CITY OF DOVER PLANNING COMMISSION
June 20, 2011

The Regular Meeting of the City of Dover Planning Commission was held on Monday June 20, 2011 at 7:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Tolbert, Colonel Welsh, Mr. Baldwin, Mr. Nichols, Mr. Holt, Mr. Ambruso, and Mr. Shomo. Mr. Friedman was absent.

Staff members present were Mrs. Melson-Williams, Mrs. Duca, Ms. Cornwell, Mr. Albert and Ms. Metsch. Also present were Mr. Rick Gould, Mr. Mike Henry, Mr. Rich Vetter, Mr. Ryan Becraft, Mr. Michael Cassidy, and Mr. Constantine Malmberg. Also speaking from the public was Dr. Steven Schlesinger.

APPROVAL OF AGENDA

Mr. Tolbert moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 8-0 with Mr. Friedman absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MAY 16, 2011

Colonel Welsh moved to approve the regular Planning Commission meeting minutes of May 16, 2011, seconded by Mr. Tolbert and the motion was unanimously carried 8-0 with Mr. Friedman absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the next Quarterly Workshop is scheduled for Tuesday, August 16, 2011 at 4:00 PM in the City Hall Conference room.

Mrs. Melson-Williams further stated that an APA Audio Web Conference regarding the 2011 Planning Law Review session will be held on June 29, 2011 at 4:00 PM. This audio web conference is hosted at the Kent County Administration Building in Room 220. The event would be co-sponsored by the Delaware Chapter of the APA and the Kent County Planning Office.

Mrs. Melson-Williams provided an update on the regular City Council meeting of May 23, 2011, and the regular City Council, Utility Committee, the Parks Recreation and Community Enhancement Committee, and the Legislative, Finance and Administration Committee meetings of June 13, 2011.

Mrs. Melson-Williams further stated that included in the Planning Commission packets were some sheets that need to be inserted into your *2008 Comprehensive Plan*. These are 2011 Comprehensive Plan Amendments that were approved by City Council in March and April of this year. There were some text pages that were updated as well as the Land Development Plan Map 12-1.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Melson-Williams presented the audience information on policies and procedures for the meeting.

OLD BUSINESS

S-10-13 YMCA at 1137 South State Street – Request for extension of the conditional approval granted on June 21, 2010 by the Planning Commission to the Site Development Master Plan for the construction of three separate building additions to the existing YMCA building located 1137 South State Street and associated site improvements. The three building additions are proposed in phases with Phase 1: Gymnasium at 9,250 S.F., Phase 2: Fitness Addition at 3,030 S.F., and Phase 3: Program Space at 6,500 S.F. in size. The project is located on three parcels of land totaling 4.4196 acres ± proposed for consolidation into one parcel as part of this application. The properties are currently zoned IO (Institutional/Office Zone) and RGO (General Residence and Office Zone. The owners of record are YMCA of Dover, Inc. and Young Men's Christian Association of Delaware, Inc. Property Addresses: 1137, 1145, and 1169 South State Street. Tax Parcels: ED05-077.17-05-01.00-000, ED05-077.17-05-57.00-000, and ED05-077.17-05-58.00-000. Council District 2.

Representatives: Mr. Rick Gould, YMCA; and Mr. Mike Henry, Becker Morgan Group, Inc. were present in the audience.

Mrs. Melson-Williams provided an overview for the request of extension for this application.

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

Mr. Hemmig questioned if there would be any items that would affect the extension with regards to changes in the *Zoning Ordinance*? Responding to Mr. Hemmig, Mrs. Melson-Williams stated that no not with regards to the I/O (Institutional/Office) zoning district that this project is currently located in.

Colonel Welsh moved to approve a one year extension for S-10-13 YMCA located at 1137 South State Street, seconded by Mr. Nichols and the motion was unanimously carried 8-0 with Mr. Friedman absent.

NEW DEVELOPMENT APPLICATIONS

C-11-04 M & L Ventures, LLC at Lafferty Lane – Public Hearing and Review of a Minor Subdivision and Conditional Use Site Plan to create two parcels of 5.46 ± acres and 4.13 ± acres for the construction of a total of ten 9,950 SF manufacturing/warehousing buildings on two parcels (after subdivision) and other associated site improvements at Lafferty Lane. The property is currently 9.99 acres ± and is zoned M (Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone) APZ 1 and Noise Zones C and D. The property is located on the south side of Lafferty Lane west of Horsepond Road. The owner of record is M & L Ventures, LLC. Property Address: Lafferty Lane. Tax Parcel: ED05-077.00-01-28.04-000. Council District 2. *Waivers Requested: Reduction of Bicycle Parking, Partial elimination of curbing, and Partial Elimination of Sidewalk. Previously, application C-09-03 was reviewed by the Planning Commission in March 2009 and January 2010; however, that plan has expired.*

Representatives: Mr. Rich Vetter, RK&K Engineers; Mr. Ryan Becraft, RK&K Engineers; and Mr. Michael Cassidy, M&L Ventures.

Ms. Cornwell provided an overview of the application.

