CITY OF DOVER PLANNING COMMISSION
November 21, 2011

The Regular Meeting of the City of Dover Planning Commission was held on Monday November 21, 2011 at 7:00 PM with Chairman Hemmig presiding. Members present were Mr. Hemmig, Mr. Baldwin, Mr. Holt, Mr. Shomo, Mr. Ambruso, Mr. Tolbert, and Mr. Nichols. Mr. Friedman and Colonel Welsh were absent.

Staff members present were Mrs. Melson-Williams, Mrs. Townshend (Arrived at 7:04), Mr. Koenig (Arrived at 7:03), Ms. Cornwell and Ms. Metsch. Also present were Mr. John Paradee, Mr. John Fellows, Mr. Stephen Davies, and Mr. William Weaver.

Mr. Hemmig stated that there is a revised agenda on your desks this evening noting application C-11-06 Kent County 911 Center: Parking Expansion at 911 Public Safety Boulevard (Item #2 under New Development Applications) that will not be heard this evening. The application will be deferred to the Planning Commission Meeting for January.

APPROVAL OF AGENDA

Mr. Nichols moved to approve the agenda as revised, seconded by Mr. Baldwin and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF OCTOBER 17, 2011

Mr. Shomo moved to approve the regular Planning Commission meeting minutes of October 17, 2011, seconded by Mr. Ambruso and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams stated that the Planning Commission Quarterly Workshop previously scheduled for tomorrow November 22, 2011 at 4:00 PM has been cancelled due to lack of agenda items for that meeting.

Mrs. Melson-Williams stated that there is a reminder of the next regular Planning Commission meeting scheduled for Monday, December 19, 2011 at 7:00 PM to be held in City Council Chambers. Please let Staff know of your attendance for that meeting so that quorum can be confirmed.

Mrs. Melson-Williams further stated that in the packet was a schedule of deadlines and meeting dates for the calendar year 2012. This schedule establishes the application deadline for applications to the Planning Commission for Site Plans, Subdivisions, Conditional Uses, and Rezonings. It then sets forth the other important meetings including involvement with City Council and Development Advisory Committee, as well as the Planning Commission meetings for the calendar year.

Mrs. Melson-Williams provided an update on the regular City Council meeting of October 24, 2011; the Legislative & Finance Administration Committee, the Utility Committee, and the regular City Council meetings of November 14, 2011.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

There was no old business for discussion.

NEW DEVELOPMENT APPLICATIONS

C-11-05 Amended Royal Farms and Bank with Drive-thru at 293 South Saulsbury Road – Public Hearing and Review of an Amended Site Plan to also include the addition of a 4,600 S.F. bank building with drive-thru on the property where previously a Conditional Use Site Plan was approved for the construction of a 5,786 S.F. retail store building, a 1,407 S.F. car wash building, eight doubled-sided gasoline pumps under two canopy structures, and other associated site improvements. The property consists of 3.64 acres+/- and is zoned C-2A (Limited Central Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property is located on the northeast corner of Saulsbury Road and West North Street. The owner of record is Roadway Express, Inc. The equitable owner is F&B Properties, LLC. Property Address: 293 S. Saulsbury Road. Tax Parcel: ED-05-076.11-01-43.00-000. Council District 4. *Waivers Requested: Partial Elimination of Upright Curbing and Use of Alternative Materials for Fence Component of Opaque Barrier. The Planning Commission granted conditional approval for Conditional Use Site Plan for the retail store, car wash and gasoline pumps on August 15, 2011.*

Representative: Mr. John Paradee, Prickett, Jones & Elliott; and Mr. John Fellows, Duffield Associates.

Ms. Cornwell provided an overview of the application.

Mr. Paradee stated that for the record, he would note that the application does meet all of the Code requirements and we agree with all of the Development Advisory Comments of record.

