

Oakwood, Ohio

March 2, 2016

The Planning Commission of the city of Oakwood, state of Ohio, met this date in the council chambers of the city of Oakwood, city building, 30 Park Ave., Oakwood, Ohio, 45419, at 4:30 p.m.

The Chair being physically absent but participating by speaker phone, the Acting Chair, Mr. Andy Aidt, presided and the Clerk, Lori Stacel, recorded.

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

MR. JEFFREY B. SHULMAN .....PRESENT  
 MR. ANDREW AIDT .....PRESENT  
 MRS. HARRISON GOWDY .....PRESENT  
 MRS. E. HEALY JACKSON.....PRESENT  
 MR. STEVE BYINGTON.....PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager  
 Mr. Robert F. Jacques, City Attorney  
 Mr. Jay A. Weiskircher, Assistant City Manager  
 Mr. Ethan M. Kroger, Code Enforcement Officer

The following visitors were present:

Greg Gantt, 515 Shafor Boulevard  
 Tommy Routsong, 6 Oakwood Avenue  
 William Duncan, 30 Park Avenue  
 Jane Balquiedra, 414 Irving Avenue  
 Martha Haley, 400 Irving Avenue  
 Brian Barr, *Oakwood Register*  
 Ken Rosenzweig, 317 Volusia Avenue  
 Jeanne Harman, 325 Haver Road

Mr. Aidt explained that Mr. Shulman and Mr. Byington are participating in the meeting by phone.

It was moved by Mr. Aidt and seconded by Mrs. Gowdy that the minutes of the planning commission meeting held February 3, 2016, be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mayor Duncan shared that this was the first Planning Commission meeting that he has attended. He explained that he was attending the meeting on behalf of City Council to personally thank the Planning Commission and City Staff for all of their efforts on the recent applications involving the proposed condominiums at Pointe Oakwood. He specifically thanked Mr. Aidt and Mrs. Gowdy for going beyond what was required of them as a Planning Commission members to help make improvements to the architecture of the two – 16 unit buildings on the corner of W. Schantz Avenue and Far Hills Avenue. He explained that during the February 22 City Council meeting, a citizen criticized the Planning Commission, but after the meeting, he sent an email apologizing because he found that his opinion was based without all of the facts. He asked that Mayor Duncan pass along an apology to the Planning Commission. Mayor Duncan thanked the Planning Commission for their service.

Mr. Aidt reviewed the meeting procedure with all in attendance.

Application #16-3, Mr. Weiskircher referenced a PowerPoint and explained that this application involves a special use request submitted by Routsong Realty on behalf of Saxbys Coffee to extend operating hours at both the store and drive thru from 7:00 a.m. to 6:00 a.m., Monday through Friday only. He explained that in January, 2015 Saxbys requested a special use to open the store and drive thru at 6:00 a.m., 7 days/week and the Planning Commission denied the application by a vote of 5-0. In March, 2015, Saxbys appealed the denial to city council and modified the request so the early opening hours would only be in effect Monday-Friday. By a vote of 3-1, City Council agreed to grant Saxbys a one year temporary trial period for a 6:00 a.m. opening time. Consistent with the conditions of the temporary approval granted by City Council, Saxbys is requesting a special use for permanent approval of the 6:00 a.m. opening time, Monday through Friday only. Mr. Weiskircher ended his presentation by sharing that the city has not received any complaints from adjoining residents or the general public regarding problems or issues associated with the 6:00 a.m. store and drive thru opening time.

Mrs. Jackson asked why the application is Mr. Routsong and not Saxbys.

Mr. Weiskircher responded that Mr. Routsong is the owner of the Oakwood Saxbys franchise store.

The matter was then opened for public hearing.

Mr. Greg Gantt, representing Routsong Realty, shared that he made a lengthy presentation last year before City Council, and summarized that Council found that this application met all of the standards last year. The applicant is not asking for extended hours on the weekends, only Monday through Friday. Procedurally, Mr. Gantt explained that they are back before the Planning Commission as requested and required. There have not been any complaints associated with the 6:00 a.m. opening time.

There being no further public testimony offered, the public hearing was closed and the Planning Commission began its deliberations.

Mr. Byington shared that based on the fact that there have not been any complaints with the 6:00 a.m. opening time, he does not have any concerns with voting in favor of this application.

