a report to the planning commission including comments from other agencies and detailing how the application conforms to the requirements of the zoning ordinance and other provisions of city and state codes.*** ~~The city planner shall certify on each application for a conditional use permit whether or not the application meets the requirements of all zoning ordinance provisions other than those of this section regarding conditional use permit approval.~~

~~1.55~~ ***a.*** The city planner shall ***transmit*** ~~retain one copy and transmit two~~ copies of the ***report and summary of the application*** ~~certified conditional use permit application~~ to the planning commission ~~or its representative~~ at least seven days prior to the date of the meeting at which approval of the permit is to be requested.

~~1.56~~ ***1.55 Planning commission action.*** The planning commission shall act to approve or disapprove any such request for a conditional use permit within 45 days after the meeting at which approval is requested or within such additional time as may be consented to by the applicant. ~~Failure to act within 45 days or the additional time consented shall be deemed approval.~~ Planning commission disapproval shall include written findings upon any element found contrary to the provisions or intent of ~~this~~ ***the*** zoning ~~code~~ ordinance.

1.56 Notice of decision. The planning office shall send the applicant a letter notifying the applicant of the planning commission's decision on the conditional use permit application. Such letter shall document any conditions and waivers approved as part of the application approval. Whenever the planning commission denies an application for conditional use, such application for conditional use, or an application on the same property which is substantially similar, shall not be accepted for consideration by the planning commission sooner than one year from the date of denial.

~~1.57~~ ***1.57 Amendments. Substantial*** ~~A~~***a***mendments to ~~or renewals of~~ conditional use permits shall be acted upon in the same manner as the original request for a conditional use permit. ***The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be***

referred to the planning commission for consideration at the discretion of the city planner.

~~**1.58**~~ ***1.58 Transfer of property.*** If the property is sold by the applicant or by any affiliated member of a single corporate family of which the applicant or its parent company is a member, after approval of the conditional use but before the proposed use or construction of the proposed use is started, or if, within ***24 months*** ~~**one year**~~ of the approval, the proposed use or construction of the proposed use is not undertaken by or for the applicant or any affiliated member of a single corporate family of which the applicant or its parent company is a member, the conditional use approval shall be null and void, unless an extension of time is granted by the planning commission.

~~**1.59 Whenever the planning commission denies an application for conditional use, such application for conditional use, or an application on the same property which is substantially similar, shall not be accepted for reconsideration by the planning commission sooner than one year from the date of denial.**~~

1.59 Final plans and working drawings. Following approval by the planning commission, the applicant shall develop final conditional use permit plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments, and outside regulatory agencies, prior to issuing final plan approval. No building permit shall be issued until such time that the planning office has issued final conditional use permit plan approval.

1.60 Expiration of planning commission approval.

(a) Conditional use approval shall expire on the last day of the ***24th*** ~~**12th**~~ month after the date of final or conditional approval of the planning commission, if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year, unless an extension of time is applied for and granted by the planning commission.

(b) ***Requests*** ~~**Application**~~ for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such ***requests*** ~~**application**~~, the matter shall be considered at the next regularly scheduled meeting of the planning commission.

(c) In considering a request for an extension of approval, the planning commission shall consider, but not be limited to, the following:

1. Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

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2. Whether the applicant has made substantial progress toward obtaining final approvals.

~~2. Whether the project is of a minor size and scale.~~

3. Whether there has been any significant changes in the surrounding neighborhood.

4. Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(d) *Requests* ~~Applications~~ for extensions shall be submitted *in writing* to the *planning office* ~~city by completing an application for extension approval form, which may be obtained in city hall~~.

(e) Under no circumstances shall the planning commission grant extensions beyond *36* ~~24~~ months from the date of first approval.

1.6 **Submission requirements for conditional use permits requiring site development plan approval by the planning commission.** ***The following*** submission requirements ***shall*** accompany applications for conditional use permits ***where site development plan approval by the planning commission is required by section 2.1 of Article 10***. The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, ***or*** architect ~~or other competent person~~. The applicant shall submit ~~15~~ copies of the site map to the ***city planner*** ~~building inspector~~, who shall ~~retain one copy and~~ transmit ~~nine~~ copies to the planning commission ~~or its representative~~ at least seven days prior to the meeting at which approval of the permit is to be requested. Elements to be included on the site map are listed below:

1.61 Scale and dimensions. The map shall be at least *11* ~~18~~ inches by *17* ~~26~~ inches~~, but not more than 24 inches by 36 inches~~ and at a scale of ten, 20*, 30* or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

1.62 Legal data:

(a) ***Tax parcel identification number.*** ~~Lot, block, and section number of the property~~.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of the person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

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(f) Sufficient description of information to define precisely the boundaries of the property and that portion of the property for which a conditional use permit is requested, and the approximate total acreage of that portion of the property for which a conditional use permit is requested. All distances shall be given in feet and tenths of a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

(h) The locations and owners of record of all adjoining lands.

(i) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.

(j) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.

(k) Existing zoning, including two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersection.

1.63 Existing structures.

(a) Location of uses and outlines of structures, drawn to scale on or within 100 feet of the property.

(b) Paved areas, sidewalks and vehicular access between the site and public streets.

(c) Other existing development, including fences and landscape screening.

1.64 Proposed use:

(a) A written description of the proposed use.

(b) ~~**(a)**~~ A designation of that portion of the existing structures to be devoted to the proposed use and for which a conditional use permit has been requested.

(c) ~~**(b)**~~ A designation of that portion of the property to be devoted to the proposed use, not requiring structures and for which a conditional use permit has been requested.

(d) ~~**(c)**~~ A designation of the parking area and indication of the number of off-street parking spaces.

(e) ~~**(d)**~~ Indication of on-site circulation pattern and access to the property from adjacent roads.

1.65 Proposed development:

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(a) Conditional use applications involving construction of new buildings and structures shall include a site plan which reflects compliance with the minimum requirements of article 10, section 2.5~~4~~ of this ordinance.

1.66 Natural features:

(a) Topography of the site.

(b) Location of different soil types, as indicated by the Soil Survey of Kent County prepared by the Natural Resources Conservation Service. The soils information shall be supplemented by soil boring and percolation test data requested by the city.

(c) Location of flood hazard areas ***as identified on the FEMA flood insurance maps***.

(d) Location of significant natural features, including, bodies of water, wetlands and forest areas.

1.67 Requested information: Full and complete information requested by the ***city*** planner in accordance with the development information requirements set forth in article 10, section 4.

1.68 Miscellaneous information: Other information deemed by the planning commission to be necessary to determine conformity with the intent of this ordinance.

1.7 **Submission requirements for conditional use permits where site development plan approval by the planning commission is not required.** ***The following submission requirements shall accompany applications for conditional use permits where site development plan approval by the planning commission is not required by section 2.1 of this article, where the applicant is seeking conditional use approval to occupy an existing structure. The applicant shall submit copies of the site map conforming to the specifications listed below to the city planner, who shall transmit copies to the planning commission at least seven days prior to the meeting at which approval of the permit is to be requested. Elements to be included on the site map are listed below:***

1.71 **Scale and Dimensions.** ***The map shall be at least 8.5 inches by 11 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that, if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.***

1.72 **Existing Conditions.** ***The existing building and conditions on the lot must be depicted. It is permissible to utilize the most recent mortgage survey of the property for this purpose. If conditions, such as buildings and building additions, paved areas, landscaping and accessory structures, on the lot have changed since the survey was completed, the applicant shall depict these changes on the plan to the best of his ability.***

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However, the nature and extent of such revisions must be approved by the city planner at the required preapplication meeting.

1.***73 Proposed use:***

(a) A written description of the proposed use.

(b) A designation of that portion of the existing structures to be devoted to the proposed use and for which a conditional use permit has been requested.

(c) A designation of that portion of the property to be devoted to the proposed use, not requiring structures and for which a conditional use permit has been requested.

(d) A designation of the parking area and indication of the number of off-street parking spaces.

(e) Indication of on-site circulation pattern and access to the property from adjacent roads.

1.74 **Additional Information.** ***The city planner and/or planning commission may request more detailed information, including but not limited to architectural floor plans, on a case-by-case basis at their discretion.***

1.75 Legal data:

(a) Tax parcel identification number.
(b) Name and address of the owner of record.
(c) Name and address of the equitable owner, if any.
(d) Name and address of the person, firm, or organization preparing the map.
(e) Date, north point, and written and graphical scale.
(f) The location and names of adjacent streets.
(g) The location, zoning, and owners of record of all adjacent properties.

Section 2. Site development plan approval.

2.1 Required. Site development plan approval shall be required for the erection or enlargement of all structures and the establishment of any use for which site development plan approval is required by this ordinance. ***Site development plan shall be required according to the following criteria:***

2.11 **Planning commission site plan review.** ***Site development plans shall be referred to the planning commission for consideration and review include any of the following:***

(a) Site plans for new structures and building additions of 3,000 square feet or greater in floor area; or

(b) Site plans with a total of 5,000 square feet or greater of new or added impervious surface, including new structures or building additions; or

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(c) Nonresidential site plans with site disturbance greater than 1,500 square feet and adjacent to residential uses or residential zones.

