

CITY OF OAKWOOD

STATE OF OHIO

SEPTEMBER 18, 2006

The Council of the city of Oakwood, State of Ohio, met in a work session at 5:30 p.m. in the conference room of the city of Oakwood, 30 Park Avenue, Dayton, Ohio, 45419. Council then met in a regular session at 7:30 p.m., in the council chambers of the city of Oakwood. Mayor Cook opened the meeting by asking all present to participate in the Pledge of Allegiance. The Mayor, Mrs. Judy Cook, presided, and the Clerk of Council, Ms. Cathy Blum, recorded.

Upon call of the roll, the following members of council responded to their names:

MRS. JUDY COOK.....PRESENT
MR. CARLO C. McGINNIS.....PRESENT
MR. WILLIAM D. DUNCAN.....PRESENT
MR. ROGER C. BLUMENSHEID.....PRESENT
MR. STANLEY CASTLEMAN.....PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager
Ms. Dalma C. Grandjean, City Attorney
Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Brad Beachdell, Finance Director
Ms. Carol D. Collins, Leisure Services Director
Chief Alex Bebris, Public Safety Director
Mr. Timothy Burke, Legal Counsel

The press this evening was represented by the editor of the *Oakwood Register*, Mr. Lance Winkler, Ms. Helen Bebbington of the *Dayton Daily News*, as well as representatives from Channel Two and Channel 22.

The following visitors registered:

Tom Knoth, 315 Oakwood Avenue	Bill Rudy, 120 W. Schantz Avenue
Joseph Koussa, Kettering	Phil Chick, 256 Beverly
Herold Williams, Englewood	George & Pamela Houk, 310 W. Schantz
Sarah Dugan, 310 Claranna	Fred & Jeri Abrams, 415 Kramer Road
John & Heike Kennel, 1541 Runnymede	Brad Bachmann, 211 Northview Road
Susie Katz, 501 David Parkway	Rob Connelly, 1301 Raleigh Road
Mark Feuer, 6617 Tverta	John Koverman, 120 W. Second Street
Faye Wenner, 1900 Coolidge	John Eastman, LJB
Elana Bolling, 405 Kramer	Susie Seleem, 2620 Shafor
Charis Gridley, 718 Oakwood	Jeff Ireland, 430 E. Schantz Avenue
Hyland & Nancy Schooley, 601 Woods	Nancy Always, 645 Orlando Terrace
Jane Maney, 300 Southview	Shari Hackman, 420 Kramer Road
Shawn Duncan, 1914 Bartley Road	Maureen Harris, 25 W. Thruston
Nev Wagner, 2420 Ridgeway Road	Henry & Bernedette Bensman, 625 Harman
Charles Whittenberg, 215 Maysfield Road	Pokey & Tony Huffman, 1100 Runnymede
Lee Schear, 1130 Harman Avenue	Bruce Langos, NCR
Joel & Angela Frydman, 520 Maysfield Road	Ann Rotolante, 10 E. Schantz
Larry Trittschuh, 901 Acorn	Phil Schnell, 205 Kramer Road
Tom Castle, 124 Dell Park	Martha & Martin LeBoeuf, 465 Kramer
Phil Reveal, 226 Far Hills Avenue	Clinton Price, 601 Orlando Terrace
Stephen Brown, 8051 Montgomery Co Line	

Mr. Duncan, Chair of the Council Committee on Minutes, advised council he had read the minutes of the regular and work sessions of council held August 7, 2006 and of the work session held August 21, 2006. Mr. Duncan reported he found the minutes correct and complete. Therefore, it was moved by Mr. Duncan and seconded by Mr. Blumensheid that the minutes of the sessions of council aforementioned be approved as written and the reading thereof at this session be dispensed with. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

STATUS REPORTS

Old River Fields. Mr. Castleman reported that the city purchased the Old River soccer fields from NCR. Mr. Klopsch was very pleased to announce that the city entered into a contract to purchase the 28 acre Old River Fields. He noted in 1999, the city signed an exclusive ten-year lease with NCR for \$75,000+ per year and since then have offered to purchase the property. Mr. Klopsch indicated in the early 1900s when Oakwood was first developed, the forefathers didn't anticipate the

need for outdoor recreational space and the city has no large grassy area available. He noted Oakwood has enjoyed self-sufficiency with its own Board of Health, drinking water and now control of sports fields. He reported the cost is \$2.3 million for the 28 acres and they are scheduled to close on Friday. Mr. Klopsch indicated one provision relates to having an access road off Far Hills which will take approximately 18 months to complete. He explained the primary use is by the Community Center as well as two select area teams and tournaments. Mr. Klopsch recognized and thanked Mr. Bruce Langos, Senior Vice President of NCR, who deserves credit for this sale. He noted the upcoming appropriation ordinance authorizes the money from the Special Projects Fund (which Oakwood is fortunate to have for special opportunities) as well as some short-term borrowing. Mayor Cook indicated this major acquisition is thanks to the city manager who has been relentless, thorough and patient in obtaining these fields and extended compliments to him. Mr. Duncan also commended Mr. Langos for his foresight and community spirit not only with the playing fields but the gift of Hawthorn Hill to the Wright Family. He also noted that Mr. Rinzler, OIG, assisted in the purchase. Mr. Blumensheid extended thanks to Mr. Klopsch who has had a standing order to purchase the property.

2750 Ridgeway Rezoning Request. As Council liaison to the Planning Commission, Mr. McGinnis reported the rezoning issue will not be addressed this evening but has been deferred until October 2 at the request of the applicant. He is pleased with the process and community input. Mr. Duncan announced since the applicant is one of his clients, he will recuse himself from voting; however, has been following letters and concerns. He read into the record the following letter from Kris Horlacher:

Dear Mr. Duncan,

I have been following the events surrounding Mike and Lynn Disbrow's request for a zoning change. I can imagine that you have heard more about this situation than you would like, but as a friend of Mike and Lynn's I cannot help but share some of my thoughts and feelings with you.

The neighbors who are objecting based on their desire to keep the appearance of their neighborhood as it is have an argument that is impossible to disagree with. I don't imagine many of us like that type of change. Unfortunately, they are wanting control over something they are not entitled to. While it sounds insensitive the fact remains that those neighbors had no guarantee when they purchased their property that things would never change, and the Disbrow's are acting within their rights.

Watching this situation unfold has left me feeling very sad for all involved, and very grateful for the neighbors I have. I am fortunate to live surrounded by friends and neighbors who are gracious and kind. I am wondering if that is the exception to the rule in our neighborhood.