Mrs. Gowdy stated that she finds it ironic that last month the Planning Commission made a recommendation for Pointe Oakwood and this month, the Planning Commission is voting on the Routsong property again, which is in the Neighborhood Business District. Mr. Routsong has been asking for more than what was stated or implied and the Planning Commission has been denying the requests. Mr. Routsong has then appealed the decisions which are overturned by City Council. The neighborhood no longer cares and feels that their voices are not being heard. An average of 30 customers during the 6:00 a.m. – 7:00 a.m. timeframe is a small number and there is probably no affect by approving this extended hour. Mrs. Gowdy went on to share that her problem is not only with this application, but with future applications in this development, and the eventual redevelopment of the post office property. She further explained that in her opinion the Planning Commission's approval will go on record as one more way to push the boundaries of the Neighborhood Business District and shared that she will be voting no. Mrs. Gowdy stated that she feels that the status can either remain provisional with a request each year asking us to reevaluate the situation, or she feels that city staff should start examining rezoning this area to become a Commercial Business District, and stop pushing the Neighborhood Business District boundaries.

Mrs. Jackson stated that she agrees with Mrs. Gowdy. She believes that the next applicant will find a reason to stay open early or later and there will be repeated exceptions.

Mr. Aidt stated that he agrees with Mr. Byington. All of the previous concerns that he had about the extended hour have gone away because of the lack of complaints or issues. He said that there was a letter that was sent to the Planning Commission from the neighbor directly next door from Saxbys, and they do not have any concerns with the proposed application. He shared that he understands the other comments, but the city has standards and the external complaints.

Mrs. Gowdy stated that this application will set a precedent.

Mrs. Jackson stated that she is not sure how to explain that this application was voted against twice and her reluctance is based on it being used in the future because a precedent was set.

Mr. Shulman asked the members of the Planning Commission to keep in mind that in terms of precedent that every case stands on its own merit. If a similar case comes before the Planning Commission again, he shared that he will not have a problem refusing the application if the facts are different.

Mr. Byington stated that he agrees with Mr. Shulman. He added that he is not worried about setting a precedent because it is important to look at the realistic aspect of the application and vote on that individual application.

For purposes of the minutes, the preliminary staff findings as stated in the Staff Report were as follows:

### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
- PRELIMINARY STAFF FINDINGS:
- The Comprehensive Plan is clear that business areas should not adversely impact adjacent residential properties. Since the 6:00 a.m. start time went into effect last March, the city has had no complaints regarding the earlier operating hour.
- B. The proposed building or use will not adversely affect or change the character of the area in which it is located.
- PRELIMINARY STAFF FINDINGS:
- There have been no incidents nor complaints that would lead one to conclude that the earlier operating hour has changed the character of the area.
- 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.
- PRELIMINARY STAFF FINDINGS:
- There is no evidence to conclude that the earlier operating hour has been detrimental to the surrounding residential properties.

- 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.

PRELIMINARY STAFF FINDINGS:

- There is no information available that the earlier operating hour was created undesirable issues or circumstances for surrounding property owners.

- 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.

PRELIMINARY STAFF FINDINGS:

- Again, there have been no issues or complaints to the city since the 6:00 a.m. opening time was implemented last year.

- 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.

PRELIMINARY STAFF FINDINGS:

- There is no information to support that the earlier operating hour has had a negative impact on the area.

- 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.

PRELIMINARY STAFF FINDINGS:

- The applicant has met the requirements of this standard.

- 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.

PRELIMINARY STAFF FINDINGS:

- The applicant has met the requirements of this standard.

- 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.

PRELIMINARY STAFF FINDINGS:

- The special use conforms in all other respects to the regulations of the Neighborhood Business District.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Byington that the preliminary staff findings shall be adopted, and on that basis, application #16-3, to extend operating hours at both the store and drive thru from 7:00 a.m. to 6:00 a.m., Monday through Friday only, shall be approved.

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

MR. JEFFREY B. SHULMAN .....	YEA
MR. ANDREW AIDT .....	YEA
MRS. HARRISON GOWDY .....	NAY
MRS. E. HEALY JACKSON .....	NAY
MR. STEVE BYINGTON.....	YEA

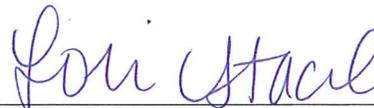
There being three (3) yea votes and two (2) nay votes thereon, said motion carried. Application #16-3, to extend operating hours at both the store and drive thru from 7:00 a.m. to 6:00 a.m., Monday through Friday only, was approved.

Mr. Weiskircher explained that the last item on the agenda was to discuss the possibility of changing the date of the April meeting. He explained that Mr. Shulman will not be in town for the current April 6 date, and requested to move the meeting to April 13. There were no objections with the other Planning Commission members.

There being no further business, the Planning Commission adjourned. The public meeting concluded at 4:54 pm.

  
 \_\_\_\_\_  
 ACTING CHAIR

ATTEST:

  
 \_\_\_\_\_  
 CLERK