2.12 **Site development master plan.** ***Site development master plans shall be subject to review and approval by the planning commission in accordance with Article 10, Section 2.44.***

2.13 **Zoning review.** ***For site development plans involving construction of a single family detached, single family attached, or single family semi-detached dwelling; an accessory structure; or a non-residential change of use for which no building addition or increase in impervious cover is proposed, the city planner or his designee may approve the site development plan in conjunction with building permit review.***

2.14 **Administrative site plan.** ***All site development plans that do not meet the thresholds for zoning review in accordance with section 2.13 or planning commission site plan review in accordance with section 2.11 shall be reviewed as administrative site development plans.***

2.2 Objectives. In considering and acting upon site development plans, the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular shall be taken into consideration and appropriate conditions and safeguards may be prescribed as may be required that the results of ***approval*** ~~**its action**~~ may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

2.21 Maximum safety and convenience of vehicular***, transit, bicycle,*** and pedestrian traffic by ensuring that all proposed and impacted streets, driveways and walkways are adequate, but not excessive in number, adequate in width, grade, alignment, capacity, and visibility, and suitably located, particularly with respect to their connections with public streets.

2.22 The provision of adequate access to all proposed structures, equipment, or material on the site for fire***, ambulance,*** ~~**and**~~ police***, and other emergency services*** ~~**protection**~~.

2.23 The provision of adequate off-street parking to accommodate the vehicles of persons connected with or visiting the use and to obviate the parking of such vehicles in public streets.

2.24 A site layout (including the location, power, direction, and time of any outdoor lighting of the site) which would have no adverse effect upon adjacent properties.

2.25 Landscaping of the site in a manner which is in character with that generally prevailing in the neighborhood and which provides reasonable screening, at all

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seasons of the year, of all playgrounds, parking areas, and service areas from the view of adjacent residential properties and streets.

2.26 In applicable cases, a drainage system and layout which would afford the best solution to any drainage problems.

2.27 Ensure that large scale development projects involving extended construction periods are planned and implemented in accordance with an approved site development master plan.

2.28 Consideration shall be given to the physical orientation and architectural characteristics of proposed buildings, the relationship of proposed buildings to existing buildings and to other proposed buildings, and their contributions to the overall image of the immediate vicinity by considering the building and architectural design guidelines as set forth in article 5, section 19. Design characteristics of proposed buildings and building additions shall not detract or devalue existing buildings in the immediate vicinity.

(a) If the planning commission determines that the proposed physical orientation and architectural characteristics of the proposed buildings do not meet the intent and objectives of this section, then the planning commission shall refer the proposal to the architectural review oversight subcommittee for review and comment.

(b) The subcommittee shall meet and review the proposal with the applicant, and return its comments to the planning commission by the next regularly scheduled meeting.

(c) The architectural review oversight subcommittee shall be appointed by the commission at its annual meeting, and membership shall consist of two planning commission members, and two design professionals with experience in construction, and the mayor or the mayor's designee. Two alternate design professionals with experience in construction shall also be appointed.

2.3 Effect of site development plan approval. No building permit will be issued for any structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant. No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

2.4 ***Application*** Procedure.

2.41 ***Preapplication Meeting*** ~~**Presubmission conference**~~. Prior to the submission of a site development plan, the applicant or his representative shall meet in person with the

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~~planning office and the~~ city planner ***or his designee*** with a sketch plan. The purpose of this ***meeting*** ~~conference~~ shall be to discuss proposed uses or developments in order to determine, first, whether the site development plan application shall be submitted to the city planner for consideration and review as an administrative site plan or shall be referred to the planning commission. ~~Site development plans that shall be referred to the planning commission for consideration and review include any of the following:~~

~~(a) Site plans for new structures and building additions of 3,000 square feet or greater in floor area; or~~

~~(b) Site plans with a total of 5,000 square feet or greater of new or added impervious surface, including new structures, or building additions; or~~

~~(c) Nonresidential site plans with site disturbance greater than *1,000* 500 square feet and adjacent to residential properties.~~

If the application is to be referred to the planning commission, the applicant shall be informed at the ***preapplication meeting*** ~~presubmission conference~~ meeting which elements listed in subsection 2.5 below will be ~~useful~~ ***required*** in determination of conformity with the provisions and intent of this section, along with any other comments and suggestions intended to bring about conformity with the provisions and intent of this section.

2.42~~Decision.~~ ***Administrative site plan review***

2.421 Process for administrative site plan application. If, as a result of the ***preapplication meeting*** ~~presubmission conference~~ as described in subsection 2.41 of this ordinance, it is determined that the proposed uses or development is of a type that may be approved by the ***city planner*** ~~building inspector~~, the applicant shall submit the application for site development plan approval~~, in triplicate,~~ on forms approved for that purpose, to the ***city planner*** ~~building inspector~~ with the required documentation under the provisions of subsection 2.5 of this article***, and a fee as provided for in Appendix F—Fees and Fines***. The ***city planner*** ~~building inspector~~ shall coordinate the reviews of the various administrative departments of the City of Dover ***and outside regulatory agencies*** and approve ~~or disapprove~~ the application within ***thirty (30)*** ~~ten~~ days of the date of submission ***or refer it to the planning commission at their next scheduled meeting***.

~~2.43Disapproval. In the event that the building inspector disapproves an application for site development plan approval, his disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of this ordinance. If an applicant feels aggrieved by the disapproval of an application for site development plan approval by the building inspector, the applicant may request a review and consideration by~~

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~~the planning commission at the next regularly scheduled business meeting and the building inspector shall forward the application, all pertinent material submitted by the applicant and a copy of his written findings and reasons for denial of the application to the planning commission or its authorized representative.~~

2.422 Final plans and working drawings. Following initial review and comment by the city planner, the applicant shall develop final construction plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments and outside regulatory agencies prior to issuing final plan approval. No building permit shall be issued until such time that the planning office has issued final site plan approval.

2.423 Expiration. Administrative site development plan approval shall expire on the last day of the 24th month after the date of final approval by the planning office if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the city planner. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the city planner.

2.424 Circumventing zoning requirements. Administrative site plans shall not be used to circumvent the requirement of planning commission site plan review. If the city planner determines that cumulative administrative site plans on a property are being used to circumvent the requirements of the zoning ordinance or other provisions of the Dover Code of Ordinances, he shall refer the application to the planning commission, subject to the requirements of section 2.43.

~~2.44Submission to planning commission. At each regularly scheduled business meeting of the planning commission, the building inspector shall submit to the planning commission a list of all applications for site development plan approval and a copy of the site development plans that he has approved since the last regularly scheduled business meeting of the planning commission.~~

2.43 Planning commission site plan review.

2.431 Site development plan. If, as a result of the preapplication meeting as described in subsection 2.41, it is determined that the proposed uses or development is of a type that would be reviewed by the planning commission and approval or disapproval of the application given by that body, the application for site development plan approval shall be submitted to the city planner on forms approved by the planning commission, at least 30 days prior

to the planning commission meeting at which approval is to be requested. The application for site development plan approval shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

2.432 Land subdivision. ~~**2.441**~~ If a proposed use or development requires planning commission review under the land subdivision regulations of the City of Dover as set forth in appendix A, the application for conditional approval of the preliminary layout, under article IV, section B of that ordinance appendix A, and the application for site development plan approval under this ordinance shall be submitted and reviewed concurrently. The application for site development plan approval shall be revised and all changed elements resubmitted and reviewed concurrently with the application for plan approval under article IV, section C of the land subdivision regulations set forth in appendix A.

~~**2.45Fees. If, as a result of the presubmission conference as described in subsection 2.41, it is determined that the proposed uses or development is of a type that would be reviewed by the planning commission and approval or disapproval of the application given by that body, the application for site development plan approval shall be submitted, in triplicate, to the building inspector, on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval is to be requested. The application for site development plan approval shall be accompanied by a fee as provided for in Appendix F--Fees and Fines. Applications for administrative site plans shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.**~~

2.433 ~~**2.47**~~ Public hearing. Prior to the review and action on the site plan application, the commission shall hold a public hearing ***subject to the following public notification procedures***:

(a) The applicant shall advertise the public hearing ~~**to be advertised by the applicant**~~ in a newspaper of general circulation at least ***15*** ~~**ten**~~ days prior thereto.

(b) The applicant shall notify, by mail, all property owners within ***300*** ~~**200**~~ feet of the extreme limits of the site plan property as their names appear on the municipal tax record at least ***15*** ~~**ten**~~ days prior thereto.

(c) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission.

(d)The applicant shall provide the ***planning office*** ~~**commission**~~ with a copy of the notice, verification of newspaper publication, ***a date-stamped***

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photo of the property posting, and post office ***mail*** ~~**return**~~ receipts ***including the date of mailing*** for all letters on or before the meeting date.

(e) Said notices shall state the ***date,*** time and place of the hearing, ***the site location,*** a brief description of the site plan and shall state that a copy of the site plan application and plan is filed with the planning ***office*** ~~**department**~~ for public review.

2.434 ~~**2.46**~~ ***City planner report*** ~~**Building inspector certification**~~. ***For each site plan application to the planning commission the city planner shall issue a report to the planning commission including comments from other agencies detailing how the application conforms to the requirements of the zoning ordinance and other provision of city and state codes. The city planner shall transmit copies of the proposed site development plan and the city planner's report*** ~~**The building inspector shall certify on each application for site development plan approval whether or not the application meets the requirements of all zoning ordinance provisions. The building inspector shall retain one copy and transmit two copies of the certified application for site development plan approval**~~ to the planning commission ~~**or its authorized representative**~~ at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

2.435 ~~**2.48**~~ Planning commission action. The planning commission shall act to approve or disapprove any application for site development plan received by it either as an original review or as ***a referral from the city planner*** ~~**an appeal**~~ under the provisions of subsection ***2.422*** ~~**2.43**~~ of this article within 45 days or within such additional time as may be consented to by the applicant. ~~**Failure to act within 45 days or the additional time consented shall be deemed approval.**~~ Planning commission disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of ~~**this**~~ ***the zoning*** ordinance.