Those disagreeing with the Disbrow's have in my opinion acted in very disappointing ways. The letters to the paper, and the statements made at the last city council meeting were full of name – calling, hypocrisy, dishonesty and other malicious behaviors.

For example, the Disbrows were called "unstable" at the meeting. Nothing is farther from the truth. I have known them for many years, and have seen them go through more than one severe trial. They couldn't be more stable.

The term "financial gain" has been used against them in a way that is a perfect example of hypocrisy in my opinion. What is concern for your property values as these people have stated as one of their motivations is not a form of "financial gain"? I understand that fear has been disputed by a realtor specializing in Oakwood property by the way. I wonder if all of those in that room that night would hold their business and personal dealings designed to increase their finances up to scrutiny in order to test them against commonly held ethics and morals? I wonder if some there that night using the term "financial gain" against the Disbrow's (who are doing nothing wrong), would fail that test.

Many of us in this community are professionals who have written and/or evaluated data, research, proposals and the like. The gentlemen who presented his "facts" on the potential impact on traffic and drainage should the additional properties be built should have been required to show his data. I believe it would not hold up under scrutiny, and was a deceptive intent at manipulation. How unfortunate it is that incorrect information has been relayed as factual as a result of this.

One letter writer even stooped so low as to propose to know the Disbrow's financial dealings with regards to their insurance status at their prior house. He should be ashamed of himself.

The opponents have resorted to all these negative behaviors and more not only in the meeting and the letter writing, but also in their conversations with others while gathering names for petitions. I find that very sad.

No matter what happens with the property from this point on much damage has been done to that part of the neighborhood by the people who claim to love it and would hold themselves up as the standard for what is right. They have in my opinion polluted their own

neighborhood with mean-spirited behavior, unkindness, dishonesty, etc. There is no quick or easy remedy for those type things as we all know.

I too have my motivations for contacting all of you. It is not financial gain, I never drive down Fairmont and will not be bothered by a landscape change. I have no "ax to grind" with any of those in opposition to the zoning change. My motivation is simply friendship. Mike and Lynn Disbrow are wonderful people. They are kind, generous and of very good character. They are raising children who are the same. They contribute only positive things to their family, friends and community. To see them so maligned and misrepresented has bothered me greatly.

I have no idea how any of you will vote on this matter, or how you personally feel about all of this. I would only hope your vote will be based on facts, and legal issues not emotions manipulated by the negative actions of others.

I also wonder about the effectiveness of city council meetings where people can present false information that will be believed and reported by others as factual. What constructive purpose does that serve? Feelings and opinions should always of course be welcomed, as well as questions. Information that is seemingly factual should be allowed only if proper supporting evidence is provided and approved beforehand in my opinion.

Thank you for taking the time to read this. I apologize for its length, but this has weighed heavily on my mind for many weeks now. There are many others in our neighborhood who feel as I do.

I will attend the next meeting where this is discussed with hope for an appropriate resolution.

Sincerely, Kris Horlacher"

Mr. Huffman asked if he could comment. Mayor Cook responded no. Mr. Weisbrod asked if Mr. Duncan is recusing himself. Mr. Duncan replied yes. Mr. Weisbrod noted that it was an interesting recusal. Mayor Cook noted everyone needs to respect one another in regard to this application and any issue. Mr. Blumensheid asked if there will be opportunity to speak at the next meeting. Mayor Cook responded no, the public hearing has already been held.

Far Hills Business District Pedestrian Signal. Mr. Blumensheid referenced the new pedestrian signal located near the new business centre, including new curb cuts and a crosswalk signal that is activated by pedestrians. He indicated this will permit parking on opposite sides of the district and the pedestrian activates the signal to cross. He indicated the light is currently blinking and a ribbon cutting ceremony is planned in the near future. Mr. Blumensheid added since traffic in the area is not used to the light, he urged pedestrians to be very careful in crossing. Mr. Klopsch indicated they hope to complete work by the end of the week and plan an event with the businesses to celebrate the success in the district which is a destination.

Oakwood Centre Ribbon Cutting. Mr. Castleman announced on October 5 at 9:40 a.m., the Mayor will cut the ribbon to celebrate the new businesses to Oakwood.

2007 Budget. Mr. Duncan indicated on Wednesday, they will meet with the Budget Review Committee, 33 citizens representing Oakwood precincts to discuss the upcoming budget. He indicated input is received from this citizens committee prior to adopting the budget in December. Mr. Duncan noted there is a vacancy in Precinct F and Mr. William Lockwood has agreed to serve.

Therefore, it was moved by Mr. Duncan and seconded by Mr. Blumensheid that Mr. Lockwood be appointed to Precinct F on the Budget Review Committee. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

2005 Financial Audit. Mr. Duncan indicated the city received the report from the external auditor appointed by the state – Clark, Schaeffer and Hackett. He noted there were no comments on procedures and traditionally a follow-up meeting is held with the city manager. Mr. Duncan reported the governing body, in particular the council finance committee which includes he and Mr. Castleman, would like to be included in the upcoming meeting. He also referenced the recent credit card issue in the city of Beavercreek and was pleased to report that Mr. Klopsch has the one and only city credit card in Oakwood.

2008 Centennial Celebration. Mayor Cook noted thanks to the leadership of Madeline Iseli and Dick Good, there have been several "think tank" group meetings for the upcoming celebration. She indicated in the upcoming City Scene, there will be an informal survey on ideas for the celebration.

MVRPC. As council liaison to the MVRPC, Mr. McGinnis reported that Donald Spang has been appointed the new Director, a tremendous move given all his years experience.

MVCC. As council liaison to the MVCC, Mr. Blumensheid reported not only does the MVCC take care of covering council meetings; they also assist with the city website. He reported the 2004 Comprehensive Plan is available on the site for review.

Mayor Cook welcomed the visitors and recognized new Safety Director Alex Bebris. She asked that Chief Bebris join her, the city manager, and his family at the podium. Mr. Klopsch introduced Chief Bebris who comes from Wisconsin and was selected from 85 candidates to lead the department. He noted Chief Bebris just returned from the Ohio Fire Academy where he was referred to as “Grandpa” since he is 37 years old and was selected from his class of 22 members as the “chief” to give the address at graduation. Mayor Cook administered the Oath of Office and welcomed Chief Bebris.

Mr. Koussa, Kettering resident, extended prayers to the troops overseas. He referenced how the democrats want to bring the troops home and that the President is representing everyone, not just one political party.