Mr. Nichols stated that he is not sure if the final plan has been submitted; however, what was submitted to this Commission looks just like another cookie cutter building. When it comes back to this Commission, it will need to have an A-roof on it or something that has the apparent look of an A-roof. There is no other building in this area that has a flat roof except General Foods. Responding to Mr. Nichols, Mr. Fellows stated that what we have submitted for this evening's review is what we anticipate to be the end user for a bank. We have not secured the actual tenant at this point. When an actual tenant is secured, we will comply with the Corridor Overlay standards. Currently, this is the look the current possible tenant could give.

Also responding to Mr. Nichols, Mr. Paradee stated that this was a pitched roof not a flat roof.

Mr. Fellows stated that it is a flat roof that has a cornice located at the top which will break up the vertical element. Responding to Mr. Fellows, Mr. Nichols stated that they need to be prepared to come back with an A-roof.

Mrs. Townshend stated that Staff's recommendation is to bring it back for review by the Planning Commission if there are significant changes as the architecture is fine tuned. She feels that once they have a tenant, you will have a better sense of what the architecture will be.

Mr. Hemmig questioned that if they approve it this evening in this format, this will not be the final architecture? Responding to Mr. Hemmig, Mr. Paradee stated this is correct and they understand that they will have to come back.

Mr. Holt questioned that they do not have a tenant at this time. Responding to Mr. Holt, Mr. Paradee stated that they do not at this point. They have not inked the deal; however, they are close, just not there yet.

Mr. Tolbert stated that the plan does indicate that this is for the Royal Farms and a bank. Are you sure that you will have a bank at this location? Responding to Mr. Tolbert, Mr. Paradee stated that they are confident that they will have a bank. They are just not confident that they will have any particular bank and expect to have confirmation soon.

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

Mr. Hemmig questioned that this is not necessarily the final footprint or design for the building? Responding to Mr. Hemmig, Mr. Paradee stated that no, what they are trying to do in the Site Plan approval is get the envelope approved. When they have the final design, we will come back to this Commission. What you are approving in terms of the Site Plan is just the envelope at this point.

Mr. Hemmig further questioned what the dimensions of the building would be without the drive-thru canopy? Responding to Mr. Hemmig, Mr. Fellows stated that it would be 60x75 feet.

Mr. Hemmig stated that it looked pretty square on the Plan and he was concerned with the long side facing the Corridor. Responding to Mr. Hemmig, Mr. Fellows stated that visually from the corridor elevation, you will also have the drive-thru canopy that will make the building appear longer from the street side.

Mr. Hemmig stated that as a reminder, there is a waiver request for an alternative material for the fence component that Staff is recommending approval of the applicant's desire to use a vinyl type of fencing instead of a wood fence. Staff has recommended approval of this alternative material. Responding to Mr. Hemmig, Mr. Paradee stated that a prior condition that was approved should be reconfirmed is regarding curbing and the elimination of some sections to allow for stormwater run-off.

Mr. Fellows stated that the elimination of curbing also included around the building to provide level egress into the Royal Farms building that would be blocked off by bollards all around the building.

Mr. Nichols moved to approve C-11-05 Amended Royal Farms and Bank with Drive-thru located at 293 South Saulsbury Road to include the waiver request for the alternative vinyl material for

the fence, the elimination of some of the curbing for the Royal Farms building for drainage, elimination of curbing around the Royal Farms building and the DAC comments of record, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

S-11-19 Dover Behavioral Health Systems Building Addition at 725 Horsepond Road – Public Hearing and Site Plan Review to permit the construction of 12,000 S.F. building addition to the existing 47,105 S.F. building and associated site improvements. The subject site consists of one parcel for a total of 14.746 acres +/- of land. The property is situated on the east side of Horsepond Road south of South Little Creek Road. The property is zoned I-O (Institutional and Office Zone) and subject to the AEOZ (Airport Environs Overlay Zone). The owner of record is UHS of Dover, LLC. Property Address: 725 Horsepond Road. Tax Parcel: ED-05-078.00-01-08.00-000. Council District 2. The property was the subject of Board of Adjustment application V-11-02. *Waivers Requested: Reduction of Parking Requirement, Number and Size of Loading Spaces, and Partial Elimination of Sidewalk.*

Representatives: Mr. Stephen Davies, Apex Engineering; and Mr. William Weaver, CEO, Dover Behavioral Health.