2.436 Notice of decision. The planning office shall send the applicant a letter notifying the applicant of the planning commission's action regarding the site plan application. Such letter shall document any conditions and waivers approved or recommended as part of the application approval.

2.437 ~~**2.49**~~ Final plans and working drawings. ***Following approval by the planning commission, the applicant shall develop final site plans for approval by the planning office. The planning office shall determine that all necessary approvals have been issued by city departments and outside agencies regulating street access and stormwater management, prior to issuing final plan approval. No building permit shall be issued until such time that the planning office has issued final site plan approval*** ~~**Final plans and working drawings shall not be**~~

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~~prepared for submission to the city planner for building permit approval until after approval of the application for site development plan approval has been obtained~~.

2.438 ~~**2.49.1**~~ Amendments. ***Substantial a***~~**A**~~mendments to an approved site development plan shall be acted upon in the same manner as the original plan. ***The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be referred to the planning commission for consideration at the discretion of the city planner.***

2.439 ~~**2.491**~~ Expiration of planning commission approval.

(a) Site development plan approval shall expire on the last day of the ***24th*** ~~**12th**~~ month after the date of final or conditional approval of the planning commission if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the planning commission.

~~**(b) For projects which are reviewed and approved by the planning commission as site development master plans, approval of the master plan shall remain valid for a period not to exceed five years from the date of planning commission approval, provided that the authorized construction or use has commenced within one year of approval and is proceeding toward completion, unless an extension of time is applied for by the applicant and granted by the planning commission. In addition, the time between the completion of one phase and the initiation of the next phase shall not exceed a period of two years. Upon approval of a site development master plan by the planning commission, the city planner or authorized designee shall have approval authority over final plans governing each phase of construction as depicted on the master plan.**~~

(c) ***Request*** ~~**Application**~~ for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such ***request*** ~~**application**~~, the matter shall be considered at the next regularly scheduled meeting of the planning commission.

(d) In considering a request for an extension of approval, the planning commission shall consider, but not be limited to, the following:

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1. Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

~~**2. Whether the project is of a minor size and scale.**~~

2. Whether the applicant has made substantial progress toward obtaining final approvals.

3. Whether there has been any significant changes in the surrounding neighborhood.

4. Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(e) ***Requests*** ~~**Applications**~~ for extensions shall be submitted ***in writing*** to the ***planning office*** ~~**city by completing an application for extension of approval form which may be obtained in city hall**~~.

(f) Under no circumstances shall the planning commission grant extensions beyond ***36*** ~~**24**~~ months from the date of first approval.

2.44 Site development master plans. Conceptual site development master plans shall be reviewed by the planning commission in accordance with the provisions of section 2.43. Conceptual site development master plans shall depict a site development proposal that reflects general compliance with the provisions of the zoning ordinance and shall also reflect the following information on the plan:

2.441 Conceptual Master Plan. Conceptual Master Plan shall include the proposed general layout of building, streets, parking, open space, landscape concepts, and stormwater management areas.

(a) Detailed site construction plans, details, and specifications are not required as part of a site development master plan submission.

(b) The plan shall illustrate distinct phase boundaries for each proposed construction phase and shall depict proposed construction and site improvements planned for each phase. Bulk quantities and area totals for each construction phase, and for the total site, shall be tabulated in a data column on the plan.

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(c) Each construction phase shall be enumerated in sequential order on the site development master plan according to the order of construction contemplated by the plan. Phases shall be implemented in accordance with the approved site development master plan unless the city planner approves an alternate phasing.

(d) Each construction phase represented on the master plan shall be planned and designed to function independent of construction and site improvements contemplated in future construction phases in all respects, including but not limited to bulk area provisions of the zoning district in which the site is located, off-street parking requirements, site entrances, emergency access requirements, site utilities, and stormwater management improvements except where the requirements and needs of a later phase are met and remain met by a previous phase of completed construction.

(e) Any special agreements or conditions of approval relative to the overall development that have been specified by regulatory agencies shall be documented on the site development master plan.

2.442 Phased site plan approval. Individual phased components of the Conceptual Master Plan are to be reviewed and approved as an Administrative Site Plan. Final site construction plans, including detailed site grading, paving, utilities, stormwater management, and tree planting and preservation plans shall be submitted for final approval by the city planner and/or authorized designee, and to other agencies having jurisdiction, on a phase by phase basis in accordance with the approved site development master plan, and all regulations of the City of Dover governing the approval of site plans as set forth in this article 10, section 2.4 of this ordinance.

2.443 Amendments. Substantial a~~A~~mendments to an approved site development plan shall be acted upon in the same manner as the original plan. The city planner shall review proposed amendments to determine if they are substantial in nature. Amendments that are not deemed substantial may be referred to the planning commission for consideration at the discretion of the city planner.

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2.444 Expiration of planning commission approval. For projects which are reviewed and approved by the planning commission as Conceptual Master Plans, approval of the conceptual master plan shall remain valid for a period not to exceed five years from the date of planning commission approval, provided that the authorized construction or use has commenced within two years of approval and is proceeding toward completion. In addition, the time between the completion of one phase and the initiation of the next phase shall not exceed a period of two years.

2.5 Site development plan elements submission requirements accompanying applications for site development plan approval. The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, ***or*** architect ~~**or other competent person**~~. The applicant shall submit ~~**15**~~ copies of the site development plan ~~**map**~~ to the ***city planner*** ~~**building inspector prior to or**~~ at the time of filing the formal application for site development plan approval under the provisions of subsection 2.42***, subsection 2.43,*** or subsection ~~**2.45**~~ ***2.44*** of this article. If the application is under the provisions of subsection ~~**2.45**~~ ***2.43 or 2.44*** of this article, the city planner shall ~~**retain one copy and**~~ transmit ~~**nine**~~ copies of the site development plan map to the planning commission ~~**or its authorized representative**~~ at least seven days prior to the meeting at which approval of the application for site development plan approval is to be requested. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated in the ***preapplication meeting*** ~~**presubmission conference**~~ required by the provisions of subsection 2.41 of this ordinance.

2.51 Scale dimensions: ~~**Twenty**~~ ***Ten, 20, 30*** or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

2.52 Legal data:

(a) ***Tax parcel identification number*** ~~**Lot, block, and section number of the property**~~.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of the person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

(f) Sufficient description of information to define precisely the boundaries of the site, and total acreage of the site. All distances shall be given in feet and tenths of

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a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

(h) The locations and owners of record of all adjoining lands.

(i) Locations, widths and purposes of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.

(j) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.

(k) Existing zoning on the site and adjacent properties.

(l) Two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersections.

(m) Record of any agreements between the applicant and the city regarding the proposed development.

2.53 Natural features:

(a) Contour lines at vertical intervals of two feet for land with an average existing slope of four percent or less, and at intervals of five feet for land with an average existing slope greater than four percent.

(b) Location of different soil types, as indicated by the soil survey of Kent County, prepared by the Natural Resources Conservation Service, and including locations of flood hazard areas ***as identified in the FEMA Flood Insurance Maps***. The soils information shall be supplemented by soil boring and percolation test data, if requested by the city.

(c) Location of significant natural features, including bodies of water, wetlands, and forest areas.

2.54 Proposed development:

(a) Existing buildings and other structures.

(b) Location and width of all proposed streets and rights-of-way. Speed bumps or speed dips for the purpose of slowing down traffic on any street shall not be permitted.

(c) Location of all proposed structures, except one-family detached dwellings, and an indication of the total number of dwelling units.

(d) Location and dimensions of all lot lines.

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(e) Building setback lines on all lots.

(f) Location of all uses not requiring structures, including parks, playgrounds and other open space areas.

(g) Location and plans for any outdoor signs.

(h) Location, direction, power and time of use for any proposed outdoor lighting.

(i) The location, size and arrangement of proposed sidewalks, driveways, loading areas, off-street parking areas and other paved areas.

(j) Indication of the total amount of impervious surfaces and the development coverage.

(k) Any proposed changes in elevation of the site and elevations of all streets, parking areas, and building foundations. The datum to which all elevations, including existing contour elevations, refer shall be clearly indicated on the plan.

(l) Plans for surface drainage of the site~~, if requested by the city~~. Such plans shall include stormwater run-off calculations and shall show the proposed method of accommodating the anticipated run-off.

(m) Any proposed below-ground or above-ground utilities and any contemplated public improvements, including road improvements, on or adjoining the property. Plans for such utilities and improvements shall indicate whether the developer, the city, or other agency will bear the financial responsibility for the construction, and which improvements are intended to be dedicated to the city.

(n) Proposed grading, screening and other landscaping, including types and locations of proposed street trees.

(o) Architectural elevation drawings or other graphic representations illustrating exterior building characteristics of proposed buildings and/or building additions that would be visible from the public right-of-way. Elevation drawings shall be drawn to scale and shall reflect major architectural elements such as exterior surface materials, windows, doors, columns, and wall-mounted signage. Elevation plans are intended to provide a general depiction of the physical appearance, massing and scale of the proposed construction.

