CITY OF DOVER PLANNING COMMISSION
December 19, 2011

The Regular Meeting of the City of Dover Planning Commission was held on Monday December 19, 2011 at 7:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Baldwin, Mr. Shomo, Colonel Welsh, Mr. Tolbert, and Mr. Nichols. Mr. Friedman, Mr. Holt and Mr. Ambruso were absent.

Staff members present were Mrs. Melson-Williams, Mrs. Townshend, Mrs. Duca, Ms. Cornwell and Ms. Metsch. Also present were Mr. Robert Schwartz, Mr. Gregg Moore, and Mr. Jonathan Street.

APPROVAL OF AGENDA

Colonel Welsh moved to approve the agenda as submitted, seconded by Mr. Nichols and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt and Mr. Ambruso absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF NOVEMBER 21, 2011

Mr. Shomo moved to approve the regular Planning Commission meeting minutes of November 21, 2011, seconded by Mr. Tolbert and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt and Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that she would like to introduce and welcome Sharon Duca who has been appointed as the Interim Public Works Director as Scott Koenig (former Public Works Director) was promoted to the City Manager position. Mrs. Duca will be overseeing all of the Public Works functions for the City and is also the City Engineer.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings of November 28, 2011; a special Safety Advisory and Transportation Committee and the regular City Council meetings of December 12, 2011.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

S-11-02 Revised C.F. Schwartz Building Addition at 1530-1536 North DuPont Highway – Public Hearing and Review of Revisions to the Site Development Plan previously approved for the construction of a 24,444 S.F. building addition and the associated site improvements on a 7.83 +/- acre parcel. The property is zoned RC (Recreational and Commercial Zone) and C-4 (Highway Commercial Zone). The property is located on the west side of North DuPont Highway at the intersection with Rustic Lane. The owner of record is C.F. Schwartz Motor Company. Property Address: 1530-1536 North DuPont Highway. Tax Parcel: ED-05-057.00-01-06.00-000. Council District 4. *Revisions proposed include a Waiver Request to Reduce the Number of Required Bicycle Parking Spaces and a Revised Landscape Plan including Consideration of a Revised Tree*

Mitigation Plan. The Planning Commission previously approved Application S-11-02 on February 21, 2011 with Final Plan Approval granted September 6, 2011.

Representative: Mr. Robert A. Schwartz, C.F. Schwartz Motor Company.

Ms. Cornwell provided an overview of the application including a waiver request to reduce the number of bicycle parking spaces from 14 to 4 spaces and a proposed revised Landscape Plan for off-site tree mitigation.

Mr. Schwartz stated that with regards to the Arborvitae trees that he wants to place between his site and the Sheraton Hotel with pictures provided, shows the damage that has happened with the people who drive across because people do not pay attention to the bumpers in place. He has talked with representatives from the Sheraton Hotel and they are very happy with his proposal to put thirty-six (36) Arborvitae trees in the strip that is about 225 feet which will fill it up. As the trees grow out like the ones at the end of Kings Highway and Division Street, it will keep people from driving through there.

Mr. Schwartz further stated that he is not asking for fewer trees. He has thirty-six trees to plant and is fine with that. It is that he would like to change the type of trees and the location of the trees. It would be a win/win situation for everyone to get this mess cleaned up. The reason for planting these trees there is because it makes a nice buffer zone between the two properties, will stop all the driving through, and will be a nicer view for people staying at the Sheraton Hotel looking out their window as they would not have to look at all his wrecked cars that are towed in and older used cars. This will control vehicle parking on both sides and will solve the maintenance control problems as well as the expense of replacing the concrete barriers. Both properties will have a better eye appeal. He has agreed to maintain these trees.

Mr. Schwartz further stated that one of the great things about the Arborvitae trees is that they do not attract birds. In his business dealing cars, they do not like birds for that reason. They would like to have all thirty-six (36) Arborvitae trees planted in this location because it would fill up that location. They have already been in touch with Miss Utility and they have given approval for this area.