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

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

Mr. Hemmig questioned if there was a recommendation for an increase in bicycle parking? Responding to Mr. Hemmig, Mrs. Melson-Williams stated that yes; the Planning Staff recommended that at least two (2) bicycle parking spaces be provided. The applicant was requesting a full elimination of the requirement.

Colonel Welsh moved to approve C-11-04 M & L Ventures, LLC located at Lafferty Lane with the waiver requests granted for the sidewalk, elimination of curbing, and to amend the requirement of two (2) bicycle parking areas, seconded by Mr. Nichols and the motion was unanimously carried 8-0 with Mr. Friedman absent.

C-11-03 Governors Club Professional Center at 144 Kings Highway – Public Hearing and Review of a Conditional Use Site Development Plan to permit the establishment of a café/sandwich shop in a portion of the first floor of an existing building. The property is zoned RGO (General Residence and Office Zone) and H (Historic District Zone). The property is located at the southernmost intersection of American Avenue and Kings Highway. The owner of record is Governors Club Professional Center, LLC and the lessee is Coffee Shop, LLC. Property Address: 144 Kings Highway SW. Tax Parcel: ED05-077.05-04-40.00-000. Council District 2.

Representative: Mr. Constantine Malmberg, Attorney representing the Applicant.

Ms. Cornwell provided an overview of the application.

Mr. Malmberg stated that the owner of this coffee shop has been a manager of McGlynn's Pub and was the one who got the operation up and running here in Dover. He has been in the restaurant business for twenty (20) years and is an operator that should know what he is doing. The intended use as indicated by Staff is a coffee shop where sandwiches for lunch or coffee in the early morning to serve DNREC, Wesley College students, and that type of clientele. It is not anticipated that there would be much in the way of evening hours other than in connection with events held at the Schwartz Center where it might be appropriate for Friday and Saturday night ice cream with the kids after dinner.

Mr. Malmberg further stated that as Staff indicated, this is a preferred Conditional Use in this district. The idea as set forth in the Code is to try and encourage tourism uses in Downtown with more vitality by interjecting some commercial uses into the office district that represents the Historic District.

Mr. Holt questioned regarding the business, is the owner contemplating staying with those hours or having it open for certain events Downtown? Responding to Mr. Holt, Mr. Malmberg stated that the concept is 7:00 AM through lunch most weekdays that would cater to the business in Downtown Dover. On Friday and Saturday nights, they will try to pick up some theater traffic

for dessert as they will be serving gelato along with coffee and a sandwich shop.

Mr. Holt further stated that he feels that this is going to be a good fit and would even suggest that they have some outdoor seating. Responding to Mr. Holt, Mr. Malmberg stated that there is a plan for some seating out on the deck porch. This will be an old style coffee house because the ceilings in this building are fourteen (14) to sixteen (16) feet in height and should make a very nice shop.

Mr. Nichols questioned with regards to the floor plan, will it have to be revamped or remodeled to accommodate this sandwich shop? Responding to Mr. Nichols, Mr. Malmberg stated that they submitted a floor plan for the proposed use. There will be no changes in any of the walls and no significant improvements at all to the facility other than those associated with the restaurant use which would be sinks and running water. There are no hoods required and not contemplated at this time. This is a fairly low intrusive use into the historic structure. They would need to set up the tables, counters, and wash sinks.

Mr. Nichols questioned that one bathroom is shown on the plan. Will this be a co-ed bathroom? Responding to Mr. Nichols, Mr. Malmberg stated that this is an existing bathroom that is handicap accessible and yes, it is a co-ed bathroom.

Mr. Nichols further questioned if there would be a handicap ramp? Responding to Mr. Nichols, Mr. Malmberg stated that they are going through an analysis with the Building Code Department on accessibility for the property and whether or not it is feasible. The Building Code requires that a handicap ramp be put in unless it is not feasible to put one in. Currently, unless the architect comes up with some better plans, it would destroy the front porch because of the requirements of ramping and the like. Staff, the applicant, and I will all meet on site next week to review possibilities and see how feasible it would be. This is a fairly small user and depending upon how extravagant it is to get up this high on a historic structure, a lot of things could happen such as architectural review through the Historic District Commission if there is extensive ramping or extensive cost for what is a third of the building with the remaining uses staying the same.

Mr. Hemmig opened a public hearing.

Dr. Steven Schlesinger – Stated that he owns the building that is adjacent across the alleyway from the Governors Club. The building is currently zoned RGO and the buildings that surround the property are mostly RGO. Residences line Kings Highway across the street from the property and offices line American Avenue across from this property. His property which shares the alley with the Governors Club, is both office and residential. The question that needs to be asked in order for the Conditional Use permit to be granted in the Historic District is "Does a coffee/sandwich shop make this a greater attraction to tourists and residents?" He does not think that it does. There is already ample opportunity for this type of business in the Downtown area with the zoning already in place on Loockerman Street west of State Street where there are at least five (5) or six (6) empty stores. On the second block, the empty stores outnumber the occupied stores. A coffee shop or sandwich shop could do quite well there on New Street, Governors Avenue, or on State Street. Remember the business Mort's Deli use to have. The proposed Governors Club would seat approximately fifty (50) people and have shifts of Staff to

