**CITY OF DOVER PLANNING COMMISSION**
**September 19, 2011**

The Regular Meeting of the City of Dover Planning Commission was held on Monday September 19, 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. Shomo, Mr. Friedman, (Left at 7:41 PM) and Mr. Ambruso.

Staff members present were Mrs. Melson-Williams, Mrs. Townshend, Mr. Koenig, Ms. Cornwell and Ms. Metsch. Also present were Mr. Doug Liberman, Mr. Garth Jones, Mr. Larry Harris, and Mr. Bill Boyles.

## APPROVAL OF AGENDA

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

## APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF AUGUST 16, 2011

*Mr. Nichols moved to approve the regular Planning Commission meeting minutes of August 16, 2011, seconded by Mr. Shomo and the motion was unanimously carried 9-0.*

## APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF AUGUST 17, 2011

*Mr. Holt moved to approve the regular Planning Commission Quarterly Workshop meeting minutes of August 17, 2011, seconded by Mr. Nichols and the motion was unanimously carried 9-0.*

## COMMUNICATIONS & REPORTS

Mrs. Townshend stated that there is an Audio Web Conference "Planning for Solar Energy" that will be held at the Kent County Administration Building on October 12, 2011 at 4:00 PM. This is sponsored by the Delaware Chapter of the American Planning Association and Kent County.

Mrs. Townshend provided an update on the regular City Council and Legislative & Finance Administration Committee meetings of August 22, 2011; the Safety Advisory and Transportation Committee meeting of August 25, 2011; and the regular City Council, Legislative & Finance Administration Committee meetings of September 12, 2011.

Mrs. Townshend further stated in terms of other updates from the Planning Office, Michael Albert will be leaving the Planning Office with Wednesday, September 21, 2011 being his last day. His wife Julie has/or is in the process of graduating with her PhD in Chemical Engineering from the University of Delaware and they will be moving to North Carolina where she will do her post doctorate work at NC State.

Mrs. Townshend further stated that this is the first of the Planning Commission meetings where the Article 10 changes are in full effect and there are a couple of things of note. In your packet is a summary of each project that has a request for extension, what has happened with that applicant, and what the Code requirements are for granting an extension. The extensions that are

on this evening's meeting agenda are projects that were approved last year and will be eligible for an extension this evening. If they are not under construction, they would be eligible for one additional one year extension. At this point, when you approve something, you are approving it for two (2) years with the ability for a one extension.

Mrs. Townshend stated that the last thing that she would note with regards to the Article 10 changes is that this is the first meeting where the new public notice requirements went into effect. The applicants have complied with the physical posting and we should find out over time whether it is working. She believes that the signs are very visible and over time people should be accustomed to seeing that and realizing that there is something going on with the property.

Mr. Hemmig stated that with regards to Mr. Albert leaving, he would like to say how much he appreciated his efforts. He is very detailed oriented particularly when it came to sign packages in which Janelle has inherited. He would like to say publicly that he really appreciates all of his efforts and we'll truly miss him.

**OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS**

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

**OLD BUSINESS**

**S-09-19 Walker Pavilion at Four Seasons at 101 Mont Blanc Boulevard** – Request for an extension of the Planning Commission approval first granted October 19, 2009 for a Site Plan application to permit the construction of a two story 24,657 S.F. building and associated site improvements. The project located on a single parcel of land consisting of 2.615 acres ± is zoned C-PO (Commercial/Professional Office Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The subject area is located at the southwest corner of Saulsbury Road and Walker Road. The owner of record is Cahne Pavilion of Dover, LLC. Property Address: 101 Mont Blanc Boulevard. Tax Parcel: ED-05-067.19-04-52.00-000. Council District 1. *Previously, a one year extension was granted by the Planning Commission on September 20, 2010 setting the plan expiration date as October 31, 2011. Under the newly adopted provisions of Ordinance #2011-14 unexpired plans shall be eligible for an extension of approval not to exceed 36 months from the initial approval date.*

**Representative:** None.

Mrs. Melson-Williams stated that this is a 2009 application and has already received one extension of approval from this body. The Ordinance most recently adopting Article 10 made allowances for this to be eligible for an additional one year extension. There is a letter submitted by the project engineer dated September 6, 2011 that gives some information with regards to the status of the project. The Planning Staff notes that the Planning Commission had originally granted approval back in October of 2009 and then in September of last year granted their first one year extension. The project does have final Site Plan approval as of August 15, 2011 and their next step would be that they are eligible to file a Building Permit application and request a pre-construction meeting to start construction. At this point, the Plan is due to expire on October 31, 2011 and they are seeking a one year extension that would have that Plan then expire in October of 2012.