2.55 Requested information. Full and complete information requested by the ***city*** planner in accordance with the development information requirements set forth in article 10, section 4.

2.56 ***Development in stages*** ~~**Stage development compliance**~~. If the site development plan indicates ***more than*** ~~**only**~~ one stage of the development, supplementary material shall be included to show compliance with article 5, section 9, development in stages.

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2.57 Miscellaneous information. Other information deemed by the planning commission to be necessary to determine conformity with the intent of this ordinance.

~~**2.58 Site development master plans. Site development master plans shall depict a generalized site development proposal that reflects general compliance with all applicable provisions of article 10, subsection 2.5 above, and shall also reflect the following information on the plan:**~~

~~**(1) The plan shall illustrate distinct phase boundaries for each proposed construction phase and shall detail proposed construction and site improvements planned for each phase. Bulk quantities and area totals for each construction phase, and for the total site, shall be tabulated in a data column on the plan.**~~

~~**(2) Each construction phase shall be enumerated in sequential order on the site development master plan according to the order of construction contemplated by the plan. Phases shall be implemented in accordance with the approved site development master plan.**~~

~~**(3) Each construction phase represented on the master plan shall be planned and designed to function independent of construction and site improvements contemplated in future construction phases in all respects, including but not limited to bulk area provisions of the zoning district in which the site is located, off-street parking requirements, site entrances, emergency access requirements, site utilities, and stormwater management improvements.**~~

~~**(4) Any special agreements or conditions of approval relative to the overall development that have been specified by regulatory agencies shall be documented on the site development master plan.**~~

~~**Site construction plans, details, and specifications are not required as part of a site development master plan submission. Final site construction plans, including detailed site grading, paving, utilities, stormwater management, and tree planting and preservation plans shall be submitted for final approval by the planning director, and/or authorized designee, and to other agencies having jurisdiction, on a phase by phase basis in accordance with the approved site development master plan, and all regulations of the City of Dover governing the approval of site plans as set forth in this article 10, section 2 of this ordinance.**~~

Section 3. Historic district commission and architectural review.

3.1 Historic district commission established.

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3.11 Creation and purpose. There shall be a historic district commission for the purpose of assisting the planning commission and city planner in reviewing applications for architectural review certifications as specified in subsection 3.2 of this article section; and for making recommendations for designation of historic district zones; and for establishing guidelines for the preservation and conservation of historic district zones; and for advising other officials and departments in the City of Dover in matters concerning historic preservation; and for reviewing all proposed National Register nominations in the City of Dover; and for acting as a liaison on behalf of the City of Dover to individuals and organizations concerned with historic preservation; and for carrying out programs of historic preservation education in the City of Dover.

3.12 Appointment. The commission shall consist of five members nominated by the mayor and approved by the city council, who are residents of the City of Dover and who have demonstrated special interest, experience, or knowledge in history, architecture, or historic preservation. Two of the members, to the extent available, shall be professional members representing the professions of architecture, history, archaeology, planning, historic preservation or related disciplines. At least two members shall be residents of the district, and at least one shall represent the business within the district.

3.13 Term. The members of the commission shall serve for three-year staggered terms. Vacancies shall be filled within 60 days in accordance with subsection 3.12 of the article section.

3.14 Organization. The commission shall meet at least four times per year in a place that is advertised in advance and open to the public and shall keep minutes of its meetings that are available to the public. All review decisions shall be made in public. The commission shall establish bylaws for its general procedure, which shall include a section addressing conflicts of interest. ~~**The commission shall produce an annual report of its activity that is kept on file for public review with the city planning office**~~.

3.2 Architectural review certification.

3.21 Effect of architectural review certificate. No building permit or certificate of occupancy may be issued for any structure in the historic district until an architectural review certificate is issued as required under article 3, section 21, subsection 21.3 for the historic district.

3.22 Architectural review certification by the ~~**historic district commission and**~~ city planner. ~~**Certifications under this subsection shall not be subject to the requirements in subsection 3.25 with respect to conferences, fees, applications, public notices, and time to act.**~~

(a) An architectural review certificate for specific classes of building permits, including fences, signs, siding, window and door replacement, roofing, the addition or replacement of decorative features, minor demolition, residential

additions, and other construction of a minor nature, may be issued ~~by the historic district commission or~~ by the city planner ~~when authorized by the historic district commission~~, after a review and determination that the proposed construction is in general accordance with the standards set forth in subsection 3.24 of this article section.

(b) The city planner may refer any permit application for ***demolition or*** construction in the historic district for consultation with commission. ~~The historic district commission shall authorize the city planner to issue architectural review certificates for certain classes and types of construction that it warrants to be generally acceptable.~~

~~(b) The historic district commission shall issue architectural review certificates for the construction or demolition of single- and two-family homes, and nonresidential structures or additions involving a gross floor area of 3,000 square feet or less, after review of proposed construction and after a determination that the construction is in general accordance with the standards set forth in subsection 3.24 below.~~

~~(c) All other applications for an architectural review certificate shall be forwarded to the historic district commission for review and recommendations to the planning commission in accordance with subsection 3.23(a) of this section.~~

(d) All decisions of ~~the historic district commission or~~ the city planner pursuant to this section shall be ***documented on the building permit*** ~~formalized in a written notice of decision.~~ When the ~~commission or~~ city planner grants a conditional approval under this section, all conditions of approval shall be set forth in writing ***on the building permit*** ~~in the notice of decision~~. In the event of a denial, the ***reasons for such denial shall be documented in a written*** notice of decision ~~shall state the reasons for denial and shall~~ ***which shall*** identify all elements of the application found to be contrary to the provisions or intent of this section.

(e) An applicant may appeal the decision of the ***city planner to the*** historic district commission ~~to the planning commission,~~ and such appeal shall be considered as an architectural review certification application to the ***historic district*** ~~planning~~ commission and shall meet all of the requirements set forth in subsection ***3.22A*** ~~3.23 and subsection 3.25 of this section~~.

3.22A Architectural review certification by the historic district commission

(a) The historic district commission shall issue architectural review certificates for the construction or demolition of single- and two-family homes, and

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nonresidential structures or additions involving a gross floor area of 3,000 square feet or less, after review of the proposed construction and after a determination that the construction is in general accordance with the standards set forth in subsection 3.24 below.

(b) All applications to the historic district commission for architectural review certification shall be subject to the procedures set forth in subsection 3.25.

(c) All decisions of the historic district commission pursuant to this section shall be formalized in a written notice of decision. When the commission grants a conditional approval under this section, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial and shall identify all elements of the application found to be contrary to the provisions or intent of this section.

(d) An applicant may appeal the decision of the historic district commission to the planning commission, and such appeal shall be considered as an architectural review certification application to the planning commission and shall meet all of the requirements set forth in subsection 3.23 and subsection 3.25 of this section.

3.23 Architectural review certification by the planning commission.

(a) The planning commission shall issue architectural review certificates referred or appealed to it, upon review of the recommendations of the historic district commission and upon a determination that the proposed construction is in accordance with the standards set forth in subsection 3.24 below.

(b) All applications to the planning commission for architectural review certification shall be subject to the procedures set forth in subsection 3.25.

(c) ~~**(b)**~~ All decisions of the planning commission pursuant to this section shall be formalized in a written notice of decision. When the ***planning*** commission grants a conditional approval under this section, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial and shall identify all elements of the application found to be contrary to the provisions or intent of this section.

3.24 Architectural review standards.

(a) An architectural review certificate may be issued if it is found that the architectural style, general design, height, bulk and setbacks, arrangement, location and materials and structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the historic district as set forth in the historic district design guidelines and standards adopted by the planning commission and

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as set forth in the United States Secretary of the Interior's Standards for Rehabilitation.

(b) The city planner, historic district commission or planning commission shall not consider normal maintenance and repair (see definitions, article 12), interior arrangement, or building features not subject to public view.

3.25 Procedures for an architectural review by the historic district commission ***and/***or planning commission.

(a) Architectural ***preapplication meeting*** ~~**review conference**~~. Prior to action on any application for an architectural review certificate, the applicant shall meet in person with the city planner or his delegated representative. The purpose of such conference shall be to discuss the proposed construction or other action requiring the certificate in order to determine what information is useful in the determination of conformity with the provisions and intent of the historic district regulation as expressed in this ordinance. ~~**It is generally recommended that final construction plans and working drawings not be prepared for submission to the building inspector for a building permit until a required architectural review certificate is issued.**~~

(b) Application and fee. The application to the historic district commission ~~**or planning commission**~~ for an architectural review certificate and related information shall be submitted ~~**in 20 copies**~~ to the city planner at least 30 days prior to the historic district commission meeting at which review ~~**or approval**~~ is requested and shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.

(c) Public ***hearing*** ~~**notice**~~. Prior to the review and action on a architectural review certification, the historic district commission shall hold a public hearing ***subject to the following public notification procedures***:

(1) The applicant shall advertise the public hearing ~~**to be advertised by the applicant in a**~~ newspaper of general circulation at least ***15*** ~~**ten**~~ days prior thereto.

(2) The applicant shall notify, by mail, all property owners within ***300*** ~~**200**~~ feet of the extreme limits of the subject property as their names appear on the municipal tax record at least ***15*** days prior thereto.