Mr. Schwartz further stated that Staff has recommended that we plant twenty-eight (28) Arborvitae trees as opposed to thirty-six (36) and keep eight (8) Willow Oaks. He has counted six (6) Willow Oaks on a piece of land that he owns attached to this piece of property which has nothing to do with his building project. This is an undeveloped piece of land located on the corner. He does not see the need to put trees on this vacant piece of land because there will come a day when he will want to develop the property. The placement of these trees on that property will dictate what he will be able to place on the property and if they do not put the trees there now, when he does develop this piece of property, we would have to conform to the tree codes.

Mr. Schwartz further stated that he has done some research on Willow Oaks and found that they can grow to 120 feet high with a two (2) foot girth. If he puts six (6) to eight (8) of those on a three quarter of an acre lot, there will not be anything left. This is a valuable corner lot to him for future expansion. The Willow Oak trees are sap trees that will draw birds.

Colonel Welsh stated that he does not have any problems with either of the waiver requests. He likes the Planning Staff's recommendations; however, Mr. Schwartz makes a good argument for placing all of the Arborvitae trees here. He also understanding what Staff is trying to do to dress up the corner. You have a very large open lot back there that runs most of the property and then a patch of green at the end that if trees are put in there, might give the area some depth and not look like barren land. He does not think that we would see 120 feet Willow Oaks as that is over a period of time. He would expect that you would be developing that lot before they ever reached that size.

Colonel Welch questioned that you are still talking about being able to park four (4) bikes, two (2) bike racks on each building correct? Responding to Colonel Welch, Ms. Cornwell stated that is correct.

Mr. Nichols knows what Mr. Schwartz is talking about regarding the Willow Oaks. Willow Oaks were planting on Loockerman Street in 1978 and if you want to see 120 feet tall Willow Oak it is there. If you want to see how wide the girth is it is there. He does not need those trees back on his lot. They have grown tremendously up there and he does not know what they are going to do when it comes time to take those trees down. With regards to the bicycle racks, he does not need a lot of bicycle racks because he does not believe that he will have a lot of people coming there to look at cars riding a bicycle. He thinks that what he already has there is plenty.

Mr. Tolbert stated that Mr. Schwartz made an excellent case and he is glad to hear that he expects his business to grow because that gives him some hope for the economy.

Mr. Shomo stated that he only has one car and he hates it when the birds mess on it. He would agree with not putting the Willow Oaks on the back piece of property. He feels that the Arborvitae trees are a good answer.

Mr. Hemmig stated that if you put thirty-six (36) trees that are six and a half (6 ½) feet apart or as recommended, twenty-eight (28) trees that are eight (8) feet apart it really would not fill in what you are looking to achieve. Responding to Mr. Hemmig, Mr. Schwartz stated that when they were figuring it out, the number sort of fit.

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

Colonel Welsh moved to approve S-11-02 Revised C.F. Schwartz Building Addition located at 1530-1536 North DuPont Highway with the waiver request for reduction in bicycle parking and further tree mitigation with the recommendation for approval that all thirty-six (36) trees be the Arborvitae trees between the C.F. Schwartz property and the Sheraton Hotel, seconded by Mr. Nichols and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt, and Mr. Ambruso absent.

NEW DEVELOPMENT APPLICATIONS

S-11-21 Inner City Cultural League/Dover Cultural Center at 39 S. West Street – Public Hearing and Site Plan Review to permit the construction of a 4,085 S.F. building and associated site

improvements. The subject site is one parcel of land consisting of 0.5923 acres +/- (25,800 S.F.). The property is situated on the east side of South West Street in the block between West Division Street and Forest Street just east of the railroad corridor. The property is zoned C-2A (Limited Central Commercial Zone). The owner of record is Downtown Dover Partnership. Property Address: 39 South West Street. Tax Parcel: ED-05-076.08-06-02.00-000. Council District 4. *Waivers Requested: Reduction in Parking Requirements; Elimination of Opaque Barrier (Fence Component) and Partial Elimination of Curbing.*

Representatives – Mr. Gregg Moore, Becker Morgan Group, Inc.