There being no other visitors with business, the following legislation was introduced.

ORDINANCE

BY MR. CASTLEMAN NO 4612
REPEALING CHAPTER 177 OF THE CODIFIED ORDINANCES.

A copy of the ordinance, having been placed on the desks of each member of council prior to introduction, was given a second reading. Mayor Cook noted this is a result of Senator Jeff Jacobson removing Oakwood’s seat on the RTA.

Thereupon, it was moved by Mr. Castleman and seconded by Mr. Blumensheid that the ordinance be passed.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said ordinance was declared duly passed and it was so ordered.

RESOLUTION

BY MR. DUNCAN NO 1638
RESOLUTION ACCEPTING THE AMOUNT AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

A copy of the resolution, having been placed on the desks of each member of council prior to introduction, was read by title. Mr. Duncan explained this relates to property tax levies, the amounts and rates are certified to the county auditor and this currently omits the property tax levy that expires in December. He noted that levy is scheduled for renewal this November.

Thereupon, it was moved by Mr. Duncan and seconded by Mr. Castleman that the resolution be passed.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said resolution was declared duly passed and it was so ordered.

ORDINANCE

BY MR. DUNCAN NO 4613
TO AMEND SECTION I, APPROPRIATION ORDINANCE NO. 4597:

1. TO PROVIDE FOR THE APPROPRIATION OF \$2,350,000 TO BE ADVANCED BY THE SPECIAL PROJECTS FUND TO THE PUBLIC FACILITIES FUND FOR PURPOSES OF ACQUIRING REAL PROPERTY COMMONLY REFERRED TO AS OLD RIVER ATHLETIC FIELDS AND ADJACENT PARKING LOT (SEE SEPARATE

LEGISLATION FOR APPROVAL); AND

2. TO PROVIDE FOR THE APPROPRIATION OF \$363,000 TO BE EXPENDED FROM THE SPECIAL PROJECTS FUND FOR THE PURPOSE OF ACQUIRING REAL PROPERTY LOCATED AT 22 ORCHARD DRIVE (SEE SEPARATE LEGISLATION FOR APPROVAL); AND

3. TO PROVIDE FOR THE APPROPRIATION OF \$2,350,000 TO BE EXPENDED FROM THE PUBLIC FACILITIES FUND FOR THE PURPOSE OF ACQUIRING THE OLD RIVER ATHLETIC FIELDS AND ADJACENT PARKING LOT; AND

4. TO PROVIDE FOR THE APPROPRIATION OF \$2,350,000 TO BE TRANSFERRED FROM THE PUBLIC FACILITIES FUND TO THE SPECIAL PROJECTS FUND, UPON RECEIPT OF PROCEEDS FROM SALE OF A NOTE ISSUE (SEE SEPARATE LEGISLATION), FOR PURPOSES OF REPAYING ADVANCE FROM SPECIAL PROJECTS FUND NECESSARY TO TRANSACT THE PURCHASE OF OLD RIVER ATHLETIC FIELDS AND ADJACENT PARKING LOT; AND

5. TO PROVIDE FOR A \$24,200 REDUCTION IN THE APPROPRIATION OF EXPENDITURES FOR CONTINGENCIES IN THE SANITARY SEWER IMPROVEMENT/EQUIPMENT REPLACEMENT FUND AND TO PROVIDE FOR THE APPROPRIATION OF A TRANSFER IN THE AMOUNT OF \$30,000 FROM THE SANITARY SEWER IMPROVEMENT/EQUIPMENT REPLACEMENT FUND TO THE SANITARY SEWER OPERATING FUND FOR PURPOSES OF MAINTAINING APPROPRIATE FUND BALANCES; AND

6. TO PROVIDE FOR THE APPROPRIATION OF AN ADDITIONAL \$200 TO BE EXPENDED FROM THE CONTRACTOR’S PERMIT FUND FOR THE PURPOSE OF ACCOMMODATING ADDITIONAL ADVANCE PAYMENTS RECEIVED FROM CONTRACTORS FOR OAKWOOD CONSTRUCTION FOR YEAR 2006.

A copy of the ordinance, having been placed on the desks of each member of council prior to introduction, was read by title. Mr. Klopsch suggested the appropriation ordinance be adopted prior to council informing him how to spend the money. Mayor Cook agreed with the city manager in how fortunate the city is to have a Special Projects Fund to purchase Old River, use of money for a golden opportunity, not an unmitigated need.

Thereupon, it was moved by Mr. Duncan and seconded by Mr. Castleman that the ordinance be passed.

Upon call of the roll on the question of the motion, the following vote was recorded:

- MRS. JUDY COOK.....YEA
- MR. CARLO C. McGINNIS.....YEA
- MR. WILLIAM D. DUNCAN.....YEA
- MR. ROGER C. BLUMENSHEID.....YEA
- MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said ordinance was declared duly passed and it was so ordered.

RESOLUTION

BY MR. CASTLEMAN

NO 1639

TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ACQUIRE REAL PROPERTY LOCATED AT 22 ORCHARD DRIVE (MONTGOMERY COUNTY PARCEL I.D. NO. Q71 01110 0022) ADJACENT TO THE FAR HILLS BUSINESS DISTRICT, FOR AN AMOUNT NOT TO EXCEED \$363,000.

A copy of the resolution, having been placed on the desks of each member of council prior to introduction, was read in its entirety. Mr. Castleman explained this property is in a transitional zone and will eventually assist with Business District parking.

Thereupon, it was moved by Mr. Castleman and seconded by Mr. Blumensheid that the resolution be passed.

Mr. McGinnis explained this transitional zone is a good buffer between the business and single-family residential areas. He indicated any plans for use of the property will be subject to a public hearing process. Mr. Castleman indicated the Guttman's recently acquired a business property and due to already having parking behind the Oakwood Club, were able to develop the beautiful center. He indicated the city needs to continue to support the business area. Mr. Duncan noted it's important that the Oakwood business district remain competitive and continue to be a destination. Mayor Cook referenced a recent article about an Oakwood dress shop that closed to "spruce up" given all the new improvements in the business district.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said resolution was declared duly passed and it was so ordered.