(3) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission.

(4) The applicant shall provide the ***planning office*** ~~**commission**~~ with a copy of the notice, verification of newspaper publication, ***a date-stamped photo of the property posting,*** and post office ***mail*** ~~**return**~~ receipts ***indicating date of mailing*** for all letters on or before the meeting date.

(5) Said notices shall state the ***date***, time, ~~**date**~~ and place of the hearings before the historic district commission ~~**and planning commission**~~, a brief description of the project and shall state that a copy of the application and plan is on file with the planning ***office*** ~~**department**~~ for public review.

(6) If the planning commission is reviewing a project in accordance with other sections of this article, then the public hearing notice on those applications must also give notice of architectural review certification.

(d) Application information. The applicant shall provide such information and documents listed below which will satisfactorily illustrate the proposed action as indicated in the architectural ~~**review conference**~~ ***preapplication meeting*** required in subsection 3.25(a):

(1) All plan elements required in article 10, section 2.5.

(2) Plans and specifications indicating existing and proposed development, including structures, architectural elevation drawings, trees and any other landscaping, existing and proposed, including the general design, location and orientation of structures in relation to curb line, right-of-way line and neighboring buildings, colors, and materials to be used on exterior surfaces, detailed plans for any signs, photographs of the existing site and neighboring buildings, and such other information as will enable the historic district commission or planning commission to determine conformity with the ordinance.

(e) City planner report. For each site plan application to the planning commission the city planner shall issue a report to the planning commission including comments from other agencies detailing how the application conforms to the requirements of the zoning ordinance and other provision of city and state codes. The city planner shall transmit copies of the proposed site development plan and the city planner's report at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

(f) ~~**(e) Time to act**~~ ***Historic district commission action***. The historic district commission shall act to review and render a recommendation to approve any such application within 45 days of transmittal to the commission or within such additional time as may be consented to by the applicant~~**. Failure to act within 45 days or the additional time consented to shall be deemed to be a favorable**~~

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~~recommendation. Applications requiring planning commission approval under subsection 3.23 of the article shall be transmitted by the historic district commission to the planning commission for consideration at its next available meeting. The planning commission shall act on any such approval within 45 days of its meeting. Failure to act within 45 days shall be deemed approval.~~ ***The recommendation of the historic district commission shall be forwarded to the planning commission and acted upon by the planning commission in conjunction with action on the associated site development plan. If a site development plan application is not filed in accordance with the provisions of section 2.4 of this article within one year of recommendation, the recommendation shall expire. The historic district commission may grant a one-year extension of its recommendation upon written request by the applicant. Such request shall be made in writing to the planning office at least thirty days prior to the expiration of the historic district commission's recommendation.***

(~~f~~ *g*) ***Substantial*** Amendments. ***Substantial*** ~~A~~ *a*mendments to an application or an architectural review certificate shall be acted upon in the same manner as the original plan.

(**g** ***h)*** Expiration of architectural review certification ***issued by the historic district commission***.

(a) Architectural review certification approval shall expire on the last day of the 12th month after the date of ~~final or conditional~~ approval if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the historic district commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the historic district commission.

(b) ***Request*** ~~Application~~ for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such ***request*** ~~application~~, the matter shall be considered at the next regularly scheduled meeting of the historic district commission.

(c) In considering a request for an extension of approval, the ***historic district*** commission shall consider, but not be limited to, the following:

1. Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.

2. Whether the applicant has made substantial progress toward obtaining final approvals.

~~2. Whether the project is of a minor size and scale.~~

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3. Whether there has been any significant changes in the surrounding neighborhood.

4. Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(d) ***Requests*** ~~**Applications**~~ for extensions shall be submitted ***in writing to the planning office.*** ~~**to the city by completing an application for extension of approval form which may be obtained in city hall.**~~

(e) Under no circumstances shall the historic district commission grant extensions beyond 24 months from the date of first approval.

3.3 Historic district amendments.

3.31 Historic district commission review required. Any motion or petition to amend, supplement, or repeal a historic district by the city council in accordance with article 10, section 5, amendments, shall require a report by the historic district commission as set forth in article 3, section 21.4.

3.32 Review criteria for placing individual structures in a historic district. The historic district commission may recommend that an individual structure or property be placed in an existing contiguous historic district or be placed in a historic district specifically created for the property or structure upon considering the following criteria and factors:

(a) Significant value as part of the historical, cultural, artistic, social, ethnic or other heritage of the nation, state or community;

(b) Association with an important person or event in national, state, or local history.

(c) Representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous material;

(d) Notable work of a master builder, designer, architect, or artist whose individual genius has influenced an era;

(e) The desire of the owner to have the property designated;

(f) Increased potential of economic or community development.

3.33 Review criteria for amendments or creation of new historic districts. The historic district commission may recommend amendments to an existing historic

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district, recommend repeal of an existing historic district or recommend the creation of a new historic district upon considering the following criteria:

(a) Any criteria listed in subsection 3.32 of this section.

(b) Distinctive character or homogeneity of architectural design or dates of construction throughout the area.

(c) Identifiable by clear and distinctive boundaries.

(d) Repetition of distinguishing architectural or land use characteristics throughout the area.

3.34 Public hearing required. For all proposed amendments to the boundary of the historic district, the historic district commission shall hold a public hearing subject to the following public notification procedures:

(a) The planning office shall advertise the public hearing in a newspaper of general circulation at least 15 days prior thereto.

(b) The planning office shall notify, by mail, all directly affected property owners and all property owners within 300 feet of the extreme limits of the properties proposed for addition to or removal from the district as their names appear on the municipal tax record at least 15 days prior thereto.

3.4 Demolition by neglect.

3.41 Responsibility of property owners. Property owners of properties within the historic districts shall not allow their buildings to be demolished by neglect (see definitions, article 12) by failing to provide ordinary maintenance or repair.

3.42 Responsibility of the historic district commission. The historic district commission shall monitor the condition of historic properties and existing buildings in the historic district to determine if they are being demolished by neglect by failing to provide ordinary maintenance and repair (see definitions, article 12). In the event that the commission determines a demolition by neglect is occurring, it shall carry out the following:

(a) Determine and set forth steps required to remedy the situations or defects.

(b) Direct the city planner to inform the property owners of its findings, determination, and recommended remedies.

(c) In the event that the property owners fail to commence work within the reasonable time allotted by the commission, the commission may direct the building inspector to begin proceedings under chapter 22, buildings, and building regulations, article XI, dangerous buildings, of the Code of

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Ordinances for the City of Dover to bring about the repair ***or demolition*** of the building.

3.43 Responsibility of the city planner. The city planner shall notify the historic district commission of buildings within the historic district that meet the definition of dangerous buildings under the provisions of chapter 22 buildings and building regulations, article XI dangerous buildings, of the Code of Ordinances for the City of Dover. In such cases the commission shall determine if the building is being demolished by neglect. Before referring a property to the commission for consideration as demolition by neglect, the city planner shall give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building, as shown by the records of the recorder of deeds of the county, to appear before historic district commission at the time, date and location specified.

Section 4. Development information requirements.

4.1 In order to more effectively evaluate the probable impact of proposed development and thereby to carry out the purposes of this ordinance when making decisions and recommendations regarding development proposals, the planning commission***, historic district commission, or city planner may*** ~~**shall**~~ adopt a standard set of information requirements, which may be updated from time to time as necessary.

~~**4.2 The information requirements will consist of a series of written questions to be answered by all applicants for amendments to the zoning map, conditional use permits, or site development plan approval. The information requirements for any application will depend on the type and scale of the development proposed, and on the type of application.**~~

4.3 The information requirements shall be administered by the ***city*** planner and shall be a part of submission requirements for all applications to the planning commission.

Section 5. Amendments.

This ordinance or any part thereof may be amended, supplemented or repealed, from time to time, by the city council on its own motion or ***upon application*** ~~**on petition**~~, as provided in chapter 3 of title 22, Municipalities of the Delaware Code Annotated (22 Del. C. § 301 et seq.). Every such proposed amendment ***shall*** ~~**may**~~ be referred by the city council to the planning commission for a report before the public hearing. The city council shall not take action on any such amendment without a report from the planning commission unless the planning commission fails to render such a report within 75 days after its regularly scheduled meeting following such referral.

5.1 Types of amendments to the ordinance. The following are the types of amendments that may be made to the ordinance:

5.11 Zoning text amendments. Amendments to ordinance text may be made upon initiation of the city planner or under sponsorship of three members of city council.

5.12 Map amendment by application. A property owner may make application to the city for amendment of the zoning map as it relates to his property. Amendments to the zoning map may also be initiated by sponsorship of three members of city council and shall be considered under the procedures of section 5.3 as it relates to applications for map amendments.

5.13 Comprehensive zoning map amendment. Amendment to the zoning map as a result of a new, revised, or amended comprehensive plan, or other formal plan or study shall be considered as a comprehensive zoning map amendment and shall be initiated by the planning office.