Ms. Cornwell provided and overview of the application and the waivers associated with it.

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

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

Colonel Welsh questioned if the colors shown on the submitted drawings would not be quite as vivid? Responding to Colonel Welsh, Mr. Moore stated that no, they would not be. They were shown bolder by our computer model. The building will be built by the same developer who built the building next door so it will be the same design.

Mr. Hemmig questioned what the general use of the building would be. He realizes that it is a cultural center; however, what does that mean? Responding to Mr. Hemmig, Mr. Moore stated that there are a few offices, a performance area where kids can come in and dance, and an area where they can have a band, singing, or choral.

Mr. Hemmig further questioned what the hours of operation would be? Responding to Mr. Hemmig, Mr. Moore stated that it would be an after-school program. There is a small area with a raised platform where kids could present to their parents or grandparents.

Mr. Moore stated that there is a letter placed on your desks this evening that was received as an email for Ms. Cornwell.

Ms. Cornwell stated that she received an email from the Environmental Consultant forwarding the comments they received from DNREC regarding the environmental concerns as it has been a remediated Brownfield site. DNREC would like to sign off on the plans reiterating that the site needs to comply with the Memorandum of Environmental Requirements that was established in 2010.

Mr. Moore stated that they just received the comments from DNREC and they took a quick look at them and do not see any issues with them.

Mr. Nichols moved to approve S-11-21 Inner City Cultural League/Dover Cultural Center located at 39 S. West Street with approval for the waiver requests for partial elimination of curbing, elimination of the opaque barrier fence component, and the sidewalk along the front entrance.

Ms. Cornwell stated for correction the last waiver request is for off-street parking and not for sidewalk.

Mr. Nichols amended his motion to include the reduction of off-street parking, DNREC review and approval, and all of the DAC comments of record, seconded by Colonel Welsh and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt, and Mr. Ambruso absent.

C-11-07 North Street Area Improvement Project – Public Hearing and Review for Conditional Use/Site Development Master Plan and Architectural Review Certificate for the North Street Area Improvement project. The project involves three project areas/phases consisting of the following: a parking lot consolidation project on the south side of North Street; streetscape improvements to the block of North Street between South State Street and South Governors Avenue; and the redevelopment a vacant area in the block between North Street and West Loockerman Street as a plaza with parking lot. The project area consists of multiple parcels of land totaling 4.1635 acres ± of land zoned C-2 (Central Commercial Zone) or RGO (General Residence and Office Zone) and subject to the H (Historic District Zone). The project area is focused on the segment of North Street between South State Street and South Governors Avenue and the area between West Loockerman Street and Bank Lane. The owners of record include Rudolph von Croy c/o Colonial Investment & Management, Delaware State Housing Authority, Collegian Plaza Hospitality Group II LLC, and the City of Dover; the equitable owner (for certain parcels) is the Downtown Dover Partnership. The property addresses include 114, 116, 120, 126 and 128 West Loockerman Street; 100, 104, 106, and 119 West North Street; 309 South Governors Avenue; and 16 and 22-26 The Green. Tax Parcels: ED-05-077.09-04-32.00-000, ED-05-077.09-04-06.00-000, ED-05-077.09-04-31.00-000, ED-05-077.09-04-30.00-000, ED-05-077.09-04-08.00-000, ED-05-077.09-04-09.00-000, ED-05-077.09-04-43.00-000, ED-05-077.09-04-42.00-000, ED-05-077.09-04-51.01-000, ED-05-077.09-04-53.00-000, ED-05-077.09-04-53.01-000, ED-05-077.09-04-07.00-000, ED-05-077.09-04-50.00-000 and ED-05-077.09-04-54.00-000. Council Districts 2 and 4. *Waiver Requested: Partial Elimination of Curbing. Application HI-11-05 is scheduled for review at the Historic District Commission Meeting on December 15, 2011.*

Representatives – Mr. Jonathan Street, Becker Morgan Group; and Mr. Gregg Moore, President of Downtown Dover Partnership.