RESOLUTION

BY MR. CASTLEMAN NO 1640

TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ACQUIRE 28.031 ACRES OF REAL PROPERTY COMMONLY REFERRED TO AS OLD RIVER ATHLETIC FIELDS, INCLUDING ADJACENT PARKING LOT, FOR PARKS AND RECREATIONAL PURPOSES, FOR AN AMOUNT NOT TO EXCEED \$2,350,000 AND TO AUTHORIZE AN ADVANCE FROM THE SPECIAL PROJECTS FUND TO THE PUBLIC FACILITIES FUND IN THE AMOUNT OF \$2,350,000 TO PROVIDE THE IMMEDIATE FUNDING NECESSARY TO TRANSACT THIS PURCHASE.

A copy of the resolution, having been placed on the desks of each member of council prior to introduction, was read by title.

Thereupon, it was moved by Mr. Castleman and seconded by Mr. Blumensheid that the resolution be passed.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said resolution was declared duly passed and it was so ordered.

ORDINANCE

BY MR. DUNCAN NO 4614

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,300,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING REAL PROPERTY FOR PARKS AND RECREATIONAL PURPOSES, AND DECLARING AN EMERGENCY.

A copy of the ordinance, having previously been placed on the desks of each member of council prior to introduction, was read by title. Mr. Duncan explained although they have the money to purchase the NCR property, since the city is tax exempt they can borrow money at a lower rate, thereby in turn earning more interest to the citizens' benefit. He indicated the one-year note will be annually renewed and this is how they financed the building project. He also noted the interest rate of 6% is rather conservative. Mr. Klopsch concurred, they could probably borrow for 4 ½%.

Thereupon, it was moved by Mr. Duncan and seconded by Mr. Castleman that the ordinance be passed.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said ordinance was declared duly passed and it was so ordered.

Administrative Action – OIG Special Use Amendment Request. Mr. Klopsch indicated at the August 2 Planning Commission meeting, the OIG reuse request was heard and recommended to council for their approval. Ms. Grandjean explained to the audience that council is holding this public hearing as a quasi-judicial body and will hear testimony and arguments for the applicant, then from proponents and opponents, Council will then deliberate. Witnesses should present testimony to council and not engage in questioning or debating with Council. She noted all parties will be sworn in and come to the podium to identify themselves. She asked the audience to refrain

from applause and other expressions or outbursts. Mr. Weisbrod asked if the meeting is transcribed. Ms. Grandjean indicated that minutes are being taken by the Clerk of Council and the meeting is also being recorded by video and audio systems.

After being sworn in, Mr. Weiskircher referenced a PowerPoint presentation which reviewed this special use application. He indicated Oakwood Investment Group, LLC (OIG) is requesting an amendment to the 1969 Sugar Camp PUD which permitted its use for education, training, laboratory and/or research center of business and industrial organization. The proposed amendment will permit religious uses (with ancillary uses that may include a school and day care center and offices for non-profit organizations) as additional permitted uses on a 4.48 acre portion of the site. The only issue being considered by council is the religious use. The Master Plan for the entire site will be presented by no later than December, 2006. Mr. Weiskircher reviewed the three lots of the site, Lot #1 which is 24.342 acres and owned by OIG, Lot #2 which is 7.361 acres and owned by Versant; and Lot #3 which is 4.74 acres owned by NCR with a lease option to Versant. He referenced an aerial photo of the property and pointed out Building B and C (the buildings proposed for the religious use), the parking lots, and visibility from the street. The next slide related to the 4.48 acres for the religious use, followed by photos of the two buildings in question, entrances to the buildings, and view from across the street.

Mr. Weiskircher reviewed a timetable of significant events. In the early 1900's, NCR began using the site for training and education purposes; during the 1930s-1940s, permanent structures were built including classrooms, auditorium, recreational facilities, etc. In 1969, NCR was granted a special use for a planned unit development (PUD) to permit its use for "education, training, laboratory and/or research center of business and industrial organizations". At that time, the four existing buildings were built. During 1970-2000, besides the uses specified in the 1969 PUD, facilities were used by other organizations including, but not limited to: Dale Carnegie; Dayton Opera; computer classes for Dayton area school children; Reformation Lutheran Church; etc. In 1989, the Sugar Camp property was rezoned from R-3 residential and business to Multi-Use Special Planning District. Mr. Weiskircher indicated in 1993, NCR applied for and was granted special use to permit Building A to be used as a temporary banquet facility during the NCR Club House renovation. In 1994-1995, Building D was renovated to house the NCR corporate legal staff.

In 1995, NCR submitted a special use request to amend the PUD to permit hosting of banquets, parties and related social activities and in 1997, in lieu of litigation involving this request, the city and NCR entered into an Agreement which further clarified the meaning of the 1969 PUD. In 1997, the city also adopted a Subarea Plan which set forth preferred and acceptable uses of the entire 36+ acre site. In 2003, the last NCR employees and contractors left Sugar Camp and NCR began pursuing buyers for the property. In 2004, NCR replatted the 13 parcels into the three parcels previously reviewed. Also that year, the city commissioned HNTB, Gem Real Estate Group and LJB to develop site development alternatives and guidelines. The project team prepared seven alternative re-use and redevelopment concept plans. Mr. Weiskircher indicated in 2004, council adopted a resolution confirming the guidelines, in conjunction with the 2004 Comprehensive Plan and the 1997 Subarea Plan as the Master Plan for the site. In 2006, OIG purchased 24.342 acres; Versant purchased 7.361 acres and has an option to lease the remaining 4.74. Since then, OIG has requested an amendment to the 1969 PUD to permit religious uses on 4.48 acres of the site.

Mr. Weiskircher reviewed the zoning history of the property – in 1969, the area was zoned R-3 residential. In the 1989 Comprehensive Plan, it was recommended that the property be rezoned to Multi-Use Special Planning ("MU") to give the city maximum control and flexibility with regard to future development. The MU permits residential uses, office, business or professional; retail secondary to office/residential/ recreational uses; and a rest home. Development within the MU shall be by planned development special use only and consistent with the Comprehensive Plan. Mr. Weiskircher reviewed the special use standards which the application was reviewed against by the Planning Commission. He explained even though religious uses are not specifically contemplated in the MU, there is a provision for use exceptions in planned developments, provided the applicant meets the burden of proving by a preponderance of the evidence, and the planning commission concurs that the standards have been met. Mr. Weiskircher concluded that the planning commission, at their August 2 meeting, approved the request with three yea and one nay votes, subject to a Master Plan for the entire site being submitted by no later than December, 2006 to the Planning Commission.