Mrs. Townshend stated that this application is subject to the Airport Environs Overlay Zone-APZII which is the Accident Potential Zone II with Noise Zones B & C. The applicant has requested three (3) waivers. One is a reduction of parking, the second is the number and size of a loading space, and the third is partial elimination of sidewalk.

Mrs. Townshend further stated that there have been a number of previous applications for this property in the past. In 1993, the Planning Commission approved the Site Plan to build the psychiatric hospital in this location. In 2006, there was a minor subdivision that created three (3) lots that would include the lot for the hospital and a lot on both sides that is owned by Bayhealth. In September of 2011, the Board of Adjustment granted a variance to permit the addition of 12,000 square feet of building area. The Airport Environs Overlay Zone would have limited that addition to 3,000 square feet.

Mrs. Townshend stated in terms of parking, in review of the Code, the parking would be determined by the number of beds or by building square footage, whichever is more. The building square footage gives you a higher parking count so based on building square footage, 198 parking spaces would be required. With the spaces that would be lost due to the building addition, there are 161 spaces proposed on this site. The applicant has requested a parking waiver, a reduction of 18.7% or thirty-seven (37) spaces to build the 161 parking spaces. They did include in their waiver request an analysis of the actual parking usage on site and Staff believes that parking on site is sufficient.

Mrs. Townshend further stated with regards to loading spaces, there is an area that shows loading spaces along with some signage that indicates fire lanes that will be fixed. There are two (2) full loading spaces shown and they are undersized according to Code; however, they are an existing condition. Staff does not expect that the addition will change anything related to that and they (the applicant) have submitted a waiver in that regard.

Mrs. Townshend further stated in terms of bicycle parking, nine (9) bicycle parking spaces are required. There is a bike rack shown at the southern portion of the building. There are, at this point, no bike racks shown in the area closer to the entrance.

Mrs. Townshend further stated with regards to the Landscape Plan, they submitted a sheet that shows the existing trees on site of 220 trees with three (3) trees being lost for the building addition. This would leave 217 trees. Based on the area calculation, 215 trees would be required so the tree requirement would be met.

Mrs. Townshend further stated with regards to the sidewalk waiver, they show a sidewalk along the frontage on Horsepond Road. On the Plan that they submitted, it stops just shy of the entrance driveway. In the DAC meeting, it was discussed to extend it down to the entrance driveway so that there was no gap. They indicated that there is actually a swale located there and a grade difference that makes it very difficult. What Staff suggested is that if they are going to stop it just shy of that entrance road, that they request a waiver as there is no sidewalk further south. In the DAC discussion Staff determined that even if the Planning Commission grants the sidewalk waiver for this portion of sidewalk, it is possible that DelDOT may require them to construct it anyway.

Mrs. Townshend stated that the other agencies provided their comments.

Mr. Davies stated that with regards to DelDOT, they have asked that we have a painted bicycle lane along the frontage. We would rather not do that because to do that we would have to widen the cart way by four (4) feet and that four (4) feet would cause them to have to move a couple of utility poles that are major. There is no other bike lane up and down Horsepond Road so we would request that we not do this in accordance with DelDOT's comments. We are in agreement with all the other DAC comments of record.

Mr. Holt questioned with regards to the request for the bicycle path, if this is part of the new bicycle movements throughout the City now? This could be a part of their reasoning. Responding to Mr. Holt, Mrs. Townshend stated that the requirement for the bicycle shoulder is more a shoulder improvement not a separated path.