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

Mr. Hemmig questioned if there is anything that has changed in the Code that could affect this project since approval? Responding to Mr. Hemmig, Mrs. Townshend stated no.

*Colonel Welsh moved to approve a one year extension for S-09-19 Walker Pavilion at Four Seasons located at 101 Mont Blanc Boulevard, seconded by Mr. Ambruso and the motion was unanimously carried 9-0.*

**SB-10-02 Wynsome Oaks Subdivision on White Oak Road** – Request for an extension of the Planning Commission approval granted on September 20, 2010 for a Conceptual Subdivision Plan Review to create seventeen parcels from an existing parcel totaling 12.78 acres +/- of land. The property is zoned R-8 (One Family Residence Zone) and SWPOZ (Source Water Protection Overlay Zone). The property is located on the south side of White Oak Road, southwest of Mourning Dove Lane. The owner of record is TFLD Management, LLC. Tax Parcel: LC-05-068.00-01-18.00-000. Council District 3.

**Representative:** None

Mrs. Melson-Williams stated that again, we are in receipt of a letter from the project engineer dated August 8, 2011 which goes into extensive detail regarding their work in dealing with stormwater management and drainage issues in the area; specifically their work with the Kent Conservation District, DelDOT and ultimately how it might affect the White Oak Road Tax Ditch. For this project, as a subdivision, the Planning Commission granted conditional approval of the Conceptual Subdivision Plan in September 2010 and then City Council acted on a waiver request that was associated with the subdivision. Their next step is that they would need to file a Preliminary Subdivision Plan and as the Code requires that would need to be done by September 30, 2011. They are seeking a one year extension to allow for additional time to prepare the plans prior to filing of the Preliminary Subdivision Plan for full review.

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

Mr. Hemmig questioned if there is anything that has changed in the Code that could affect this project since approval? Responding to Mr. Hemmig, Mrs. Townshend stated no.

*Mr. Tolbert moved to approve a one year extension for SB-10-02 Wynsome Oaks Subdivision located on White Oak Road, seconded by Mr. Shomo and the motion was unanimously carried 9-0.*

**S-10-17 Duncan Plaza at 600 Forest Street** – Request for an extension of the Planning Commission approval granted on September 20, 2010 for a Site Development Plan and Architectural Review Certification for construction of a four story 32,624 S.F office building with coffee shop and the associated site improvements. The project site is zoned IO (Institutional and Office Zone) and subject to the H (Historic District Zone) and the SWPOZ (Source Water Protection Overlay Zone). The property site is located on the south side of Forest Street just west of the intersection of West Loockerman Street, South Kirkwood Street, and Slaughter Street. The owner of record is 1776 Investments & Holdings (Robert Duncan). Property

Address: 600 Forest Street. Tax Parcel: ED-05-076.12-02-44.00-000. (Parcel ED-05-076.12-02-45.00-000 is reputed to be a City of Dover owned parcel). Council District 4.

**Representative:** None

Mrs. Melson-Williams stated that with this application for the Duncan Plaza there are actually two (2) letters that were submitted: one from the Professional Land Surveyor working on the project and then the Property Owner himself. With this project, its location puts it in the Historic District so it made appearances with the Historic District Commission in the summer of 2010 and then the Planning Commission granted approval in September 2010 for the Site Development Plan and the Architectural Review Certificate for the project. As such, the Plan is due to expire on September 30, 2011. To date, there have been no check print submissions made to the Planning Office and we have no other documentation of check print submissions to other agencies in regards to this plan. They are seeking a one year extension of their approval which would then grant the approval through September of 2012.

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

Mr. Hemmig questioned if there is anything that has changed in the Code that could affect this project since approval? Responding to Mr. Hemmig, Mrs. Townshend stated no.

*Mr. Holt moved to approve a one year extension for S-10-17 Duncan Plaza located at 600 Forest Street, seconded by Mr. Tolbert and the motion was unanimously carried 9-0.*

**S-10-21 NBR Properties at 850 New Burton Road** – Request for an extension of the Planning Commission approval granted on September 20, 2010 for a Site Development Plan to permit the construction of a 20,000 S.F. office building with the associated site improvements on a 1.671 acre parcel. The property is zoned C-1A (Limited Commercial Zone). The property is located southwest of the intersection of New Burton Road/Queen Street and West Street. The owner of record is NBR Properties, LLC. Property Address: 850 New Burton Road. Tax Parcel: ED-05-76.00-01-23.00-000. Council District 2.

