

Oakwood, Dayton, Ohio

May 2, 2007

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., Dayton, Ohio, 45419, at 4:40 p.m.

The Chair, Mr. William Kendell, presided and the Clerk, Ms. Cathy Blum, recorded.

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

MR. WILLIAM KENDELL.....PRESENT  
MR. JEFFREY B. SHULMAN.....ABSENT  
MR. STEVEN BYINGTON.....PRESENT  
MR. ANDREW AIDT.....PRESENT  
MR. CARLO C. MCGINNIS.....PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager  
Ms. Dalma Grandjean, City Attorney  
Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Dave Bunting, City Inspector

The following visitors registered:

Jeff & Susan Nielson (+ Colin), 125 Park Avenue  
Neil & Sally McLachlan, 814 Harman Avenue  
Bill & Cynthia Butt, 944 Harman Avenue  
Linda Mannarino, 721 Oakwood Avenue  
Shirley Murphy, 815 Harman Avenue  
Joan Chambers, 20 Walnut Lane  
Betty Darst, 2423 Brown Bark  
Phyllis Heck, 1221 Oakwood Avenue  
Beverly Byrd Ames, 910 Harman Avenue  
Laurie & Marinus Keller, 906 Harman Avenue  
Mary Mathews, 6050 Mad River Road  
Jan Clark, 1424 Carolina Drive, Vandalia  
Leslie Chambers, 423 Triangle Avenue  
Eric Sauer, Envision-Works, Inc. 5600 Kentshire, Kettering  
Mark Sielscarola, Envision-Works, Inc., 5600 Kentshire, Kettering  
N. Mangel, 210 Aberdeen Avenue  
C. Campbell, 625 Oakwood Avenue  
W. J. Schaff, 429 Oakmead Place  
Lisa & Reid Rupp, 146 Beverly Place  
Irvin Bieser, 790 E. Schantz Avenue  
Stephen & Debra Wright, 112 Monterey Avenue  
Amanda Wright Lane, 520 Laramme  
Diane Scott, 249 Claranna Avenue  
Jan Wallace, 345 Harman Boulevard  
Andy Waibel, 930 Harman Avenue  
Rob Connelly, 1301 Raleigh Road  
Bob & Lois Fenwick, 47 Grandon Road  
Pokey Huffman, 1100 Runnymede Road  
Darren Kall, 30 Grandon Road  
E. and Virginia Gray, 1209 Raleigh Road  
Ann Herr, 438 Garden Road  
C. William Hager, 312 Forrer  
Bill Harrell, 33 Grandon Road  
Lori & Rob Mitchell, 655 Garden Road

Roni & Don Huber, 121 Park Avenue  
Mike Parks, The Dayton Foundation  
Tony Huffman, 1100 Runnymede Road  
Kristin Carpenter, 2200 Deep Hollow Lane  
Ed Rodabaugh, 23 Hadley Road  
Anne & Chris Athmer, 9 Hadley Road  
Bob Stavnitski  
Henry Maimon, 1101 Ridgeway Road  
Mike Robinette, 1502 E. Schantz Avenue  
Steve Dankof, 530 Walnut Springs  
Doug Hammer, 1104 Far Hills Avenue  
Ruth Deddens, 801 Oakwood Avenue  
Jerry Hauer, 1235 Stockton  
Anne Hilton, 900 Harman Avenue  
Judy Gottman, 24 Grandon Road  
Gerald Sharkey, 436 Monteray Avenue  
John Chambers, Esq., Coolidge Wall Law

It was moved by Mr. Aidt and seconded by Mr. Byington that the absence of Mr. Shulman be excused. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

It was moved by Mr. Kendell and seconded by Mr. McGinnis that the minutes of the planning commission meeting held January 17, 2007 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, same passed unanimously and it was so ordered.

Application #07-3, the special use request by the Chabad of Greater Dayton for the installation of a children's play area and accessories and to vary the side yard setback for same at 2001 Far Hills was presented. Mr. Weiskircher referenced a PowerPoint presentation and explained the children's play area will be located on the south side of the synagogue. He reviewed various pictures of the area which will extend the full length of the south side of the building as well as views from W. Hadley, Grandon and Far Hills. He explained since the religious institution is located in a residential area, a special use is required as well as a variance since two of the structures are closer than the required 6' setback. Mr. Weiskircher indicated the play area includes religious amenities and will be surrounded by a 5' privacy fence, 3 1/2' fence and the existing storage shed will be relocated into the design. He noted hardscape and water features will also be included.