Also responding to Mr. Holt, Mr. Davis stated that this would be a painted lane on the road itself between the travel lane and the deceleration lane.

Mrs. Townshend further stated that this is a standard on all DelDOT roadways of this classification (major collector). The applicant makes a point that there is not a lot of bicycle traffic in this area. The point is he (Mr. Davies) wanted it on the record because it is a part of the DAC comments and if they can work with DelDOT to change that they wanted it noted on the record.

Mr. Baldwin stated that with regards to bicycle lanes, he has found it amazing that at most of the businesses that he visits on his bicycle, there is nowhere for him to place his bike when he gets there. His question would be is there a reason why the bike rack is located in the back of the building? Responding to Mr. Baldwin, Mrs. Townshend stated that the Staff recommendation was that they have a bike rack located in the back of the building where the employee entrance is and that they also add one to the front of the building as well. It was indicated by the applicant during the DAC meeting that this would not be a problem.

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

Mr. Hemmig questioned if there were any DelDOT plans for now or in the future for this roadway? Responding to Mr. Hemmig, Mrs. Townshend stated that she was unaware of any. Mr. Koenig stated that any future plans would be way down on DelDOT's list.

Mr. Tolbert moved to approve S-11-19 Dover Behavioral Health Systems Building Addition located at 725 Horsepond Road to include three waiver requests: the reduction of parking with the necessary recommendations as stated by Planning Staff, the number and size of loading spaces, and the partial elimination of sidewalk, seconded by Mr. Nichols and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

MI-11-13 Text Amendment: Revisions to *Zoning Ordinance*, Article 3 Section 17 Shopping Center Development – Public Hearing and Review for Recommendation to City Council on a series of Amendments to the *Zoning Ordinance,* Article 3 §17 – Shopping Center Development (SC-1, SC-2, and SC-3) relating to permitted uses within the Neighborhood Shopping Center Zone (SC-1). The proposed ordinance adds Section 17.31 to permit retail and service establishments, to permit gasoline pumps as an accessory use subject to conditional use approval, and to prohibit wholesaling, warehousing, storage, and motor vehicle service, sales, and/or fueling stations. Ordinance #2011-25.

Representative: Brought forward by Staff.

Mrs. Townshend stated that this Ordinance would add the language to the SC-1 Zone that you have in the C-1A Zone and then adopted by reference into the C-2A Zone that allows places like Royal Farms their pumps and retail in general. The SC-1 Zone at this point is more narrowly written to reflect something more similar to the C-1 Zone.

Mrs. Townshend further stated that in preparation of this text amendment it was determined what properties are zoned SC-1 so that we could determine the extent of the proposed change: the former Playtex Plant located at the northwest corner of Route 8 and Route 13, the Hamlet Shopping Center located at the corner of Walker Road and Saulsbury Road, the Dover Downs Shopping Center which is the location of Best Buy, and the Route 8 Plaza which is the location of Talbots. One of the things with the shopping center zones is that the way that they are setup is a minimum acreage. There are a number of things that are comparable in use in terms of what would be the SC-2 zone; however, because the acreage is less, they fall back to SC-1.

Mr. Hemmig stated there are smaller acreages than the SC-1. However, do we have any situations currently where you have a shopping center and you have buildings connected together with one of them having a gas station? All of our gas stations are pretty much standalone such as Wawa and Royal Farms. Responding to Mr. Hemmig, Mrs. Townshend stated that we still have some of the smaller chain gas stations throughout the City that seem to be fewer and far between. There is the Duncan Depot with other retail establishments in the same complex and there are the pumps located at Safeway which is accessory to the grocery store. More and more we are seeing the gas pumps as accessory to the retail operation.