~~**5.1Report of planning 0commission. In making such report after holding a public hearing on the proposed amendment, the planning commission shall make an inquiry and determination concerning the items specified below:**~~

~~**5.11Amendments and changes in text. Concerning a proposed amendment to or change in text of this ordinance:**~~

~~**a. Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned;**~~

~~**b. Which areas and establishments will be directly affected by such change and in what way they will be affected;**~~

~~**c. The indirect implications of such change in its effect on other regulations; and**~~

~~**d. Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.**~~

~~**5.111 Concerning a proposed amendments involving a change in the zoning map by way of a petition to rezone property or by way of annexation:**~~

~~**a. Whether the uses permitted by the proposed change would be appropriate in the area concerned;**~~

~~**b. Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residence likely to be constructed as a result of such change;**~~

~~**c. Whether the proposed change is in accord with any existing or proposed plans in the vicinity;**~~

~~**d. The effect of the proposed amendment upon the growth of the city as envisaged by the comprehensive plan;**~~

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~~e. Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the city and the probable effect thereof.~~

5.2 Procedure for zoning text amendments in accordance with 5.11.

5.21 Public hearing and notice. An amendment to the ordinance text shall be subject to public hearing before the planning commission and city council prior to adoption. Such hearing shall be advertised in a newspaper of general circulation at least fifteen (15) days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning text amendment, and specify that documents are available in the Planning office for review.

5.22 City planner report. For each proposed zoning text amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that evaluates the following factors:

1) ***Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and***
2) ***Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.***

5.24 Report of the planning commission. Regarding each proposed amendment to the ordinance text, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

1) ***Whether such change is consistent with the aims and principles embodied in the ordinance as to the particular zones concerned; and***
2) ***Whether such proposed amendment is consistent with the aims of the comprehensive plan of the city.***

5.3 Application procedure for zoning map amendments in accordance with 5.12.

5.31 Preapplication Meeting. Prior to the submission of a zoning map amendment application, the applicant or his representative shall meet in person with the city planner or his designee to discuss the rezoning request. The purpose of this meeting shall be to discuss proposed uses or developments and to review the process and submission requirements.

5.32 Application. Application for a zoning map amendment shall be submitted to the city planner, on forms approved by the planning commission, along with a fee as provided for in Appendix F--Fees and Fines, and copies of a site map as described below.

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5.321 Submission requirements accompanying applications for amendments to the zoning map. The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, or architect. The applicant shall submit copies of the site map to the city planner. The elements to be included on the site map are listed below:

(1) Scale and dimensions. The map shall be at least 8.5 by 11 inches and at a scale of ten, 20, 30 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

(2) Legal data.

(a) Tax parcel identification number.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of the person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

(f) Sufficient description of information to precisely define the boundaries of the property and that portion of the property for which a rezoning is requested; and total acreage for which a rezoning is requested. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest second or closer. The error of closure shall not exceed one in 10,000.

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

(h) Location, width and purpose of all existing and proposed easements, reservations and areas dedicated to public use within or adjoining the property.

(i) Existing and proposed zoning.

(k) Any existing development on the property, including buildings, fences and landscape screening.

(l) Full and complete information requested by the city planner in accordance with the development information requirements set forth in section 4.

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5.33 Setting of hearings and referral to planning commission. For any application to amend the zoning map, city council shall refer the proposed amendment to the planning commission and set dates for the public hearings to be held before the planning commission and city council.

5.34 Advertisement of public hearing. Following referral of a zoning map amendment application to planning commission by city council, the applicant shall advertise the public hearing as follows:

1) *The applicant shall notify by mail all property owners within a distance of 300 feet of the extreme limits of the subject property of the public hearing dates, times and locations.*
2) *The applicant shall advertise the public hearings in a newspaper of general circulation at least fifteen (15) days prior to the planning commission hearing. Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning map amendment, and specify that documents are available in the Planning office for review.*
3) *The applicant shall also post a notice outlining the date, time, place, and nature of the hearings in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission and city council.*
4) *The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating the date of mailing for all letters on or before the planning commission meeting date.*

5.35 City planner report. For each application for a zoning map amendment, the city planner shall transmit a report to the planning commission and city council, including comments from other reviewing agencies, that evaluates the following factors:

1) *Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;*
2) *Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and*
3) *Whether the proposed change is in accordance with the city's current comprehensive plan.*

5.36 Report of the planning commission. Regarding each application for a zoning map amendment, the planning commission shall provide a report to the city council stating

a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

1) *Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;*
2) *Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and*
3) *Whether the proposed change is in accordance with the city's current comprehensive plan.*

5.37 Amendment of zoning map. Following action by city council with regards to an application to amend the zoning map, the planning office shall update the zoning map to reflect the action of city council.

5.38 Notice of decision. The city clerk shall send the applicant a letter notifying the applicant of the city council's action regarding the application for a zoning map amendment.

5.4 Procedure for comprehensive zoning map amendment in accordance with 5.13.

5.41 Public hearing and notice. A comprehensive zoning map amendment shall be subject to public hearing before the planning commission and city council prior to adoption. The planning office shall advertise the public hearings as follows:

1) The planning office shall advertise the public hearing in two newspapers of general circulation at least fifteen (15) days prior to the planning commission hearing.

2) The planning office shall notify all affected property owners by mail at least 15 days prior to the planning commission hearing, informing them of the proposed zoning map amendment as it relates to their property.

3) Such notices shall state the date, time and place of the planning commission and city council hearings and a brief description of the proposed zoning text amendment, and specify that documents are available in the planning office for review.

5.42 City planner report. For any comprehensive zoning map amendment, the city planner shall issue a report to the planning commission and city council, including comments from other reviewing agencies, that identifies:

1) The reasons for the comprehensive zoning map amendment;

2) All properties where a change in zone is proposed; and

3) How the proposed changes to the zoning map support the city's current comprehensive plan.

5.43 Report of the planning commission. Regarding each application for a zoning map amendment, the planning commission shall provide a report to the city council stating a recommended action with regards to the proposed amendment, along with the commission's evaluation of the following factors:

1) Whether the uses permitted by the proposed change would be compatible with the existing uses and zones in the area concerned;
2) Whether adequate public services and infrastructure exist or can be created or expanded to serve the needs of any additional demand as a result of such change; and
3) Whether the proposed change is in accordance with the city's current comprehensive plan.

5.44 Adoption of comprehensive zoning map amendment. Upon adoption of the comprehensive zoning map amendment by city council, the zoning of properties shall be as reflected in the adopted map.

5.45 Notice of decision. The city shall notify all affected property owners in writing with regards to any amendments to the zoning map that affect their properties.

~~**5.12Fees. Each petition for a rezoning amendment shall be accompanied by a minimum fee as provided for in Appendix F--Fees and Fines. In addition, each district would require supplemental fees per acre, as provided for in Appendix F--Fees and Fines, based on the following groupings: Residential and single family (R-7, R-8, R-10, R-15, and R-20), multifamily (RG-0, RG-1, RG-2, RG-3, RG-4, RG-5, RM-1, and RM-2), cluster and MHP, commercial and institutional (C-1, C-1A, C-2, C-2A, C-3, CPO, RC and IO), shopping center development (SC-1, SC-2 and SC-3), and manufacturing and industrial development (M and IPM). All applications for amendment to the zoning ordinance appendix B shall be accompanied by a fee as provided for in Appendix F--Fees and Fines.**~~

~~**5.13Public hearing; notice. The date, time and place of a public hearing shall be set and notice thereof shall be given in accordance with the provision of chapter 3 of title 22 of the Delaware Code (22 Del. C. § 301 et seq.).**~~

~~**(a) When there is a petition to rezone property in accordance with subsection 5.111, all property owners within a distance of 200 feet shall be notified by**~~

~~regular mail of the applications for rezoning. No fee shall be required for petitions filed in favor of or against a pending application.~~

~~(b) When there is a proposed amendment to the zone map or zoning ordinance appendix B text as a result of a new, revised, or amended comprehensive plan, the planning commission and city council shall hold public hearings, to be advertised in two newspapers of general circulation at least 15 days prior to the planning commission hearing. Said notices shall state the time and place of the planning commission hearing and the city council hearing, a brief description of the proposed amendment or map depicting the proposed amended zoning map, and that the amended zoning map is filed at the Dover City Library, and with the planning department for public review.~~

~~5.14 Proposed amendments. Should any proposed amendment consist of or include:~~

~~5.141Boundary changes. Any change in the boundaries of any zone, which change would occur within a distance of 500 feet of the boundary of any other municipality; or~~

~~5.142 Regulation changes. Any change in the regulations prescribed for any zone, any portion of which is located within 500 feet of such boundaries;~~

~~the city clerk shall transmit to the municipal clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the city.~~

~~5.15Public hearing notice contents. All notices of public hearings shall specify:~~

~~a. The nature of any proposed amendment;~~

~~b. The land or district affected; and~~

~~c. The date when, and the place where, the public hearing will be held.~~

5.5 ~~5.16~~ Amendment protests. In the case of a protest against any amendment, such amendment shall not become effective, except in accordance with the provisions of section 305 of chapter 3 of title 22, Municipalities, of the Delaware Code Annotated (22 Del. C. § 305).

5.6 ~~5.17~~ ***Zoning map a***mendment approvals. In all cases where the city council shall approve an amendment to the zoning map, the said council shall find that, for reasons fully set forth in the said findings, such amendment is in conformity with the comprehensive plan for the city.