Mrs. Melson-Williams provided an overview of the application with a waiver request and consideration of the Architectural Review Certification.

Mr. Moore stated that these three (3) projects all came from the Transit Book Charette. The plaza that you are looking at in the graphic is actually setup to take some parking; however, also allow transit to occur from the parking lot that they are doing on North Street to get folks over to Loockerman Street. It is also setup so that students could come and traverse through this property coming down Bradford Street from Wesley College and over to the Wesley College's new nursing program which will be located in the old Frear Building.

Mr. Moore further stated that a project that is not before you this evening that the Historic District Commission saw is we also own what, was formerly the Grant's Building, which is located on North Street. We are starting construction of renovations to that building which you will see in the

form of a new front and a new back on that building. The parking lot that is proposed here this evening is part of that plan to get new energy and new tenants in there and provide a place for them to park.

Mr. Moore further stated that the only comment that they have is that the DDP (Downtown Dover Partnership) actually purchased what were previously six (6) properties bought by the Onix Group on the Loockerman Way Project. There is one parcel in the center that is owned by the City of Dover and is where the traditional alley has always been by the Newsstand. We are petitioning City Council to join that with this parcel. If we get the opportunity from City Council, we will be glad to consolidate all of these properties into one. If we do not receive approval, they would like to leave them the way that they are and come up with an easement agreement with the City of Dover.

Mr. Nichols stated that when they saw this Dover area park the last time, there were a lot of homeless people and various other people that sat there and urinated on the site and the Police Department couldn't control it. He is wondering if with the trees and various benches that you will have there, will you be able to control that this time. Responding to Mr. Nichols, Mr. Moore stated that they are proposing no benches for that very purpose. It is meant to be a plaza walkway and in the future if that problem can be arrested, it would be a good place to have benches. We are not proposing any and do not plan to install any as part of our program. We feel that it is safer than the way that it is now. As currently, there is a fence up on Loockerman Street with some trees where someone could hide behind the trees and not be seen. We would be opening this up. People are currently parking here in haphazard ways and we will be better organizing that. We feel that with the lighting, the organization, and more discreet parking lot, it will be better than it is today in terms of safety.

Colonel Welsh questioned that one of the Historic District Commission's recommendations was the benches. Is there going to be a problem not doing them? Responding to Colonel Welsh, Mr. Moore stated that they would ask that this body not require those benches because of the safety issues in which they have heard from City Council.

Colonel Welsh further stated that previously it was a much narrow area so they were relatively hidden from the street. With the lighting, he would hope that it is not going to become an issue.

Mr. Nichols further stated that the entrance off of Bank Lane which is beside the little brick building, was it all the way through to here before? Responding to Mr. Nichols, Mr. Moore stated that no, it was not. What they are going to do is let folks now come off of Bank Lane and come to North Street. Currently, the dumpster that Becker Morgan Group, Inc. uses is in the way and that dumpster will be removed. That will allow that passage to come through so that parking lot could be accessed if you are using The Green or it could be accessed from North Street if you happen to be coming through North Street.

Mr. Nichols further stated that he noted that Staff has recommended the installation of a hitching post for buggies. Will you be incorporating that? Responding to Mr. Nichols, Mr. Moore stated that they could do that and intend to do that in the location of a parking space so that it can become

a hitching post or a parking space depending upon who gets it.