Mr. Hemmig further questioned in these shopping centers, if the parking areas are in common to most of the retail stores. In other words, each individual store does not own a piece of the parking lot. Responding to Mr. Hemmig, Mrs. Townshend stated that typically not. She does know that in Gateway West Shopping Center there are out-parcels so for instance where the Westside Health Center is located and where the liquor store is, these are out parcels so they actually have parcel lines and their own parking. Sometimes, even though there are no lines, there are artificial lines in the Lease Agreements.

Mr. Hemmig further stated that his concern would be if you think of somewhere such as Rodney Village Shopping Center. When you come into the shopping center and come down about four (4) retail stores and then there are some gas pumps then more retail stores, this would be a very weird configuration. He would like to avoid this type of situation. A gas station should be set-off by themselves as opposed to being part of a strip shopping center. Responding to Mr. Hemmig, Mrs. Townshend stated that even though this should be permitted, it should be a Conditional Use. This would give the Commission more ability to work with the site in terms of placement. This came about because there is someone looking at the Playtex site and we got into a discussion of whether they should put a zoning line through the middle to have a C-4 piece or whether it made sense to add this to the zone. Staff felt that you get better planning if you can work within one zone rather than creating a split zone parcel or having them take a parcel off to do that.

Mr. Hemmig further stated that it is going to pretty much be at the Commission's discretion as someone comes forward with a Plan that we feel is a reasonable design and a safe design. Responding to Mr. Hemmig, Mrs. Townshend stated that yes, it would be.

Mr. Hemmig further stated that as long as they have control over the overall design and we feel that the configuration makes sense, it could be located in a shopping center. Even Wawa is separated from the Dover Mart. It creates a separation from where people are walking from parking lots with people running in and out of a gas station. Responding to Mr. Hemmig, Mrs. Townshend stated that typically, for the retailers and the convenience store they would look to do this anyway for their own business purposes; however, it is something that we would be able to work with them on.

Mr. Nichols questioned that on the report it states the Playtex Plant, how about the Wal-Mart building that has just been sold as he understands? Responding to Mr. Nichols, Mrs. Townshend stated that she is not entirely sure that this is what has happened with it; however, she has heard about three (3) different scenarios of what has happened with it and has not been able to confirm any of them.

Mr. Nichols questioned if this would be included as a free standing building such as Playtex? Responding to Mr. Nichols, Mrs. Townshend stated that the Wal-Mart is zoned C-4 Highway Commercial so they would be able to do the gas pumps and convenience store if they wanted to anyway under the current zoning.

Mr. Tolbert questioned what an example would be of an accessory use? Responding to Mr. Tolbert, Mrs. Townshend stated that the accessory use is essentially the Royal Farms with pumps or the Wawa with pumps and Safeway with pumps, it is where you have a retailer who has a

retail establishment and then they have as an accessory to that retail establishment the gas pumps.

Mr. Tolbert further questioned if this Ordinance is recognizing that there may be legitimate uses in any shopping center to put up gas pumps? Responding to Mr. Tolbert, Mrs. Townshend stated yes, in the SC-1 zone subject to Conditional Use approval.

Mr. Tolbert further questioned if we would want to ration these shopping centers with the businesses that start putting up gas pumps? Responding to Mr. Tolbert, Mr. Hemmig stated that he would suspect that if someone like Wawa wanted a building somewhere that was not part of a shopping center, they would come to us stating that they want a retail shopping center with gas pumps. They could get it zoned properly to do so in the SC-1 zone. However, if you are talking about something like the Hamlet Shopping Center where there is retail and they would want to put in gas pumps, this would allow them to do so; however, only conditionally based on this Commission's approval.

Mrs. Townshend stated for the record the SC-1 Zone is at least one (1) acre and the SC-2 Zone is at least fifteen (15) acres. You could have a ten (10) acre site that would not be eligible to be zoned SC-2. This is why Staff looked especially, because it is called Neighborhood Shopping Center, at the locations where the zoning exists to make sure that it would not be creating a problem.