~~5.18 Submission requirements accompanying petitions for amendments to the zoning map. The petitioner shall cause a site map to be prepared by a civil engineer,~~

~~surveyor, land planner, architect or other competent person. The petitioner shall submit 15 copies of the site map to the city clerk. The elements to be included on the site map are listed below:~~

~~5.181 Scale and dimensions. The map shall be at least 18 by 26 inches, but not more than 24 by 36 inches and at a scale of ten, 20, or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.~~

~~5.182Legal data.~~

~~(a) Lot, block and section number of the property.~~

~~(b) Name and address of the owner of record.~~

~~(c) Name and address of the equitable owner, if any.~~

~~(d) Name and address of the person, firm or organization preparing the map.~~

~~(e) Date, north point and written and graphic scale.~~

~~(f) Sufficient description of information to precisely define the boundaries of the property and that portion of the property for which a rezoning is requested; and total acreage for which a rezoning is requested. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest second or closer. The error of closure shall not exceed one in 10,000.~~

~~(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.~~

~~(h) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.~~

~~(i) A complete outline of existing deed or proposed restrictions or covenants applying to the property and a recital of the deed.~~

~~(j) Existing and proposed zoning.~~

~~(k) Existing and proposed use.~~

~~(l) Other existing development on the property, including fences and landscape screening.~~

~~(m) Two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersections.~~

~~(n) Proposed access to the property from existing roads.~~

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~~(o) Significant natural features, including topography, location of flood hazard areas, and the location of different soil types as indicated by the Kent County soil survey. The soils information shall be supplemented by soil boring and percolation test data, if requested by the city.~~

~~(p) Full and complete information requested by the *city* planner in accordance with the development information requirements set forth in section 4.~~

~~5.183Rezoning to prior classification. In all cases where the city council shall approves an amendment to the zoning map because of a request for new construction of buildings or structures on the rezoned land or where new construction is required to carry out the new use on the rezoned land, the city council shall reconsider the zoning classification by having an amendment to rezone the land to its prior classification be automatically placed on the agenda by the city clerk, unless, within one year from the effective date of the amendment to the zoning map, one of the following conditions is met:~~

~~a. New construction is started on the rezoned land according to the request for the amendment and such construction is proceeding in a normal and reasonable manner toward completion; or~~

~~b. City council is given a satisfactory explanation for the failure to commence construction and reasonable written assurance that construction will commence soon after passage of the one-year period and will proceed in a normal and reasonable manner toward completion; or~~

~~c. The current zoning is in conformance with the current comprehensive plan and its prior zone was not conforming with the current comprehensive plan.~~

5.184 Reconsideration, one-year limitation.

(a) Whenever ~~a petition requesting~~ an amendment~~, supplement, or change~~ has been denied by the city council, such ***amendment*** ~~petition~~, or one substantially similar, shall not be reconsidered sooner than one year from the date of the prior denial, except as provided in subsection (b) hereof.

(b) Notwithstanding the provisions of subsection (a) hereof, the planning commission may request the council to reconsider an application within the one-year period from the denial of the same if the land use in the area has changed to such a degree that failure to do so would prevent proper planning and development of the area in question.

5.19 Closed zones. Where the city finds that new development in a certain zone would be inconsistent with the purposes of this ordinance, but that elimination of or substantial changes to the zone would create a hardship for many owners of existing buildings and

land in that zone, the city may declare the zone closed. The city council shall not accept or approve amendments to the zoning map which would place land in a closed zone. Closed zones include:

(a) R-7;

(b) RG-4;

(c) RG-O, except in the downtown redevelopment target area as described in appendix C of the City of Dover Code of Ordinances.

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Townshend, Ann Marie

From: Phil McGinnis <pjm@mcginnisrealty.com>
Sent: Tuesday, May 10, 2011 3:41 PM
To: CompPlan; Townshend, Ann Marie
Cc: 'Constantine F. Malmberg'; 'Paradee, John W.'; 'Tom Burns'; 'Holland Connie (OMB)'; jmolinaro@realtors.org
Subject: Article 10 amendments

Ann Marie-
I appreciate being included in the Article meeting last week.
The mere thought of streamlining is appealing to me.
Further, more consistency in the timelines, deadlines, and other requirements are likewise welcomed.
I hope you will consider and provide for allowances for mixed-use zoning conditions as we move closer to Smart Growth principles.
I know Connie Holland is looking at developing a form-based zoning guideline book, and I hope that all municipalities will start planning for at least some aspect of form-based zoning.
Looking forward to a wild ride through Article 10.

Phil McGinnis, CCIM, GAA, ALC, e-PRO
McGinnis Commercial Real Estate Company
302-736-2710 office
302-270-0656 cell
mailto:pjm@mcginnisrealty.com



Townshend, Ann Marie

From: Matt Spong <matt@las-llc.net>
Sent: Friday, May 13, 2011 2:09 PM
To: Townshend, Ann Marie; Melson-Williams, Dawn; Albert, Michael
Subject: Porposed changes zoning Oridiance

5-13-11,

As discussed at hearing last week Expiration of plans:

The proposed 2 year expiration after planning commission approval is a great idea. Please consider a 2 year extension. In today's economy and regulatory environment this extra time would be appreciated.

Thanks for your consideration.

Matt
Matthew, T . Spong RLA, ASLA, Principal
Landscape Architectural Services, L.L.C.
Phone: 302-284-4578
FAX: 302-284-0301
matt@las-llc.net
www.las-llc.net

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Excerpt from Minutes of the Historic District Commission Meeting of April 21, 2011

Draft Zoning Text Amendment MI-11-06 Updates to *Zoning Ordinance*, Article 10 §3. Historic District Commission and Architectural Review

Mrs. Melson-Williams stated that the Planning Staff has been working on what is Article 10 of the *Zoning Ordinance.* Article 10 describes the process and procedures for Conditional Use applications and Site Development Plans which are both Planning Commission processes. It describes the processes for the Historic District Commission and Rezoning type of applications.

Mrs. Melson-Williams further stated that specifically what she has given you is the excerpt of Article 10 which is Section 3 which is the Historic District Commission. It describes the Historic District Commission, its appointment, and then the Architectural Review process. Your packet included a Copy A excerpt and a Copy B excerpt. Copy A is taking the existing Code and showing the editing marks. The existing Code is in black, where we are deleting statements is notated in red with a strikethrough through it, and where we are adding text is in blue italics. We have found in doing amendments to text, often times people want to know what did it say and what are we putting in there.

Mrs. Melson-Williams further stated that Version B which Staff calls the "Black Ink Version" is what it will ultimately look like once the editing is completed. Ignore the yellow highlights, these are section references that Staff has to double check and make sure that numbers match and that they are referring to the right section if things get re-numbered. We have done some work on numbering in this section since we issued this to you. Before I start answering questions, this is coming to you as an informational item. Staff is at the very beginning of what will be the whole formal process in order to make these changes in the *Zoning Ordinance.* It has to appear before a City Council Committee that is scheduled for next week. Staff will also be doing a public outreach meeting to developers, architects, engineers, and folks that use this on a regular basis that we deal with in using it. This will happen in May and we are hoping that the overall Ordinance will start the formal review process in June. It has to go through a "First Reading" with City Council, then a public hearing and review before the Planning Commission, and then final public hearing and review with City Council. We are looking at mid-summer before any of this would be put in place. The blue sheet outlined the key revisions and things that we are doing with text amendment.

Mr. Scrafford questioned regarding line 322, Section A, it does not reference The Green as a requirement. Line 322 states that the City Planner can do all those things and we specifically requested that these things on The Green be referred to us at least for our review in order to know that they are going on.

Mr. McDaniel stated that he agreed with Mr. Scrafford. He feels that we should also include Constitution Place. Responding to Mr. McDaniel, Mrs. Melson-Williams stated that in the Draft *Design Guidelines* what we had suggested was that The Green and Constitution Place that those areas be treated specifically in that. It would include State Street to Water Street and from The Green up to Loockerman Street. She is not sure how to implement that into here; however, they will look at it.

Mr. Scrafford stated that it needs to be because as it stands right now, you do not need this Commission. The way that it is written right now, the City Planner can do all of these things without this Commission's approval. Responding to Mr. Scrafford, Mrs. Melson-Williams stated that the City Planner does not use a separate set of *Guidelines* and a portion of the *Zoning Ordinance* that refers you to those *Guidelines* to do the activities and to do the Architectural Review Certification may be enough to cover that or it may not.

Mr. Fisher questioned at our last meeting where we had the untimely application for extension, this says a request for extension has to be thirty (30) days prior to expiration of the Commission's recommendation of one year. There is no provision in here for a waiver. If we are going to have the power to waive should it be stated that the Commission has the power to waive or the Commission does not have the power to waive? If it is silent he would assume that they would not have the power to waive.

Mr. Salkin stated in Section 3.14 under "organization" the last sentence was crossed out that stated "The Commission shall produce and annual report of its activity that is kept on file for public review." He does not object to this; however, it seems to him that there should be some requirement that the summary of what we do whether it is annually, monthly, or quarterly should be available to the public to explain a summary of the actions we have taken. It could be placed on the website and not necessarily an annual report or a separate document.

Mr. Scrafford questioned where the minutes of this Commission are retained and available to the public? Responding to Mr. Scrafford, Mrs. Melson-Williams stated that they are physically retained in the Planning Office and they are accessible through the City's website. All the minutes from all of the various Boards, Commission, and Committees are available on the City's website.

Mr. Salkin stated that he was thinking some kind of summary form so that people could understand what we do. Responding to Mr. Salkin, Mrs. Melson-Williams stated that she thinks that they would put the sentence back in. She can tell you that the annual report that the Planning Office does has a summary page of the applications that were heard and that is the version of the chart that you see that has each years applications on it.