Mr. Knoth, Oakwood resident and attorney with Thompson & Hine is representing OIG. Mr. Donnelly asked if Mr. Knoth will be sworn in. Ms. Grandjean indicated he is representing his client, the applicant, and doesn't need to be sworn in. Mr. Knoth introduced Allen Rinzler and Lee Schear, Rabbi Bernard Barsky, Susan Katz and Mark Fueherer. Mr. Knoth explained Beth Abram has been looking for new locations given the change in congregant demographics moving south.

OIG was formed and acquired Sugar Camp as the new synagogue location. The group has worked for over a year on the project and were aware of the issues which led United Theological Seminary and Miller-Valentine to decline their option to purchase the property.

Mr. Knoth explained the application is for the re-use, not development, of Buildings B and C – there will be no exterior renovations and it is no different than NCR leasing to another entity. He indicated an overall plan is not needed and the synagogue would like to proceed so as to be ready for the High Holy Days in September, 2007. He indicated several million dollars will be expended for the planned renovation to the synagogue and all buildings will remain since NCR priced the property as such; economically the buildings must remain. Mr. Knoth indicated use of the other two buildings on the site is flexible and per Oakwood's long-term issues, they are planning empty nester housing since the city is losing long-term residents to places like Ridgeleigh and Lincoln Park. He indicated OIG is coordinating development plans with Herold Williams, owner of Versant. Mr. Knoth reiterated there will be no exterior changes, including access and parking.

Mr. Knoth referenced Mr. Weiskircher's review of the property zoning and that a special use must be obtained for the proposed religious uses in buildings B and C. He also referenced the Federal Religious Land Use and Institutionalized Persons Act of 2000 which protects religious uses. He explained the Act prohibits local governments from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution is in the furtherance of a compelling governmental interest. The Act goes on to prohibit local governments from imposing or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution. He noted the federal government has issued these mandates to local governments. Under Oakwood's zoning code, the request must comply with the special use exceptions and he will obtain testimony from Mr. Rinzler and Mr. Fuherer. He noted under the zoning code, the property owner has the right to apply for a change in use, they are not required to have a site plan for a re-use; which is all they are requesting.

Ms. Grandjean swore in Mr. Rinzler and Mr. Fuherer. Mr. Knoth reviewed the following use exceptions and asked for a response.

A. That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose of the development.

Mr. Rinzler: Use of the synagogue makes it possible to preserve other buildings on the site – re-use isn't for standard office space but adapted to a synagogue.

B. That the uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood.

Mr. Rinzler: There will be no change to the exterior of the buildings; the amount of traffic is next to nil given there will only be 7-8 employees during the week plus visitors. He indicated the significant use will be on Saturday morning, overall less traffic than when NCR used the property. He also noted most buildings are not visible from the road.

Mr. Fuherer: Although there are daily worship services which only 10-20 attend, Saturday morning usually has 75-115 congregants and on High Holy Days 250-300. He noted the school currently has 17 students, there are adult religious classes and the facility is used for life cycle events, i.e., 1-2 weddings, 4-6 bar mitzvahs and 3-4 funerals per year.

C. That not more than 25% of the ground area or of the gross floor area of such development, whichever is greater, shall be devoted to the uses permitted by such exception; however, in a residential planned development not more than 10% of the total land area shall be devoted to business uses.

Mr. Rinzler: This criteria has been met, the 4.48 acres is less than 20%, well below the exception requirement.

Mr. Knoth asked Mr. Rinzler about the Comprehensive Plan and this proposal. Mr. Rinzler believes the re-use of the existing building is consistent with the Plan. The Subarea Plan contemplates preserving the building and he believes the religious use is consistent since the Plan suggests an institutional use, which the synagogue is. He referenced an objective that suggested the use promote activities for the elderly, youth, etc., and he believes a religious institution fits that objective. Mr. Rinzler indicated they will also contribute to the enhancement and quality of life. He further explained that the relocation of the synagogue made the purchase of the property financially feasible. Of the seven Subarea Plan concepts, they are working from the one that retains the existing buildings for institutional uses and a re-use with high end housing for empty nesters.

Mr. Knoth reviewed the following special use standards and asked for Mr. Rinzler's input.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
Mr. Knoth noted this has already been addressed.
- B. The proposed building or use will not adversely affect or change the character of the area in which it is located.
Mr. Rinzler: There will be no change in traffic, the building is set back, and given the existing screening there will be no disturbance to the neighbors.
- C. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare.
Mr. Rinzler: He believes everyone would agree that the religious institution fits in to the definition of not endangering the public, there will be a low impact and it won't be visible.
- D. That the proposed use will not be injurious to the reasonable use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
Mr. Rinzler: The buildings will not be changed and the value of homes might increase, particularly if congregants want to move closer to the synagogue.
- E. The proposed use at the specified location will not significantly adversely affect the use and development of adjacent and nearby properties in accordance with the regulations of the district in which they are located. The location, size and height of proposed buildings and other structures, and the operation of the use will not significantly adversely affect the use and development or hinder the appropriate development of adjacent and nearby properties.
Mr. Rinzler: He indicated they own the adjacent property, Mr. Williams owns other abutting property, with the cemetery as the other abutting use.
- F. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood, or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.
Mr. Rinzler: There will be no new structures nor exterior changes, only interior renovations.
- G. That adequate utilities, access roads, off-street parking and loading facilities, drainage and/or other necessary facilities, have been or are being provided at the applicant's cost.
Mr. Rinzler: The use will be less intensive than NCR and all the utilities exist.
- H. That adequate measures have been or will be taken at applicant's cost to provide ingress and egress so designed as to minimize traffic congestion in the public streets and avoid hazards to pedestrian traffic.
Mr. Rinzler: There is no change to the ingress.
- I. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulation may, in each instance, be modified by Council pursuant to the recommendations of the Planning Commission.
Mr. Rinzler: They comply with all regulations.

Mr. Knoth concluded by stating they are seeking to re-use two buildings and understand that future development must go through the Master Plan process. As property owners, they have the right to re-use the property, have satisfied the Planning Commission requirements and urge council to conclude that the special use standards have been met. He referenced the Federal Religious Land Use and Institutionalized persons Act of 2000 and noted the city should have no basis to deny the religious re-use request, since this is only a re-use Oakwood cannot treat the synagogue differently than NCR with a change in use. Mr. Knoth indicated the opponents' state they have no objection to a religious use and want to see a total plan, but the only issue is the request for a religious re-use of the building. He noted the next step in the process will be the overall plan and comparison with the Master Plan.

