Oakwood, Ohio
May 4, 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, Mr. Jeffrey Shulman, 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. Robert F. Jacques, City Attorney
Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Ethan M. Kroger, Code Enforcement Officer

The following visitors were present:

John McIntire, 1712 Shafor Boulevard
Ann Frapwell, 400 Hathaway Road

It was moved by Mr. Aidt and seconded by Mrs. Gowdy that the minutes of the planning commission meeting held April 13, 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.

Mr. Shulman reviewed the meeting procedure with all in attendance. He explained that this was not an ordinary hearing because there is not a formal proposal.

Mr. Weiskircher explained that he was approached approximately six weeks ago by Mr. John McIntire about installing four central A/C condenser units at 1712 Shafor Boulevard. The property sits at the corner of Telford Avenue and Shafor Boulevard. There is an issue with the placement of two of the condenser units because Mr. McIntire would like to place them on the Telford Avenue side of the property. Mr. Weiskircher explained that even though the building faces Shafor Boulevard and has a Shafor address, for zoning purposes, the front yard is along the Telford frontage and the zoning code does not permit condenser units to be located in front yards.

Mr. Weiskircher referenced a PowerPoint displaying multiple pictures of the yard at 1712 Shafor Boulevard. He explained that the Oakwood Zoning Code limits condenser units to corner side yards, side yards and rear yards. There is currently no variance provision to locate condenser units in a front yard. In order for condenser units to be permitted in front yards, the zoning code would need to be amended and then a variance would need to be granted. If the Planning Commission agrees that the Zoning Code needs amended to allow front yard condenser units, a recommendation would need to be made to City Council for their consideration and final action.

Mr. John McIntire, 1712 Shafor Boulevard, shared that he was surprised to learn that the front of his property was not the front any longer. He doesn't believe that anyone would care that he would have condenser units in his front yard, and he added that he would screen them. He has seen other condenser units in front yards around the area and questioned if there has been a

change in the zoning code. Mr. McIntire shared that he has lived in Oakwood most of his life and his family has been in business in the Dayton area since the 1800's. He shared that he has spent the past 41 years working in the commercial building industry and presented photographs of a project he completed in the city of Centerville to members of the Planning Commission and city staff.

Mr. Aidt asked why Mr. McIntire could not place the condenser units on the east side of the house.

Mr. McIntire stated that he could not let apartment #1 on the ground floor take all of the noise from all four condenser units and he also didn't feel there was enough space in that area.

Mr. Aidt added that the new condenser units are very quiet so that more than likely noise would not be an issue.

Mr. McIntire stated that he has only heard commercial condenser units. He then went on to explain how Vectren left 80 feet of gas pipe on the side of his house.

Mr. Aidt shared that he stopped by the property and he felt that the side of the house facing Shafor Boulevard would be a good location for the condenser units.

Mr. Shulman asked why the condenser units could not be placed in the side yard where the driveway is.

Mr. McIntire explained that he feels there are already too many things in that area. He also shared that this is opposite of where one of the tenants windows is, and it would cause too much noise for the tenant and the neighbor to the east.

Mrs. Jackson shared that she visited the property as well, and she noticed that the backyard is not occupied. She asked why the condenser units could not be placed in the backyard.

Mr. McIntire said that he sits in the backyard and he mows the lawn himself. He said that he is hesitant to place all four (4) condenser units in the backyard because it would then have apartment #1 getting all of the noise from the units. Mr. McIntire reiterated that he already plans to locate two of the four units in the rear yard.

In closing, Mr. McIntire told the Planning Commission that they are not at the behest of the City Manager. The Planning Commission answers to City Council. It is city administration's responsibility to give facts and not opinions. He shared that he feels that he was brought down by the opinions expressed in the memo sent prior to the meeting. Mr. McIntire shared that Assistant City Manager Jay Weiskircher was very helpful throughout this process and he was thankful for his assistance.

Mr. Weiskircher explained to members of the Planning Commission that if they have any interest in pursuing a recommendation to City Council about allowing the possible placement of condenser units in front yards if approved as a variance, then he and City Attorney Rob Jacques would work with Mr. McIntire on language for consideration by the Planning Commission and then City Council.

Mrs. Gowdy stated that she feels that the condenser units on side yards are actually a façade.

Mr. Weiskircher shared that around the city of Oakwood, it may appear that condenser units are placed in front yards, but they are actually placed in what is called corner side yards on corner

lots, which are permitted. He shared that the zoning code has been in existence long before he started and restriction on the placement of condenser units has not changed. In several other surrounding communities, condenser units are not even allowed in corner side yards.

Mr. Aidt added that in his opinion, condenser units should not be allowed on any street frontage.

Mrs. Gowdy said that she agrees which is why she feels it may be important to define façade in the zoning code.

Mr. Shulman asked if the front yard is always where the front entrance is.

Mr. Weiskircher answered no, and explained that this is where the confusion is.

Mr. Shulman asked why this properties address isn't on Telford Avenue.

Mr. Weiskircher explained that on corner properties, the front yard is determined by the largest setback.

Mr. Shulman asked what is involved with amending the Zoning Code.

Mr. Jacques explained that the Zoning Code states that the list of possible locations can be amended to place condenser units in the front yard if a text amendment is initiated by a resident or by the Planning Commission and then approved by City Council.

Mrs. Gowdy asked if this amendment could be specific to corner lots, specifically where side lots are a façade.

Mr. Jacques responded that it would be difficult establishing a façade because every side of a building could be a façade. It would be challenging to define it legally, especially in an ordinance.

Mr. Shulman asked if the corner side lot met the setback from the street for this property.

Mr. Weiskircher answered yes.

Mr. Byington asked what the standards would be if it became part of the Zoning Code.

Mr. Jacques answered that the regular variance standards would be used.

Mr. Shulman asked what the timeline would be if an amendment to the Zoning Code was recommended by the Planning Commission to City Council.

Mr. Jacques said that he would draft the updated Zoning Code by the next Planning Commission meeting. A public hearing would be conducted and it would be introduced with a first reading at the July City Council meeting, for the possibility of it being adopted at the August City Council meeting. If approved, the applicant would then fill out the appropriate variance request application for the Board of Zoning Appeals meeting, and the applicant's hearing would then be in October.

Mrs. Gowdy asked Mr. McIntire if he understood that even if this was something that the Planning Commission was going to look into, that it would not be until October until he could get approval to place the condenser units.

Mr. McIntire stated that he did not want to wait that long. He said that he needs the units in this season. He said that he could put the two units by the back door.

Mrs. Gowdy responded that she understood and said that she agreed that it probably was best to come up with a different location since he needs them in sooner. She told him that his property is at a great location and the building is lovely.

Mr. Aidt asked if there are a lot of variance requests.

Mr. Weiskircher explained that when he first started, the Board of Zoning Appeals would receive 70-80 applications per year primarily for fence height variances. Since the zoning code was amended and maximum fence heights are now fixed, the Board of Zoning Appeals meets two to three times per year, typically for variances associated with additions or detached garage requests.

There being no further business, the Planning Commission adjourned. The public meeting concluded at 5:55 p.m.

CHAIR

ATTEST:

CLERK