Note: At 4:00 PM Mr. McDaniel and Mr. Salkin left the meeting for other commitments.

Mr. Scrafford stated that the only other issue that he noticed was that there are places where we do a recommendation for an Architectural Review Certificate and places where we actually issue the Certificate. Responding to Mr. Scrafford, Mrs. Melson-Williams stated that this is one of the things that we are trying to clarify. There are three (3) types of Architectural Review Certifications. One is review by the City Planner with a Building Permit application as referenced in 3.22A. Then there is review by the Historic District Commission meaning it appears in front of you; you have the last say and issue the certificate. The third type of Architectural Review Certification is recommendation by the Historic District Commission with final action by the Planning Commission. This meaning the project is so big that it has to go to the Planning Commission; however, stops with this Commission first and you put together a series of recommendations on the Architectural Review Certificate. Your recommendation gets

forwarded onto the Planning Commission and the Planning Commission is the final say on the Architectural Review Certification.

Note: At 4:11 PM Mr. Jackson left the meeting. Quorum was lost but no actions were taken; only information presented to remaining members present.

Mr. Fisher stated on Line 995 and 996 in the blue language it states that "Such request shall be made in writing to the Planning Office at least thirty days." When you have the black ink copy that line is not there, only in subsection d where the extension has to be made within thirty days is it mentioned. Responding to Mr. Fisher, Ms. Cornwell stated that it is in there, line 818 through 820.

Mr. Fisher stated that his only concern regarding the thirty days is that it is clear in both copies, no matter how you read it, and if the thirty day condition can be waived. His personal preference would be no; however, it is not up to him to make that decision.

Ms. Melson-Williams stated that one thing that they did regarding Demolition by Neglect is that we wrote a paragraph that clarifies what steps they need to do before it arrives before this Commission.

Mr. Scrafford stated regarding 3.43A section starting with Line 1092 it does state that "The City Planner shall notify the Historic District Commission;" however, it does not say when should it? Responding to Mr. Scrafford, Mrs. Melson-Williams stated that the test with how it is written here is if it is meeting the definition of "dangerous building" and then that dangerous building then gives the citation for that. There may be something else in Chapter 22 that gives what the responsibility of the Planner is regarding reasonable time.

ACTION FORM

PROCEEDING: Legislative, Finance and Administration Committee
DEPARTMENT OF ORIGIN: Planning & Community Development **DATE SUBMITTED**: June 2, 2011
PREPARED BY: Ann Marie Townshend, AICP, Director of Planning & Community Development & Scott D. Koenig, P.E., Public Services Manager
SUBJECT: Draft Ordinance Regarding Homeowners Association Responsibilities
REFERENCE:
RELATED PROJECT: "Performance and Maintenance Bonding Concerns" – Utility Committee agenda of 1/24/11
REVIEWED BY:
EXHIBITS: Draft Ordinance
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: First Reading on June 27, 2011, Referral to Planning Commission on July 18, 2011, Final Action by City Council on August 8, 2011
RECOMMENDED ACTION: Staff recommends that the proposed ordinance be forwarded to City Council with the above timeline for action.

BACKGROUND AND ANALYSIS

City Council and many residents of the City have expressed concerns about the state of several subdivisions that have gone inactive. This had led to infrastructure that is incomplete and not dedicated to the City and lack of maintenance of the private common areas (stormwater management areas and common open space) by homeowners associations. City Council assigned this issue to staff to develop a list of the problems and potential solutions related to the maintenance of development projects that are incomplete. On January 24, 2011, staff presented a report to the Utility Committee, who in turn ranked the problems and instructed staff to address the three top-ranked problems.

This ordinance addresses Problem #4 from the report, "Stormwater/Passive Open Space Not Being Maintained". The *Zoning Ordinance* requires that private open spaces within residential development be turned over and maintained by a homeowners association. In many locations, the homeowners association was developed, land is owned by the homeowners association, and yet the property is not being maintained. The City receives complaints about the lack of maintenance. If the City expends funds to maintain these areas, there is no mechanism to recover the funds. The City does not have the resources to maintain these areas without receiving payment to do so. The proposed ordinance would amend the Subdivision Regulations and require that homeowners associations be formed, membership mandatory, and that they assume and continue the maintenance responsibilities for the common open space, including the stormwater management areas, passive open space, and active recreation areas. If the City needs to perform maintenance of these areas due to code violations not addressed by the homeowners association, the City could bill the property owners of the lots within the subdivision to recover costs, and place these charges on the tax bill of these property owners.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Appendix A - Subdivisions, Article VII - Special Provisions, be amended by re-lettering Section B - Severability, as Section C and inserting a new Section B - Homeowners associations, to read as follows:

B. Homeowners associations.

1. *Creation of homeowners association*. The owner and/or developer shall create a homeowners association for the proposed development where private open space and stormwater management facility ownership and maintenance responsibility exist. The homeowners association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process and all documents related to the homeowners association shall be submitted in draft form at the time of application for the subdivision plan review (whether minor or major). Such documents shall be acceptable to the city as a condition of subdivision plan approval.

2. *Legal documents recorded.* The owner and/or developer should pay for the preparation of the legal document necessary to create the association, have same approved by the city solicitor and council and record same in the recorder of deeds office for Kent County.

3. *Maintenance of property of the homeowners association.* The legal documents prepared will give the city the authority to require the homeowner's association to perform routine maintenance and minor/major repairs as necessary to keep the property in good condition, and eliminate any health or safety issues.

   If the homeowners association does not respond to a notice of violation from the city regarding maintenance within 14 calendar days of the date of such notice, the city shall have the right to perform the work itself or hire a contractor to perform the work and assess each property owner of the homeowner association and/or each owner of property within the final plat for the subdivision a fee to recover its cost. Such fee shall include an administrative charge equal to 15% of the cost of the work performed. This fee will be added to the real estate tax bill as a special assessment to these lot owners.

4. Homeowners association requirements. If the applicant is required to establish a homeowners association for purposes of ownership and maintenance of common areas, common facilities and/or open spaces, such association documents shall require, at minimum:

   a. Membership mandatory. All owners of property within the subdivision must be members of the homeowners association. The members of the homeowners association shall share equitably in the costs of maintaining all open space, common areas and facilities, recreation areas and facilities, and stormwater management areas and facilities which are not accepted by the city in writing in accordance with the provisions of all deed restrictions and maintenance agreements, all applicable property maintenance codes, all record plan notes, and in accordance with procedures established by the homeowners association. The deed restrictions shall require, at minimum, that the costs of such maintenance shall be collectable from the owner of the lot(s) to which such costs are assessed; and that such costs shall be and

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constitute a lien upon such lot(s).

b. Responsibilities. The homeowners association shall be responsible for all maintenance, insurance, taxes, fees, and other burdens customary to the ownership of real property and all improvements and construction thereon, including, but not limited to all recreation amenities, walkways, storm water facilities, ponds, landscaping, and other facilities not owned or accepted by the City of Dover.

c. Deed restrictions. Restrictive covenants shall provide that in the event the association fails to maintain the common areas, common facilities, and open areas according to the adopted codes of the City of Dover, in accordance with the recorded plan, and in accordance with the requirements of recorded restrictions, the city may:

1. Demand that the deficiency of maintenance be corrected. If the homeowners association shall fail to correct the deficiency, after reasonable notice, the city may enter the common area to inspect and correct the deficiency. The cost of such maintenance shall be charged to the association in accordance with the provisions of Section C (3).

5. Homeowners association reporting responsibilities. Each homeowners association established pursuant to Appendix A, Subdivisions shall, not later than December 31 of each year, provide to the City Clerk of the City of Dover a listing of the officers of such homeowners association, including their addresses and telephone numbers, and the date of the annual meeting. The homeowners association shall list the terms of office of each officer and the date of the annual election. The homeowners association shall provide the name, address, phone number and contact information for any firm providing services in behalf of or acting as agent for the homeowners association in carrying out its responsibilities.

BE IT FURTHER ORDAINED:

That the provisions of this ordinance shall be in effect upon its adoption and shall apply to all existing subdivisions where the homeowners association has maintenance responsibilities for open space and stormwater management areas. The city manager shall send a letter to all property owners within the City of Dover who have HOA maintenance responsibilities under this ordinance informing them of these responsibilities and the City's right to bill property owners within the homeowners association for any maintenance performed by the City of Dover due to lack of maintenance on the part of the homeowners association.

BE IT FURTHER ORDAINED:

That all homeowners associations with maintenance responsibilities for open space and stormwater areas that existed prior to the adoption of this ordinance shall report to the city manager by December 31, 2011 those items required in subsection (B)(5) - Homeowners Association Reporting Responsibilities.

SYNOPSIS

The proposed amendment would clarify the requirement that developers of subdivisions with common open space, including active recreation areas, woodlands, and stormwater

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managements, form homeowners associations where membership is mandatory. It would allow the City to perform work that is the responsibility of the homeowners association if such work is not performed in accordance with code requirements. Such work would be billed to the property owners on their tax bill, including an administrative charge. The proposed amendment would require that homeowners associations with management responsibility for common open space submit annually a listing of officers of the association. The proposed amendment also clarifies that these requirements are retroactive to all subdivisions with common open space in existence prior to adoption of the ordinance.

ADOPTED: *

Actions History

June 13, 2011 - Scheduled for consideration by the Legislative, Finance, and Administration Committee

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