Mayor Cook asked if there were any developments on the Master Plan. Ms. Grandjean swore in John Fabelo, Lorenz + Williams, and Herold Williams, Versant. Mr. Fabelo indicated there have been a series of meetings between the two groups and the site development plan has changed somewhat from August. He indicated the 13.9 acres, depicted in green, are residential areas, the area in purple is the 4.48 acres for religious use, pointed out the commercial area and the green space which is community space where no development may occur. He reviewed the overall building office campus area, parking, gate house, no change in access from Schantz, drop off area to the rear, mid-rise office building and low-rise residential building.

Mr. Williams, CEO of Versant, currently owns Lot #2 and has an option on Lot #3. He has been working on this property since July and only the last few weeks with OIG. He indicated the plan is a combined effort and reviewed the proposed club house/community building that will be the

signature along Far Hills. He referenced the 4.7 acre area which will be reserved for an office building and once a tenant is interested, will be a showplace. Mr. Williams reviewed the residential dwellings and noted off Far Hills, across from Volusia, will be the entry and in "Section I", the homes are "urban type" with alleyway garages, a total of 12 units. Given the grade off Far Hills and elevation, the center piece will have a boulevard and dwellings will have more of a "suburban feel" in Section 2. He indicated they are still working out details on the north side of the property due to the steep hillside.

Mayor Cook suggested that anyone wishing to address council be sworn in as a group. Mr. Weisbrod asked if lawyers need to be sworn in, since the applicant's lawyer wasn't. Ms. Grandjean indicated that if he was representing a client, he would not need to be sworn in; however, anyone who wants to testify will need to be sworn in. Mr. Ireland indicated Mr. Weisbrod is being treated in the same manner as all audience members. Mr. Weisbrod stated he doesn't feel he should be treated differently than Mr. Knoth. A number of people in the audience stood and were sworn in. Mayor Cook reminded the audience that the issue before them is the special use for a religious use.

Mr. Koverman, 120 W. Second Street, is an attorney representing a number of Oakwood residents. Mayor Cook asked who he is representing. Mr. Koverman indicated Chris Conard, Dr. Donnelly and others. Mr. Koverman isn't sure where they are going with this – not changing the building but only the use which is an important zoning change – a change to an existing PUD that is a privilege. He noted the city has spent considerable money over the years on studies, yet are trying to piecemeal this proposal in. Mr. Koverman indicated they don't have answers to car access, elevations, parking (particularly since to the west of the synagogue is a drop off), width of streets, sidewalks, handicap access, no specific site plan. He noted the synagogue is right in the center of the property. Mr. Koverman noted his clients have no objection to the synagogue but would like to see a coordinated plan, not a piecemeal request. He indicated they are acting on this too quickly without a detailed plan.

Mrs. Faye Wenner (who was sworn in earlier), 1900 Coolidge, asked how much tax money was spent to renovate the city building and how much money will be spent to landscape Park Avenue. She believes it is evident that citizens want to see detailed plans before this is approved. She noted it's ludicrous for the Mayor and city manager to say property owners can do what they want to their property when her neighbors and officials have a say on a fence she might want to install, yet have given OIG a blank check for a change. She had no problem with a synagogue, however it isn't a preferred use in the Comprehensive Plan and there is no specific plan for the other buildings. She has questions about whether there will be a school, how many attend, transportation, etc. She understood the investors want a light at Kramer which will increase the traffic impact. Mrs. Wenner also expressed concern with a non-profit use which will not help the tax revenue and in turn affect the taxpayers. She questioned what evidence there is that empty nester housing is needed since she has heard people leave Oakwood because the taxes are too high. Mrs. Wenner questioned additional office space since the building where C'est Tout is located is 90% vacant. She also believes there is no shortage of housing given all the for sale and rent signs and felt high rise and density housing is not appropriate in Oakwood.

Mrs. Wenner submitted a petition which requests that no development of Sugar Camp be undertaken by OIG and Versant until the EPA has undertaken a study of contaminants, not one shovel moved until EPA has proven there is no risk. Mrs. Wenner indicated the officials are to protect the best interests of citizens, are reckless in their actions and if continue to do so, action will be taken. Mr. Knoth questioned Mrs. Wenner about what first-hand evidence she had about contaminants. Mrs. Wenner showed him a report, but would not give it to him. Mr. Knoth asked who did the report, and stated that he doesn't believe this is testimony.

Mr. Kennel, 1541 Runnymede, asked the city attorney to swear him in, which was done, as he had information regarding the contaminant issue. Mayor Cook indicated studies of the land are not applicable to this application which is the re-use of existing buildings. Mr. Kennel asked to assist the speaker. Mayor Cook suggested that the information Mr. Kennel wants to present should be reviewed as part of the Master Plan process. Mrs. Wenner indicated this issue is one piece of the entire site.

Ms. Grandjean elaborated on the issue as it relates to amending the special use for a religious use and introduced Attorney Tim Burke. Mr. Burke explained his legal expertise is in land use and zoning. The issue is not development of the entire property but a narrow issue for an additional use in existing buildings – that is the question before council. He explained when the property owner ultimately has a plan for the large tract of land; there is a detailed process for participation and input.

Mrs. Christy Zeichel expressed concern about the overall development and changes in the Master Plan which have occurred from the Planning Commission meeting to now. She indicated if environmental concerns are true, then why would the city encourage any amended plan. She believes those unanswered questions need to be answered. Mrs. Zeichel wondered what the urgency is to occupy the one building for the Holy Days next fall.

Mr. Klopsch explained the applicant submitted additional plan information as a result of his encouragement and the expressed desires of many speakers at both the Planning Commission and previous City Council meeting; he felt it a good idea to present plans since he has heard that citizens want to see what is going to happen. He noted perhaps he shouldn't have encouraged that.

Ms. Grandjean swore in the next speaker since he did not stand earlier in the meeting. Mr. Chuck Whittenberg, 215 Maysfield, asked why the city manager wasn't sworn in. Ms. Grandjean indicated because he is not giving testimony. Mr. Whittenberg indicated they state there is no exterior construction but questioned whether there will be signage identifying the synagogue. Mayor Cook indicated signage is part of the overall plan, doesn't relate to the building renovation. Mr. Whittenberg asked if a study has been done by emergency services on the extra vehicles and congestion since he and his family live in the area.