**Representatives:** None.

Mrs. Melson-Williams stated that we are in receipt of a letter from the Project Engineer making this request for extension. For this project, in its most recent form, the Planning Commission granted approval in September 2010. They have made a series of check print submissions to the Planning Office and multiple agencies with some of those agencies issuing approvals and others issuing comments. Staff would note that today we received another submission from the Project Engineer for the Record Plan and Check Prints of the Final Plans for this project. They are seeking a one year extension as the Plan is due to expire at the end of the month. The one year extension would grant approval through September of 2012.

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

Mr. Hemmig questioned if there is anything that has changed in the Code that could affect this project since approval? Responding to Mr. Hemmig, Mrs. Townshend stated no.

*Mr. Nichols moved to approve a one year extension for S-10-21 NBR Properties located at 850 New Burton Road, seconded by Colonel Welsh and the motion was unanimously carried 9-0.*

**HI-10-08 Bayard Plaza on West Loockerman Street** - Update on the selected/required exterior finish materials for the Bayard Plaza project. Previously, the Architectural Review Certification for the project was issued upon recommendation of the Historic District Commission on October 21, 2010 and November 4, 2010 and upon action by the Planning Commission November 15, 2010. The project consists of the construction of a five story 54,998 S.F. mixed use building to include 5,012 S.F. of retail space on the first floor, 48 residential apartments, and the associated site improvements. The project involves demolition of the two existing buildings on the project site including the building known as the Bayard Hotel which the Commission declared on January 21, 2010 as being Demolished by Neglect. The project area consists of one parcel of land totaling 27,675.62 S.F.± of land zoned C-2 (Central Commercial Zone) and subject to the H (Historic District Zone). The property is located on the southwest corner of West Loockerman Street and South Governors Avenue. The owner of record is the Capital Plaza, LLC. The property addresses are 200-216 West Loockerman Street and 208 South Governors Avenue. Tax Parcel: ED-05-077.09-01-86.00-000. Council District 4. *The Historic District Commission reviewed this revision request on August 18, 2011 and has provided a recommendation.*

**Representative:** Mr. Doug Liberman, Larson Engineering.

Mrs. Melson-Williams stated that the Planning Commission and the Historic District Commission saw this application in the fall of 2010. They are here this evening seeking revisions to the Architectural Review Certificate for the property. On the larger screen is what is referred to as Sheets A-9 and A-10 of Addendum #9 which is dated August 10, 2011. They are seeking some changes to the exterior finish materials of the project.

Mrs. Melson-Williams further stated that during the Building Permit process there needed to be some design revisions to the exterior finish materials as a result of the type of construction that they chose for the building. It dealt with the exterior finish materials of combustible versus non-combustible wall coverings. Their request is to change the areas of vinyl siding on the exterior of the building to a fiber cement siding product and to also use fiber cement as the trim work.

Mrs. Melson-Williams further stated that the Historic District Commission reviewed these changes at their August 18, 2011 meeting and also considered the request of the applicant to propose changes to areas that were proposed as Dryvit to also utilize the fiber cement siding which is at the corner elevation of the building. In addition, the change to the fiber cement siding will eliminate the use of window shutters; however, the applicant is adding a wider trim work piece surrounding the windows. The Historic District Commission has forwarded to you a recommendation of approval for these changes to the exterior finish materials as they were presented in Addendum #9. The revisions consist of changing vinyl siding to a fiber cement siding, changing areas of Dryvit to fiber cement siding, and then the removal of the shutters to utilize a wider trim work piece.

Mrs. Melson-Williams further stated that information provided to you included more details on the project history. There are inactive demolition and a Building Permit was conditionally issued in mid-August for the project site.

Mr. Nichols questioned if the only changes made were to change from vinyl siding to the fiber cement and Dryvit? Responding to Mr. Nichols, Mrs. Townshend stated that yes, and the shutters were eliminated; however, wider trim is being used.

Mr. Nichols further stated that the shutters should be on the building. Responding to Mr. Nichols, Mrs. Townshend stated that the shutters would be a combustible material and the issue that they were up against was that because of the type of construction they were using, they could not have exterior finishes of combustible material.