Mr. Hemmig stated not to expand the number of zones; however, did you consider possibly making an SC-1A zone that has eight (8) acres as opposed to making a one (1) acre shopping center? Responding to Mr. Hemmig, Mrs. Townshend stated that it is likely that one (1) acre is very small for a shopping center and typically if someone wants to do the convenience store with gas pumps and they have a site that is zoned SC-1 and the SC-1 Zone does not permit it, they will come in for rezoning. From a practical standpoint, it may not make a huge difference because the areas where these would be would be areas where we would not typically frown upon a different zoning classification. For instance, if you look at where Best Buy is located, it is all C-4 zoning around it. Also, where Talbots is located, there is C-2A and C-3 so there are other adjacent zones that if they could not do it in the SC-1 Zone, they would likely be able to go to something else.

Mr. Hemmig further questioned that if we lose the SC-1 as it is now, what else do we have? Responding to Mr. Hemmig, Mrs. Townshend stated that we are dealing with a somewhat dated *Zoning Ordinance.* At some point, we may need to question what the purpose of the zone is. Staff would like to do this as a larger project; however, it is a very time consuming task.

Mrs. Townshend stated that there was a letter received and will be made a part of the record from Konover Acquisitions, LLC who is the contract purchaser for the Playtex property. They will be on record in favor of the change to the SC-1 Zone.

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

Mr. Ambruso moved to forward to City Council a recommendation of approval of MI-11-13 Text Amendment: Revisions to Zoning Ordinance, Article 3 Section 17 Shopping Center Development establishing Ordinance #2011-25, seconded by Mr. Holt and the motion was carried 6-1 with Mr. Friedman and Colonel Welsh absent and Mr. Hemmig voting against the motion.

MI-11-14 Text Amendment: Revisions to *Zoning Ordinance*, Article 5 Section 1 and Section 7 regarding Corner Lots and Fences – Public Hearing and Review for Recommendation to City Council on a series of Amendments to the *Zoning Ordinance,* Article 5 Section 1 – Supplementary Regulations Applying to Residence Zones and Section 7 Supplementary Regulations Applying to All Non-Residential Zones. The proposed ordinance clarifies the designation of front yards, side yards, and rear yards for corner lots and establishes the maximum fence heights within such yard areas on residential lots and non-residential lots including corner lots and dual frontage lots. Ordinance #2011-26.

Representative: Brought forward by Staff.

Mrs. Townshend utilized a series of graphics in describing the proposed amendments.

Mrs. Townshend stated that based on the definition of a front yard in the *Zoning Ordinance* corner lots have two (2) fronts one along each street frontage. The *Zoning Ordinance* also limits the height of the fence in the front yard. In a residential zone, fences that are located on a corner cannot be any taller than four (4) feet especially if located next to a street. This has been an issue that Staff has struggled with as there have been cases where fences have been put up without permits and we have not been able to resolve them because of this challenge.

Mrs. Townshend further stated that what this amendment would do is allow anyone located on a corner lot for the portion along the side of the house that a taller fence would be permitted. Even though it would technically be the front yard, you could have a six and half (6 ½) foot fence on a residential property and eight (8) foot on a non-residential property. It treats the front yard more like a side yard for the purpose of the fence.

Mrs. Townshend further stated that the other thing that it does in terms of corner lots is it identifies which yard gets treated as the rear yard and which gets treated as the side yard. If you go by the definition there are two front yards, two rear yards, and no side yards. It is not a big deal until you decide to put in a building for placement. What Staff did in this Ordinance is clarify that the yard that is adjacent to the rear of the house would be the rear yard and the yard that is adjacent to the side of the house would be treated as the side yard.

Mrs. Townshend further stated that while Staff was dealing with fence heights and odd lots, there are a number of properties in the City such as those located on Walker Road along the backside of Bicentennial Village and Four Seasons where you have a lot of people who have tall fences. If Staff looks at the Code, it would technically be a front yard and subject to a limit of four (4) feet in height. On lots with dual frontages, what is parallel to the rear of the house, you could have the taller fence. Where the front yard is parallel to the front of the house, it would be limited to four (4) feet.