run the facility. Parking is already pressured in this area especially with the loss of City Hall parking and construction of the new library. The idea that most patrons would be on foot he believes is hellatious and thus if only half of the seats were filled with drivers, then twenty-six (26) parking spaces would be necessary. You have heard that there are nine (9) spaces on the circle and there are eight (8) out back with two (2) of those in an enclosed garage that would have a parked car behind them. The garage spaces are inadequate to hold the two (2) cars that people would be using. Staff would park in the alley near the kitchen where the blueprints state that there are eight (8) parking spaces that includes two cars in the garage. First of all, the garage does not accommodate the two cars and any cars parked in the garage would be blocked in and could not get out with the three to four cars parked in the area. If there was a Staff of six per shift, there is insufficient parking even for that shift never mind the overlap in Staff during a shift change. Add to that, this is a three story building where most tenants park in the back of the building and you can see the quandary we face about parking. Also bear in mind that this is an alley and not a City street. In years past, without a retail establishment in the building, vehicles have blocked in the driveway, parked, and left their cars blocking the alley. They also park in the adjacent City Park which is an open space across from the Governor's Mansion. This adjacent park in the past has had grass destroyed by various construction company trucks that park there that was not relative to them doing construction; he believes that they had offices in this building. In additional to all of that, the plan is to have them taken out. Are customers expected to find a parking spot, go into the building and order? If this is the case why not eat in there or go up the alley and leave the car and just run in.

Dr. Schlesinger further stated that he believes that there are issues with regards to health which is associated with odor generated by the restaurant's open garbage receptacle which would be a focus of odors and certainly animals, flies, and maggots. This garbage receptacle is less than twenty-five (25) feet from another apartment. Parties of this facility in the past have resulted in garbage bagged and placed in this three sided brick space which is fully open on one side for pickup. Full receptacles with sloppily placed garbage bags not in the proper cans would certainly be a health hazard. Besides the issues of parking and garbage removal, the operating hours would pose an additional nuisance. The place would be staffed every day as proposed 7:00 AM to 7:00 PM with customers leaving later and the Staff arriving earlier causing significant noise, traffic, and lighting disturbance. The traffic and noise in this alley is not compatible with the current neighborhood's residential and business schedule and traffic patterns. Certainly, having this facility less than fifty (50) feet from an apartment will limit anyone's interest in living in the apartment and will adversely affect his property's value as well as upset the current neighborhood's quiet Victorian appeal. Why disturb a successful neighborhood when there is an area that would welcome this new business? Why should historical Downtown businesses such as himself pay taxes to downtown development for many years and now be blessed by planning to be met with nuisance of traffic, garbage disposal issues, increased parking as a reward for accepting additional taxation as we are in the historical Downtown Dover district. As the extent of this plan proceeds and as renovation has already begun, without the acceptance of this Plan, he believes that the entire neighborhood will look differently with this proposed Plan when you see the overall ambitious projected plans. This coffee shop bares no benefit where it is planned versus a better location of being on Loockerman Street where the shop would be welcome and could draw additional traffic.

Dr. Schlesinger further stated that he is also concerned regarding the handicap ramp. There was a space and a half out back that was made for handicap vehicles. If a ramp were to be placed there is would cause that space there to be one and a half spaces lost out back to the existing which is still way too few for what is needed. He would welcome anyone to drive up the alleyway to see if you think that nine (9) cars could get into this space and if nine (9) spaces would even be adequate. Thank you for your patience in listening to his opinion on this poorly fit plan into the existing Historic District. It is a squeeze in the neighborhood with all the nuisance, hygiene issues, odor, and increase in traffic which could potentially be dangerous as cars come out of the alleyway much more frequently onto Division Street and find themselves with ongoing traffic from west to east which is always a hard block to get out onto. There is also an increase in trespassing which he would not look forward to. We have four (4) spaces towards the back and we would have to block it off because we know what would happen if we did not, those spaces would not be available. Personally, it is his feeling that this is not a benefit to the area as it does not fit the area. We already have an existing area that is not being developed and this would be a disturbance to the existing neighborhood with unwelcome noise disturbing markably increased hours.

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

Mr. Hemmig stated that Dr. Schlesinger addressed the possibility of garbage. If there is a problem with garbage, this would be addressed through Code Enforcement with the City of Dover. As far as the business aspect, he personally feels that it is a good fit for this area and the uniqueness of the building lends a lot of ambiance to the potential of the café.

Colonel Welsh stated that he agreed with Mr. Hemmig's comments and while he empathizes with Dr. Schlesinger and listened to his concerns, he is also aware through Code Enforcement there are a lot of his concerns that could be resolved if in fact they do become concerns.

Colonel Welsh moved to approve C-11-03 Governors Club Professional Center located at 144 Kings Highway as requested, seconded by Mr. Nichols and the motion unanimously carried 8-0 with Mr. Friedman absent.

Meeting Adjourned at 7:32 PM

Sincerely,

Diane Metsch
Secretary