Mr. Moore stated that the money for this project comes from the Bond Bill that the DDP (Downtown Dover Partnership) was granted for three (3) million dollars for this project. They believe that they will be very close to being able to deliver everything in this project; however, there is a possibility that they may have to leave things out for future funding. In that this is a construction Master Plan, they have phased it so that they can come back in the future with funding to finish the entire project. Their intention is to do as much as they possibly can with the money that has been allocated.

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

Mr. Hemmig questioned with regards to DelDOT's recommendation #2 to eliminate the two mid-block crossings noted on the plans, is that a requirement or is this just a recommendation? Responding to Mr. Hemmig, Mrs. Melson-Williams stated that this is a recommendation. Staff did look at this because the applicant was questioning it as well. Staff looked at it specifically as it was worded and that is DelDOT saying the Department strongly discourages the two (2) mid-block crossings. It does not say that they prohibit it. This is a City maintained street so it will be the decision of the City and working through its Public Works Department regarding those mid-block crossings. They are anticipated to be very clear to show where a pedestrian should cross North Street rather than going all the way to one of the corners to do that crossing.

Mr. Hemmig stated that he thinks that this is a good idea because it is such a narrow street where people are going to need to cross easily.

Mr. Hemmig stated that there are three (3) components to this proposal. This is a Conditional Use application and approving the Site Development Master Plan in a phased implementation with the future phases being administratively approved by Staff unless there are major changes then it would be brought back before this body. The third element would be the Architectural Review Certification from the Historic District Commission.

Mr. Tolbert moved to approve C-11-07 North Street Area Improvement Project to include the waiver request for partial elimination of curbing and compliance with the Historic District Commission's Architectural Review Certificate and to eliminate the requirement for all benches in the area and consolidation of parcels with the City of Dover and with all DAC Comments of record, seconded by Mr. Shomo and the motion was unanimously carried 6-0 with Mr. Friedman, Mr. Holt and Mr. Ambruso absent.

MI-11-17 Text Amendment: Revisions to *Zoning Ordinance*, Article 3 Section 2 and Article 6 regarding Conditional Uses in the General Residence Zone – Public Hearing and Review for Recommendation to City Council on a series of Amendments to the *Zoning Ordinance,* Article 3 §2 to permit limited commercial uses accessory to the principal residential use on properties within the General Residence Zone (RG-1 and RG-2) that are located within the City's Historic District Zone and/or listed on the National Register of Historic Places as part of a historic district or as an

individual property. It would also require that such accessory uses be subject to Conditional Use approval by the Planning Commission set standards for such accessory uses. Also includes amendments to Article 6 pertaining to the associated parking requirements. Ordinance #2011-29.

Representative: Brought forward by Staff as sponsored by three (3) City Council members.

Mrs. Townshend stated that this is an Ordinance that came forward with City Council sponsorship from Councilman Bonar, Councilman Lynn, and Councilwoman Russell. The proposed Ordinance would amend the general residence zones to allow antique shops, art galleries, gift and card shops, bookstores, specialty hobby stores, and restaurants with no alcoholic beverages as accessory uses to the principal residential use for properties located within either the City's Historic District Zone or any historic district or property listed on the National Register of Historic Places. These accessory uses would be subject to Conditional Use approval by the Planning Commission.

Mrs. Townshend further stated that the other piece of this that would be amended would be the off-street parking requirements in Article 6. The idea is to limit these accessory uses to the historic areas of Dover as they would be a part of the historic tourism type of appeal and not something that would be springing up all over Dover.

Mr. Hemmig questioned the wording of "historic district zone?" Responding to Mr. Hemmig, Mrs. Townshend stated that it is the Historic District Zone; however, also the National Register districts which would be the Historic District like the Victorian District that comes up State Street that is not within the City's district. However, it is within a district that is listed on the National Register of Historic Places.

Colonel Welsh questioned why hobby shops were listed? Responding to Colonel Welsh, Mrs. Townshend stated that the language that was used in drafting the Ordinance mirrors what is permitted in the General Residence and Office Zones within the Historic District. It mirrors the uses that would be permitted on State Street in the area where there is brick paving. A specialty hobby store could be collectables or something specifically related to the historic downtown.