Mr. Hemmig questioned for clarification the four (4) foot height restriction runs parallel to the front to the edge of the house? Responding to Mr. Hemmig, Mrs. Townshend stated that it is anything in the front yard. If there is something that is parallel to the side lot line once you are in the front yard setback you cannot go above four (4) feet. It is the setback line and not where the house is located.

Mr. Holt stated that he feels this is a good idea because it gives the definition of what is the front and side yard.

Mr. Ambruso questioned why Staff takes the position of only allowing four (4) feet in residential areas? Responding to Mr. Ambruso, Mrs. Townshend stated that this is what the Code is currently. When you get to a certain height in terms of a fence, it creates a walling affect. If you have six (6) foot fences that go all the way to the street line or all the way to the right-of-way line, it creates a wall affect in terms of the neighborhood.

Mr. Ambruso questioned that what if a homeowner wants that and wants the height for privacy? Responding to Mr. Ambruso, Mrs. Townshend stated that a case could be made for that; however, from the Planning Offices perspective, we would not recommend in favor of that. Four (4) feet is what it currently is now and we are not proposing to change that. If the Planning Commission feels strongly, we could bring back something to do that.

Mr. Hemmig stated that greenscape could solve that problem for privacy.

Mr. Holt stated that he felt that greenscape would look better than a fence. When you start getting the wall affect, it is like everyone is in their own little prison being all boxed in.

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

Mr. Tolbert moved to forward to City Council a recommendation of approval of MI-11-14 Text Amendment: Revisions to Zoning Ordinance, Article 5 Section 1 and Section 7 regarding Corner Lots and Fences, seconded by Mr. Holt and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

MI-11-15 Text Amendment: Revisions to Article 5 of the *Zoning Ordinance* regarding Public Utilities Infrastructure – Public Hearing and Review for Recommendation to City Council on a series of Amendments to the *Zoning Ordinance,* to add Article 5 §21 – Public Utility Infrastructure. The proposed ordinance would permit public utility infrastructure, with some exceptions, in all zoning districts and provides for exemptions from the requirements of Article 4 – Zoning Bulk and Parking Regulations while establishing specific requirements for setbacks, fences, and site development plans. Ordinance #2011-27.

Representative: Brought forward by Staff.

Mrs. Townshend stated that this is an issue that has come up regarding pump stations, water towers, wells, and electric transformers that are not necessarily anticipated in the *Zoning Ordinance.* For instance, a lot of times there are areas set aside for pump stations where if they

were to subdivide they do not meet the minimum lot size so what they have had to do is put them on permanent easements because we cannot allow creation of a lot that does not meet the minimum lot dimensions. There is also the issue where water towers may be in a residential zone that has a thirty-five foot height limit requirement; however, a thirty-five (35) foot water tower is not going to serve much of a purpose.

Mrs. Townshend further stated that what Staff has determined over time is that the *Zoning Ordinance* in terms of the bulk standards does not truly address the utility infrastructure in terms of the needs for height and lot dimensions. If you are fencing in electrical substations and you have a fence height of four (4) feet that would not be sufficient for safety requirements for the substation. What Staff is looking at in doing this is the ability to exempt certain public utility infrastructure from the strict application of the bulk standards of the *Zoning Ordinance.*

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.

Mr. Nichols moved to forward to City Council a recommendation of approval of MI-11-15 Text Amendment: Revisions to Article 5 of the Zoning Ordinance regarding Public Utilities Infrastructure, seconded by Mr. Tolbert and the motion was unanimously carried 7-0 with Mr. Friedman and Colonel Welsh absent.

Meeting Adjourned at 8:00 PM

Sincerely,

Diane Metsch
Secretary