Mr. Phil Chick (who was sworn in earlier), 256 Beverly, concurred with the development of Sugar Camp which is a jewel to the community. He believes it is fortunate to have an entrepreneur undertake this and he is not opposed to a religious use, the community has several. However, he is opposed overall because the city's master plan for Sugar Camp is not being followed. He indicated that brings up the issue of trust in elected leaders who are to listen to citizens, be good stewards, develop a vision, enact laws, execute plans, uphold laws and do what is in the best interest of the community. Mr. Chick indicated if council approves this then they are violating citizens' trust. As a citizen who has voted for many of the council members, he asked them to follow the vision the community has expressed as it relates to Sugar Camp for an overall site development plan. He indicated what has been submitted is only a provisional plan and wondered what will happen if no plan is submitted in December. Mr. Chick indicated council needs to honor the trust citizens have put in them, be good stewards and vote no on the request.

Mr. Jeff Ireland (who was sworn in earlier), 430 E. Schantz, indicated he grew up on Maysfield and remembers what Sugar Camp was like when NCR was busy. First, he extended congratulations to council on the acquisition of Old River as that has been an important concern to the city over the years. He agrees it is important to have a Comprehensive Plan which states that Sugar Camp can be a multi-use, including housing. In regard to empty nester housing, he believes there is a real need for that, particularly since he is six years away from being an empty nester. He believes many leave Oakwood because there is no such housing. Mr. Ireland indicated the proposed use is good and is pleased there is a group willing to undertake the property. He noted for many years there have been questions and speculation as to what would happen to the property and now there is a group of people who have a vested interest in Oakwood. He indicated Mr. Schear does first class work. Mr. Ireland looks forward to seeing the final site plan and noted he is in favor of this proposal.

Ms. Grandjean swore in the next speaker. Mr. Bill Rudy, 120 W. Schantz, referenced the Religious Act of 2000 and a statement from the applicant's legal counsel that this request would be the same as NCR requesting a different use. He noted the city is mandated by that Act not to treat the request any differently than NCR, but NCR probably wouldn't have requested a non-profit use. He suggested council look at whether they would approve any non-profit request, i.e., Salvation Army, regardless of the Act.

Ms. Grandjean indicated the Religious Land Use and Institutionalized Persons Act of 2000 does apply, governs council and is intended to prevent any discrimination through land use regulation affecting a religious organization. She indicated that the Federal law does not apply to other non-profit organizations.

Dr. Tom Donnelly (who was sworn in earlier), 830 Oakwood, expressed nervousness since there is an air of suspicion in the room and the quasi judicial procedure rather than appearing before his advocates. He indicated no one is opposed to a synagogue in the community, the Chabad Center has been welcomed and the synagogue will be welcomed. His concerns are shared by many and relate to the overall site area plan based on all the money the city has spent on the Comprehensive Plan as to what Sugar Camp should look like. Dr. Donnelly referenced excerpts from the site plan and referenced certain objectives and guidelines which he believes the city needs to follow so citizens are assured. He indicated it is council's job to find out the answers to all the questions, i.e., color of buildings, etc. Dr. Donnelly asked council what other development site has been accomplished in the area that would be adequate to locate at Sugar Camp.

Mr. David Deutsch (who was sworn in earlier), 902 E. Schantz, indicated he is also a member of the synagogue and extended thanks to council for doing a wonderful job, this is democracy at its best. He indicated Sugar Camp has been for sale for quite some time and this proposal is a great idea. He noted since there are no dog runs in Oakwood, he initially thought Sugar Camp would be a great place and the city should purchase it, however, after the city studied the property, it was too much money. He noted then Miller-Valentine also couldn't use the property. Mr. Deutsch indicated now a realistic group has a great idea for use of the property, they want to move in and the purpose of the meeting is for the religious use. He noted the rest of the plan is what Miller Valentine wanted to do. As a member of the congregation and community, Mr. Deutsch asked that council follow the law and vote in favor of the request.

Mr. Al Weisbrod (who was sworn in earlier), 111 Park Road, indicated he lives across the street from a house that has been empty for four years, is deteriorating, and he can't get the city to help. Although he knows Mr. Deutsch and Mr. Knoth, in his 26 years of living in Oakwood this is only the second time he has attended a council meeting. He indicated if this is democracy he is appalled as he believes council is an arrogant group of people and Mayor Cook should be ashamed. He noted a group of people want to come into Oakwood and are saying if the city doesn't do what they want, they will sue. He also questioned Ms. Grandjean's meeting requirements. Mr. Weisbrod indicated council is being threatened; they don't care about Sugar Camp or what is across the street from his home. He indicated he has never been more disappointed in a group of people.

Ms. Grandjean swore in the next audience member. Mr. Irv Harlamert, 330 Southview, who has lived in Oakwood for 66 years and believes this is a matter of timing. He suggested the following options: approve tonight, although he isn't sure about the audience's reaction; hold until the December meeting which is only seven weeks away; or give the group more time for a final conclusion that will help everyone. He suggested an option that will satisfy the majority and the applicant.

Mr. Nev Wagner (who was sworn in earlier), 2420 Ridgeway, has lived in Oakwood for 58 years. He believes the Sugar Camp discussion should be done cohesively, particularly since there are no guarantees in the future or the building industry. He noted Miller Valentine is a large company that couldn't make the plan work. He noted they have already spun off a portion of the property to Versant, yet Versant is waiting for a client before he purchases the other parcel. Mr. Wagner noted once they vote there is no going back and suggested they follow Mr. Harlamert's suggestion to wait. Mr. Wagner added he has no problem with a religious use at the location.

Ms. Grandjean swore in the next audience member. Mrs. Elana Bolling, 405 Kramer, who has been a resident for over 50 years. She referenced an e-mail from Dr. and Mrs. Richard Klein who are out of town. The e-mail stated that as residents of Oakwood for 36 years, they have been involved in many citizen activities and believe in the protection and preservation of Oakwood as a primarily residential community. The Kleins went on to state they have seen disturbing changes in Oakwood with chopping up land, destroying green space, and working without a master plan. They believe the city needs to be careful and sensitive with the planning of Sugar Camp and to conform to all standards. Mrs. Bolling agreed with the sentiment that the temple is welcomed but questioned what happened to the Comprehensive and master plans. She indicated someone spoke of trust and she believes council is going in the opposite direction. She suggested they think long and hard, not rush. She urged them to restore the integrity of the Comprehensive Plan they voted on and that citizens have been spent hours working on. She indicated if they wait for the total plan, concerns can be addressed. Mrs. Bolling extended thanks to council for purchasing the Old River Fields.