Colonel Welsh further questioned why restaurants with no alcoholic beverages? Responding to Colonel Welsh, Mrs. Townshend stated that this Ordinance came about as a result of a resident and homeowner wanting to open a tea house which would be classified as a restaurant. In the RG-O zone, it specifically specifies no alcohol and the concern would be that when alcohol is involved it elevates things to a different level of regulation with the ABCC getting involved and the process becomes a little more rigorous in terms of it is hard to do that as an accessory use to the residential use and you can have more external effects when you are serving alcohol.

Mr. Nichols questioned if a restaurant can be open on any street area that is in the Historic District? Responding to Mr. Nichols, Mrs. Townshend stated that if it is located within the RG-1 or RG-2 zones, RG-O zone or if it is in a commercial zone.

Mr. Nichols further questioned that with regards to parking there is already a parking problem on the streets there now. Responding to Mr. Nichols, Colonel Welsh stated that it would come before the Planning Commission for review.

Mr. Nichols further questioned how parking would be affected for the proposed tea house? Responding to Mr. Nichols, Mrs. Townshend stated that it would be an application to the Planning Commission. We have not looked at the property in detail; however, in discussions with the owner of the proposed tea house, she has two (2) off-street parking spaces located in the rear yard.

Mr. Hemmig stated that there is nothing in the Ordinance with regards to limiting the number of hours of operation. We are talking about residential areas, would there be a limitation on this? Responding to Mr. Hemmig, Mrs. Townshend stated that it would be part of a Conditional Use review.

Mr. Hemmig further questioned that there is a size limitation of 2,000 square feet; however, that has nothing to do with the overall size of the building? Responding to Mr. Hemmig, Mrs. Townshend stated that the area where the accessory use takes place could not exceed the 2,000 square feet.

Mr. Hemmig questioned Staff to redefine "accessory use", accessory to what? Responding to Mr. Hemmig, Mrs. Townshend stated it would be accessory to the residential use. The property would still be residential. This would be a separate use incidental to the use as a residence and it would have to be used actively as a residence. This would be similar to the Bed and Breakfast within the RG-1 zone. The Bed and Breakfast has to have the caretaker or owner living on the premises so that it is not entirely transient.

Mr. Hemmig further stated with regards to restaurants they usually require specialized equipment for the kitchen. He does not think that this is something that should be allowed next door to an actual residence. Responding to Mr. Hemmig, Mrs. Townshend stated that an example of a Conditional Use that was recently approved that would be similar is the Governors Club Café where they have Panini presses and are not deep frying or doing things that require the major hood systems. The idea is that it would be a smaller operation and would be consistent with the residential area. From a numbers standpoint, something larger would not work because once you get to a certain threshold it would have to be sprinklered. She can assure you that someone is not going to sprinkler their private residence so that they can have one hundred (100) diners.

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

Colonel Welsh moved to forward to City Council a recommendation of approval of MI-11-17 Text Amendment: Revisions to Zoning Ordinance, Article 3 (District Regulations) Section 2 (General Residence Zones) and Article 6 (Off Street Parking, Driveways and Loading Facilities) regarding Conditional Uses in the General Residence Zone. In the Ordinance it would amend General Residence Zones RG-1 and RG-2 to allow antique shops, art galleries, gift card shops, bookstores, specialty hobby stores, and restaurants with no alcoholic beverages as accessory uses to the principal residential use for properties located within the City's Historic District zone or any Historic District or property listed on the National Register of Historic Places, seconded by Mr. Nichols and the motion unanimously carried 6-0 with Mr. Friedman, Mr. Holt and Mr. Ambruso absent.

Meeting Adjourned at 8:00 PM

Sincerely,

Diane Metsch
Secretary