*Mr. Hemmig stated that there was no public hearing required for this matter.*

*Colonel Welsh moved to approve HI-10-08 Bayard Plaza located on West Loockerman Street with the revisions to the Architectural Review Certification, seconded by Mr. Ambruso and the motion was unanimously carried 9-0.*

**S-11-11 Lands of Downtown Dover Partnership at 120 S. Governors Avenue** – Report on Recommendation of Side Yard Setback Waiver Request from the Historic District Commission as associated with the Architectural Review Certificate for this Site Development Master Plan. The project proposes construction of a four story 47,042 SF mixed-use building consisting of a retail component and 27 apartments, a four story 34,896 S.F. apartment building of 24 apartments with ground level parking in the building, and other associated site improvements on the property at 120 South Governors Avenue. The existing 16,783 SF commercial building on the property is proposed for demolition. The application also includes a Minor Subdivision Plan to divide the property into two lots. The property consists of 1.7653 acres ± and is zoned C-2 (Central Commercial Zone) and subject to the H (Historic District zone). The property site spans the block between South Governors Avenue and South New Street located north of, but not adjacent to, West Loockerman Street. The owner of record is Downtown Dover Partnership (formerly the Downtown Dover Development Corporation). Property Address: 120 South Governors Avenue. Tax Parcel: ED05-077.09-01-44.00-000. Council District 4. *Previously, the Planning Commission on August 15, 2011 took action to conditionally approve the Site Development Master Plan and the Architectural Review Certificate for this project. The Historic District Commission reviewed the waiver request at their meeting of August 18, 2011 and has provided a recommendation. (HI-11-04).*

**Representative:** None

Mrs. Melson-Williams stated that this project should be familiar as it was just at your August meeting. The reason that it is back before you this evening is in reviewing the Site Development Master Plan for the project it was discovered that a waiver request was necessary in regards to the side yard setback for what is Building #1 which is the building that fronts on South Governors Avenue specifically in the area of the south end of the building. The side yard setback was discovered in the Planning Staff's review of the project in preparation for your August meeting. In the C-2 zone there is a setback of either zero or ten (10) feet and their proposed building was placed at seven (7) feet. As a result, the application had to return to the Historic District Commission at their August 18, 2011 meeting. This evening, the Historic District Commission is recommending approval of the side yard setback waiver request to allow the building to be placed at a setback of seven (7) feet from that side property line. Their

recommendation is forwarded to you to document their action on that waiver request. At your meeting of August 15, 2011 you had granted conditional approval of the Architectural Review Certificate for the project subject to a favorable recommendation from the Historic District Commission in regards to the waiver request.

Mrs. Melson-Williams further stated that this evening there is no formal action that needs to be taken; however, you may want to recognize the action taken by the Historic District Commission that allows for the full issuance of the Architectural Review Certificate for this project.

*Mr. Hemmig stated that there was no motion needed on this request. We need to recognize the fact that the Historic District Commission has approved what this body (the Planning Commission) conditionally approved with regards to the Architectural Review Certification with a seven (7) foot setback.*

*There was no discussion or objections to the final approval of the Architectural Review Certification.*

**S-11-09 State Street Plaza at 1004 S. State Street** – Review Revised Architecture associated with a Site Plan for the construction of a 9,942 SF office building and other associated site improvements at 1004 South State Street. The property is 0.7635 acres ± and is zoned C-2A (Limited Central Commercial Zone). The property is located on the west side of South State Street at the intersection with Wyoming Avenue. The owner of record is Gateway South Professional Center, LLC and the equitable owner is ADP Properties, Inc. Property Address: 1004 South State Street. Tax Parcel: ED05-077.17-07-21.00-000. Council District 2. *Previously, the Planning Commission conditionally approved the Site Plan at their meeting on July 18, 2011 and requested revised architecture for the building.*

**Representative:** Mr. Doug Liberman, Larson Engineering.

Ms. Cornwell stated that the applicant has revised the building architecture as required by the Planning Commission at the July meeting. At the July Planning Commission meeting, you recommended that the architecture of the building be looked at with required changes to reflect more of a pitched roof and residential feel. What they have brought back is a brick building with a hipped roof with a watertable feature, windows, dormers, and other architectural features to reflect a more residential look.

Mr. Nichols stated that you see what happens when you ask for it to get sent back; it comes back and looks like a building.

Colonel Welsh stated that he is thrilled with the changes and is thankful to the developer for agreeing to make the changes. He feels that it is something the developer and the City can be very proud of.

Mr. Ambruso stated that he lives directly across the street from this project and feels that it will be a nice view.

*Mr. Hemmig stated that there is no public hearing required for this application.*

Mr. Liberman stated that one thing they looked at and the partnership discussed with the architect was the two (2) dormers that are located on the front elevation. They would like to take those off because we have the big monumental style entrance in the center of the building and the dormers do not fit that area; however, they would leave them on the rest of the building to break up the longer roof.

Colonel Welsh stated that to him this made sense and again thanked the architect and applicant for agreeing to those changes.