Ms. Grandjean swore in the next speaker. Mr. Price, 601 Orlando Terrace, who has only lived in Oakwood for seven years and believes it is not acceptable to accept this plan until there are more details. He referenced the concepts in the 1997 Subarea Plan and when compared to the information the applicant has submitted, he concludes there are 300% more details in the Subarea Plan than what has been presented. Mr. Price believes it was inappropriate for the planning commission to give the applicant until December; the commission should have killed the plan. In regard to the question of leadership, the city spent a lot of money on the plans which are subjective and he believes the 1997 Subarea Plan gives the city authority to deny this request.

Mayor Cook asked if there were any other comments. There being none, the public hearing was closed. Mr. Castleman asked the applicant if they would be willing to amend the application to include Building C only. Mr. Rinzler indicated if that is the desire of council, they would agree. Mr. Duncan asked about the urgency and renovation. Mr. Rinzler indicated the synagogue will spend \$3.5 million on the interior renovation. Mr. Duncan asked when they hope to start for a September 2007 use. Mr. Fuherer indicated the sooner the better. Mr. Fuherer explained this has

been a three plus year process, the officers had a vision to move the synagogue, have searched for property, purchased Sugar Camp, and engaged an architect. He indicated they hope to obtain the permit within a month to change the office to congregational space with a sanctuary, chapel and office. He noted this is an ambitious schedule and without the change in use they can't proceed.

Mr. Blumensheid extended thanks to everyone for their comments and asked the applicant about numbers. Mr. Fuherer indicated there are 75-115 congregants on a typical Saturday. This number swells to 250-300 during the High Holy days in the fall. Mr. Blumensheid asked if they hope to increase that membership. Mr. Fuherer doesn't expect that since their membership has gotten smaller over the years - their current sanctuary has 750 seats and the new proposal will only have 250 seats. Mr. Blumensheid indicated the synagogue is part of the overall plan even though this evening's issue is only the religious use question. He added citizens won't see any change to the exterior of the building but asked about signage. Mr. Fuherer indicated they will work through OIG in that regard, however, would like to move forward with the interior special use change.

Mr. McGinnis asked if they are willing to amend the request for Building C. Mr. Rinzler concurred. Mr. McGinnis asked if it could be conditioned upon the fact that the master plan for the entire property will note that Building C is for the religious use. Mr. Rinzler agreed.

Mr. Rinzler noted in defense of city council, they are not reacting to any threat of a lawsuit since he has never threatened anyone in Oakwood. He noted during their due diligence period, they met with city staff and obtained copies of the plans to learn what Oakwood's regulations were. During that period, they also undertook a financial analysis to see if they could recoup their investment and pointed out that no retail has been included on the site since the city made it clear that was not their preference. Mr. Rinzler indicated both council and his integrity has been challenged and he doesn't appreciate it. He recently moved to Kettering's Ridgeleigh area because Oakwood didn't have anything like that and he knows a great deal of empty nesters who are interested in the types of housing options being proposed. Although he understands some of the objections, he isn't certain what some of the citizens want other than to take down the fence and let everyone walk around the property. He noted this property is a great asset, will provide tax revenue, and he has a letter of intent from an employer who wants to fully utilize buildings A and D for professional office space. In regard to the innuendos about environmental issues, the 24.32 acre Sugar Camp site (exclusive of the Far Hills corner which was owned by others) which was purchased by Mr. Patterson in 1902 has never been used for anything other than classrooms and sleeping - nothing has been dumped, nothing was manufactured there. Mr. Rinzler indicated he is tired of hearing people talk about contaminants without any facts and to allude that his property is dirty. He noted he is not a stupid business man to develop contaminated property and pledged to do everything he can to have the plan before the commission in December. He noted a delay would only be based on outside parties.

Mayor Cook indicated the applicant has made it clear that Sugar Camp was purchased for the synagogue - that is the focus of the property - the property owner has made it very clear that any plan will have at its heart the synagogue in Building C. She indicated once the plan is presented, that will be judged against city documents for property development and if turned down, the owner would return with another plan but at the heart of it will be the synagogue. Mayor Cook noted the property owners have the prerogative to do nothing but the synagogue and not develop the rest of the property.

Mr. Duncan noted the issue is simply a special use for a religious use in Building C at Sugar Camp. He indicated although he is not a lawyer, he was verbally insulted by one. Mr. Duncan indicated this proposal doesn't change a twig on the property; is only an interior renovation. He noted the vast majority are opposed to there being no master plan and hopes that they will treat Mr. Williams better than OIG has been treated.

Mr. Blumensheid extended thanks to everyone for their comments and due diligence. He indicated they are working from the 1969 PUD and several questions relate to a development plan, however, there isn't a new development, this only relates to a change in use. He has full confidence that the city's process will result in a quality development in the area; Oakwood wants a showcase property they can be proud of. Mr. Blumensheid welcomed the synagogue to Oakwood and plans to make sure the congregation also feels welcome.

Mr. McGinnis indicated as council's representative to the Planning Commission, and in keeping with Mr. Kendall's initial motion, he asked that the city's law director prepare a resolution approving this additional permitted use to include religious use in Building C only, as agreed upon by the applicant, and conditioned on a master plan for the entire 36+ acres Sugar Camp site being submitted and reviewed by the Planning Commission at their December meeting.

Therefore, it was moved by Mr. McGinnis and seconded by Mr. Castleman that in regard to the Planning Commission's APPROVAL recommendation of application #06-10, the special use request from Oakwood Investment Group, LLC to amend the existing Sugar Camp PUD for the purpose of permitting religious uses in Building C in an approximately 4.48 acre portion of the site, at 201 W. Schantz Avenue, and known as lot #3954, be agreed to subject to the religious use only in Building C and the use of Building B to be included in the master plan to be submitted by no later than December, 2006.

Mr. Duncan asked if this means no religious use in Building B. Mr. McGinnis concurred since the applicant agreed. Mr. Duncan asked that the master plan include the use of Building B. Mr. Knoth asked if the condition of Building C precludes parking. Mr. Burke indicated parking is considered accessory to the building. Mr. Duncan acknowledged that the public opposition might have served a beneficial purpose by forcing the adjoining property owners to work together on a master plan. He doesn't believe anyone is against the synagogue use. Mayor Cook reiterated the synagogue is at the heart of the owner's property.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. McGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said resolution was declared duly passed and it was so ordered.

Council adjourned. The public meeting concluded at 11:05 p.m.

MAYOR

ATTEST:

CLERK OF COUNCIL