*Colonel Welsh moved to approve S-11-09 State Street Plaza located at 1004 S. State Street with the two (2) dormers removed and accepted as the revised architecture for the building, seconded by Mr. Nichols and the motion was unanimously carried 9-0.*

**C-08-01 House of Pride at Properties on North New Street and South New Street** – Annual Review of the Conditional Use Permit for the House of Pride properties, a philanthropic use and social service agency, including a residential recovery program and transitional housing. The project is located on seven (7) properties on North New Street and South New Street. The application involved the establishment of a multi-use philanthropic use relating to substance abuse prevention, intervention, treatment, education, and aftercare. The buildings include office, recovery houses, and transitional houses. The properties are zoned RG-1 (General Residential Zone) with the exception of 105 South New Street which is zoned C-2 (Central Commercial Zone). The owner of record is The House of Pride, Inc. The property addresses and associated tax parcels numbers are listed below. Council District 4.

| | |
|---|---|
| 20 North New Street | ED-05-076.08-05-20.00-000 |
| 29 South New Street | ED-05-077.05-03-10.00-000 |
| 37 South New Street | ED-05-077.05-03-08.00-000 |
| 38 South New Street | ED-05-076.08-05-84.00-000 |
| 55-57 South New Street | ED-05-077.05-03-02.00-000 |
| 105 South New Street | ED-05-077.09-01-37.00-000 |
| 110 South New Street | ED-05-077.09-01-31.00-000 |

****Initial approval of the Conditional Use by the Planning Commission on January 22, 2008. At the January 18, 2011 meeting, the Planning Commission acted to provisionally continue the Conditional Use Permit and required that it be subject to annual review by the Planning Commission.*

**Representative:** Mr. Larry Harris, Property Manager for House of Pride.

Mrs. Townshend stated that the background on the House of Pride Conditional Use was provided in your packet. The original Conditional Use application was approved by the Planning Commission in January of 2008 and then a six (6) month review that was ultimately done on December 15, 2008.

Mrs. Townshend further stated that after numerous code violations were found at the end of 2010, there was a hearing held on January 18, 2011 to discuss possible revocation of Conditional Use. At that point in time, the Planning Commission provisionally agreed to keep the Conditional Use in place with the condition that all of the Code violations be corrected in accordance with the timeframe set forward and at that point it was put on an annual review.

Mrs. Townshend further stated that in February 2011, Staff brought forward that an annual review in August of each year would be required because we did not want to end up in the winter scenario again. Last month, we brought this forward and stated that we were putting it off because we were unable to get the inspections scheduled during the month of July as initially hoped. On September 7th and 8th the Code Enforcement Office and the Fire Marshal's Office did perform inspections of House of Pride properties. The Fire Marshal's Office inspections included properties that are not a part of the Conditional Use so some of what you see in their report is not related to the properties that are subject to the Conditional Use.

Mrs. Townshend further stated that there were a number of violations identified on the number of properties inspected which were primarily cosmetic type of things such as cracked windows, leaks, some areas where there needed to be smoke detectors either installed or battery operated smoke detectors needed to be removed because hard wired was in place and battery operated ones were not being utilized. At 105 S. New Street a significant leak was found that required that the second floor of the building not be used until the leak is appropriately repaired.

Mrs. Townshend further stated that follow-up inspections are scheduled for October 7, 2011 as this was the timeframe that the House of Pride was given to get the various violations corrected. The report notes that the Fire Marshal's Office included documentation of violations related to preventable responses to fire related alarms. Fines have been issued by the Fire Marshal's Office for these and all of those fines have been paid. The Fire Marshal's Office has given them a list of corrections that would avoid these preventable responses in the future.

Mrs. Townshend stated with the response of the inspections in hand, the Planning Staff would recommend that the Conditional Use permit for the House of Pride on the properties located at 20 North New Street and 29, 37, 38, 55-57, 105, and 110 South New Street be provisionally continued in accordance with the motion of January 2011 with the condition of compliance that all of the identified violations be corrected by October 7, 2011 in accordance with the deadline set forth by Code Enforcement. If compliance is not made by October 7, 2011, the City Planner would begin the proceedings under the *Zoning Ordinance* for revocation of Conditional Use. We would also state that the annual reviews continue and that the next annual review would be in July 2012.

Mrs. Townshend further stated that part of the challenge that we had in scheduling the inspections was that the House of Pride is very involved in the State Fair and they were not available to schedule inspections during the month of July which set us back a month so here we are coming up on cold weather again which is what we were trying to avoid.

Mrs. Townshend stated that all of the properties that are associated with a Conditional Use are tax exempt under the City's taxes; however, there are a number of properties that are subject to City taxes. Currently, there is a delinquent balance of City taxes for House of Pride properties of $2,105.57.

Mr. Hemmig stated that it's just a clarification; although Mrs. Townshend just gave us the tax delinquency figure, we do not involve ourselves with tax liens those are administrative. Responding to Mr. Hemmig, Mrs. Townshend stated that the City has what is called "a Clean Hands Ordinance" which indicates essentially that any outstanding charges can be part of the

permit review process.

Mr. Harris stated that they are currently taking care of these violations. The 105 S. New Street roof situation has been taken care of.

Mr. Holt questioned if there would be a problem with paying the remaining taxes? Responding to Mr. Holt, Mr. Harris stated that he was unsure about the taxes and would have to refer it to Sandra Dean, the Attorney for the House of Pride who handles all of that.

Mr. Friedman stated that since he has been absent for an extended period of time he is hesitant to jump back in on this particular project. He does recall that what was said is that you cannot fix this without a Plan and you can't have a Plan unless you have some direction for where you are heading and that you will reach some finality. He is a little surprised that we are not there yet. It is nice to hear that October 7, 2011 is the new drop dead date at which time these things will be resolved or not. Responding to Mr. Friedman, Mrs. Townshend stated that all of the violations previously identified were corrected. These are violations that have occurred since and have been determined since that initial inspection.

Mr. Friedman further stated that he also addressed the possibility of this happening and having constantly reoccurring problems. He is glad to see that it is being addressed.

Mr. Nichols questioned if he was under the assumption that we cannot approve anything until next month's inspections? Responding to Mr. Nichols, Mr. Hemmig stated that we could do a conditional approval tonight for six (6) months with the proviso that should the inspections on October 7, 2011 fail then Staff will have the permission to move forward to begin to take action for revocation of their Conditional Use permit.

Mrs. Townshend stated that the action to take revocation of their Conditional Use would come as a public hearing before the Planning Commission. There would be a thirty (30) day notification process which would take it into November.

Colonel Welsh stated that he is concerned about a couple of things. He is concerned that we have backed ourselves into a corner again with cold weather coming up with quite a lengthy list of discrepancies that need to be corrected. One of the things that he was taken by in reading the discrepancies was the large number of them that were due to water leaks or rotting wood. This is not something that has occurred in the last six (6) months. The mildew and mold that has formed is something that has obviously been taking place for quite a while. Do you have any kind of plan or program for continuing maintenance?

Responding to Colonel Welsh, Mr. Harris stated that he is not sure about the water in all the facilities; however, a lot of them were taken care of when they were first inspected back in March of this year. He believes that these are new situations, except for the rotted wood; he is not sure about that.

Colonel Welsh further stated that it would seem to him that if you had an ongoing maintenance program, then you are not going to have these discrepancies that have occurred obviously over a long period of time. Wood does not rot in six (6) months. Responding to Colonel Welsh, Mr.

Harris stated with regards to the 105 S. New Street that situation was different in that it was storm damage where it came down through the wall. This is the one that they were very concerned about and this has been taken care of.

Colonel Welsh further stated that if you do not have a continuing maintenance program or plan, then he suggests they develop one and try to stick with it. You would avoid all these last minute discrepancies that you have to deal with on a panic basis. You could stay ahead of it instead of trying to catch up. You have less than thirty (30) days to clear up these discrepancies. Responding to Colonel Welsh, Mr. Harris stated that they have started on them and are well on their way.

*Note: Mr. Friedman left the meeting at 7:41 PM.*

*Mr. Hemmig stated that there is no public hearing required for this application.*

*Colonel Welsh moved to approve C-08-01 House of Pride at Properties on North New Street and South New Street contingent upon their repair and correction of identified discrepancies and to continue with the annual review to take place in July with inspections to take place in June, seconded by Mr. Ambruso and the motion was unanimously carried 8-0 with Mr. Friedman absent.*

**Z-11-06 Lands of EJB, Inc. at 327 Martin Street: Serenity Place** - Public Hearing and Review for Recommendation for a rezoning application consisting of one parcel of land totaling of 0.277 acres ± (11,744 S.F. +/-). The property is currently zoned C-4 (Highway Commercial Zone). The proposed zoning is IO (Institutional/Office Zone). The subject property is located on the east side of Martin Street and southeast of the intersection Court Street and South DuPont Highway (Route 13). The owner of record is EJB, Inc. The lessee is Serenity Place, Inc. Property Address: 327 Martin Street. Tax Parcel: ED05-077.10-01-48.00-000. Council District 2.

**Representative:** Mr. Bill Boyles, Executive Director for Serenity Place.

Mrs. Townshend stated that the present use is a substance abuse treatment center that was destroyed by fire. The proposed use would rebuild the substance abuse treatment center. The substance abuse and treatment center was viewed as a non-conforming use that had been in place for a number of years. She has had a number of conversations with the applicant as they were going to be doing some work there; however, were limited in their ability to expand because of its non-conforming status. In terms of the surrounding land uses, all of the properties surrounding the subject property are zoned C-4 which is Highway Commercial and they are developed commercial properties.

Mrs. Townshend further stated that the Comprehensive Plan identifies this area for commercial uses. Both the existing C-4 zoning and the requested IO zoning are consistent with this request. The Staff Report gives you a summary of the uses permitted in the IO zone. The IO zone does not permit retail and service commercial establishments as the C-4 zone does. These are different zones so we provided information on both of those zones.

Mrs. Townshend further stated that Staff notes the approval of the Rezoning would create a small parcel zoned IO surrounding by C-4. However, due to the nature of the IO zone, this is a fairly common occurrence throughout the City to have single parcels that are zoned IO and surrounded by parcels that are not IO. It is consistent with the Comprehensive Plan. Staff recommends in favor of the rezoning. In addition, we would note while when you look at the bulk standards it looks like you could build a really big building there, the bulk standards, particularly the floor area ratio, parking, coverage, those bulk standards would essentially keep it to be a reasonably sized structure especially on this size parcel that they have.

Mr. Boyles stated that they have been here for twenty (20) years and we plan to be there a lot longer. We have helped over a thousand men with substance abuse issues. At this time, we envision rebuilding not a very large structure; however, a two story building in which we had a capacity of ten (10) beds. With the ability to start from scratch and with the efficient use of the land, we feel that we could double our capacity and serve the community twice as better if not more. We would do two (2) floors, approximately 5,000 square feet, and hope to get this rolling very soon. Demolition is scheduled for the beginning of next week.

Mr. Nichols questioned with regards to the patients who stay there, how long is the average stay? Responding to Mr. Nichols, Mr. Boyles stated that the minimum requirement for coming to Serenity Place is a three (3) month commitment. On average the stay is approximately eight (8) to nine (9) months and some stay even a little longer up to eighteen (18) months. It will vary client to client.

Mr. Nichols further questioned how many could stay there? Responding to Mr. Nichols, Mr. Boyles stated that on this location we had a maximum of ten (10) clients and we stay full and typically have a waiting list.

Mr. Holt stated that he knows you had a fire; have you determined what the cause of the fire was? Responding to Mr. Holt, Mr. Boyles stated yes, it was a cigarette in the mulch in the front yard and not sure whether it came from interior or someone walking by. The breeze was blowing towards the house that day and went up into the handicap accessible wooden ramp which was very dry and then jumped up into the house. Fortunately, no one was injured.

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

*Colonel Welsh moved to forward a recommendation of approval to City Council for Z-11-06 Lands of EJB, Inc. located at 327 Martin Street: Serenity Place Rezoning from C-4 to IO, seconded by Mr. Ambruso and the motion was unanimously carried 8-0 with Mr. Friedman absent.*

**S-11-16 Governors Avenue Animal Hospital at 1008 South Governors Avenue** – Public Hearing and Site Plan Review to permit the construction involving renovations to an existing building and a two story building addition resulting in a 7,900 S.F. +/- veterinary hospital building and associated site improvements. The subject site consists of one parcel for a total of 0.8379 acres +/- (36,497 S.F. +/-) of land. The property is situated on the southwest corner of South Governors Avenue and Wyoming Avenue. The property is zoned C-1A (Limited Commercial Zone). The owner of record is Governors Avenue Realty, LLC. Property Address: 1008 South Governors

Avenue. Tax Parcel: ED-05-077.17-06-20.00-000. Council District 2. *Waiver Request: Reduction of Arterial Street Buffer, Elimination of the Opaque Barrier element of the Landscape Buffer requirement. A previous application for the property was reviewed as S-09-01 South Governors Avenue Animal Hospital in February 2009; the plan has since expired.*

**Representative:** Mr. Garth Jones, Becker Morgan Group, Inc.

Ms. Cornwell stated that the application was previously reviewed and approved by the Planning Commission in 2009 and even received Final Plan approval; however, the Site Plan expired as no construction commenced. The application is providing the required parking, bicycle parking, sidewalk, curbing, dumpsters, and landscaping. There are two (2) waiver requests with this application. The first is for the reduction in the Arterial Street Buffer. South Governors Avenue is considered an arterial street and requires a thirty (30) foot landscape buffer. The applicant is requesting a twenty-seven (27) foot reduction and will provide a three (3) foot buffer. Staff noted, as did the applicant, that there is a large area of green space within the right-of-way that could also act as part of that buffer which would equal thirty (30) feet. The second waiver request is for the elimination of the opaque barrier of the opaque wooden fence as the property is adjacent to residential use on the west side. The applicant is proposing to continue the existing vinyl fence along the west side of the property in lieu of the wooden fence and then eliminate the fence within the front yard setback as shown on the plan within the twenty (20) feet because they would only be permitted a four (4) foot fence instead of a six (6) foot fence. The other agencies reviewing the application have provided their comments.

Mr. Jones stated that they agree with all of the DAC comments of record.

Mr. Nichols questioned when you first came before us the existing building was to be torn down and a parking lot put in. This new building is tied into the parking area. Responding to Mr. Nichols, Mr. Jones stated that when the Site Plan came through, they were going to build an addition in the same area that the addition is going now. They were going to build an addition and then the existing building was going to be torn down and a new building put right back in its identical place and the two buildings were going to be joined to look like one building. The site layout that you see now is identical to the Site Plan that was approved back in 2009. We have made no changes to the parking lot layout from the Site Plan that was approved before. The only difference in this Site Plan now is that the existing building is going to remain where before the existing building was going to be torn down and a new structure built back in the same footprint and connected onto the addition.

Mr. Nichols stated that he understands; however, what he can remember is the building is going to be facing Wyoming Avenue. The old building would be torn down and the parking lot would be located in the back of the building. Responding to Mr. Nichols, Ms. Cornwell stated that the parking has not changed. The parking lot has always remained the same. There are several parallel parking spaces that will be located in the back and they have always been there. Most of the parking has always been around the front and on the west side of the building. That has not changed.

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

*Mr. Tolbert moved to approve S-11-16 Governors Avenue Animal Hospital located at 1008 South Governors Avenue and said approval is to include the approval of the waiver for the Arterial Street Buffer and the waiver for the elimination of the fence component for the opaque barrier only in the front yard setback with the rest of the fence remaining as an alternative material of vinyl rather than wood, seconded by Mr. Holt and the motion was carried 8-0 with Mr. Friedman absent.*

**MI-11-09 Text Amendment: Revisions to Article 3 and Article 5 of the Zoning Ordinance regarding Swimming Pools** – Public Hearing and Review for Recommendation to City Council on a series of Amendments to the *Zoning Ordinance,* Article 3 §1 – One Family Residence Zones and the addition of a new subsection 1.11 to Article 5 §1 – Supplementary Regulations Applying to Residence Zones. The proposed ordinance revises the regulations regarding swimming pools in residence zones and relocates the regulations into the supplementary regulations section of the Code. Ordinance #2011-21.

**Representatives:** None

Mrs. Townshend stated that this proposed amendment does essentially two (2) things as it relates to swimming pools. One it pulls the details of the location of the pools in terms of property lines out of Article 3 which is the section of the *Zoning Ordinance* that spells out the permitted uses and places those requirements in Article 5: Supplementary Regulations. It makes the Code easier to read if you are a member of the public trying to figure out where to put your pool and how to do it.

Mrs. Townshend further stated that the other thing that this does is it more closely aligns the Zoning requirements relating to swimming pools with those requirements within the Building Code. The Code, as it stands today, has conflicting provisions that tend to create confusion even among Staff. So if Staff gets confused then you can imagine that the public is getting confused as well and it frequently puts us in a situation that limits our ability to be customer friendly. We thought it would be prudent to align the Building Code requirements for swimming pools with the Zoning requirements for swimming pools so that we can eliminate any potential overlap or conflict.

Colonel Welsh stated that the only thing that he has a concern about is the requirement for a fence. Responding to Colonel Welsh, Mrs. Townshend stated that there is a requirement in the Building Code for a four (4) foot safety barrier which in most cases is going to be a fence. If you have a hard walled swimming pool or one that is entirely surrounded by a deck that has fencing around the deck as long as those elements are four (4) feet sometimes the fence would not be required. However, the four (4) foot safety barrier is required under the Building Code.

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

*Mr. Tolbert moved to forward recommendation of approval to City Council for MI-11-09 Text Amendment: Revisions to Article 3 and Article 5 of the Zoning Ordinance regarding Swimming Pools, seconded by Mr. Holt and the motion was unanimously approved 8-0 with Mr. Friedman absent.*

**Meeting Adjourned at 8:06 PM**

**Sincerely,**

**Diane Metsch**
**Secretary**