Mr. Eric Sauer, Envision-Works, reviewed the Chabad's request for a play area that would explore the native environment and include symbols of the Jewish religion. He reviewed the plan details, first of which was an 8 foot overhead trellis "succah" which will be used for outdoor meetings and special festivals. Moving toward the west is a water structure made from concrete with a rubber surface, then a small play structure designed like Noah's Ark for pre-school age children, the top of the structure will be 6' in height. Next to that is a smaller play structure similar to a tic-tac-toe game and torah scrolls with blackboards. Mr. Sauer indicated next to that is a raised clear wall so the children can see worms working in the dirt. He reviewed the existing storage shed which will be refurbished and relocated and include a door on each end for access to the stored play equipment. The structure will be upgraded with a new roof, siding and painted. He pointed out that the picket fenced area will include a butterfly garden. Mr. Sauer reviewed the west portion of the play area which abuts the outside higher fence and includes a tether ball and climbing structure for older children. He noted some of the structures are still in construction drawing phase, but the goal is to have the majority constructed by the end of June for a festival.

Mr. McGinnis asked about the height of the succah/trellis. Mr. Sauer responded 8-9'. Mr. McGinnis suggested they be sensitive to the neighbor on the south as it relates to the height of the structures. Rabbi Mengel explained they met with abutting neighbors and the immediate neighbor was pleased because the trellis will help block sound from the condenser units. Mr. Kendell questioned the height of the other

structures. Mr. Sauer explained a 4' maximum height on smaller structures, a tether ball pole height and then 7-9' on the play structure which will not be the initially submitted boulder concept. Mr. Byington asked if only the succah encroaches into the 6' side yard. Mr. Sauer indicated the shed encroaches the setback by a foot as does the torah chalkboard. Rabbi Mengel explained the area will primarily be used for the six week summer program and on weekends. Mr. Aidt asked if trees will be removed. Mr. Sauer indicated they plan to remove the sage orange and another tree which is not in good shape. Rabbi Mengel indicated those trees are being removed per the neighbor's request. Mr. McGinnis asked about screening. Mr. Sauer referenced the existing vegetation on the property line, the proposed 5' shadowbox fence and plantings. Mr. McGinnis believes additional screening will have a calming effect. Mr. Sauer reviewed the pictures which depict the abutting garage, existing screening, etc. Mr. McGinnis asked that it be screened as needed.

Mr. Kendell asked for comments from the audience. Mrs. Lois Fenwick, 47 Grandon Road, asked how close toward Grandon Road the play equipment will be located. Mr. Sauer explained no closer than the existing south edge of the building, the large green lawn will remain.

Mr. Chris Athmer, 9 Hadley Road, explained he lives behind the proposed succah and understood there was to be a sound wall so questioned the height. Mr. Sauer explained they are limited to a 5' fence height but explained between their home and the condenser will be two fences – one to screen the condenser units and the other to run the entire length of the south property line. Mr. Athmer indicated he misunderstood and would prefer a higher fence for screening purposes and asked for a variance on that issue. Mr. Kendell explained the ordinance does not permit any fence height variances. Mrs. Athmer asked if the fence can be part of the trellis and thereby taller. Mr. Weiskircher explained that portion of the succah could be solid rather than open. Rabbi Mengel concurred. Mr. Athmer appreciated that and wondered whether the survey had been completed. Mr. Sauer explained it will be completed next week and will be shared with Mr. Athmer.

At this public hearing evidence was presented by the applicant to meet the requirements of ordinance 1004.6, and based upon the information presented to it the Planning Commission hereby makes the following findings of fact which have been met.

### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: Installing a play area on property used for religious purposes is not inconsistent with the Comprehensive Plan. What is being proposed for the play area includes high quality accessories and other materials commonly used in residential applications.  
PLANNING COMMISSION FINDINGS: Sustained.
- 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: The previous occupant of the building, Miami Valley Unitarian Church, received special use approval in 1997 to locate a play structure and swings in a portion of this same area. Although the play area being proposed by the Chabad Center is much more elaborate than just a single play structure, the proposal before you includes screening the entire south property line with a new 5 foot high wood privacy fence. In addition, the play area itself will include extensive landscaping and hardscape features typical of a residential use.  
PLANNING COMMISSION FINDINGS: Sustained.
- 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: The play area will be fully enclosed for the safety and protection of the children.  
PLANNING COMMISSION FINDINGS: Sustained.
- 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: The play area will be primarily used on Saturdays and will be enclosed with a fence so it should not directly impact adjoining properties.

PLANNING COMMISSION FINDINGS: Sustained.

- 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: The proposed play area should have no impact whatsoever on the use and development of nearby properties.

PLANNING COMMISSION FINDINGS: Sustained.

- 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: The play area will be completely enclosed with a 5' high solid wood privacy fence running along the entire length of the south lot line. A shorter fence will run perpendicular to the 5 foot fence to enclose the west side of the play area. Both types of fences are commonly used throughout the community.

PLANNING COMMISSION FINDINGS: Sustained.

- 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: All drainage associated costs related to the proposed hardscape design are being borne by the applicant.

PLANNING COMMISSION FINDINGS: Sustained.

- 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: Since this play area will be used by children already on the site, there are no additional ingress or egress issues to be addressed.

PLANNING COMMISSION FINDINGS: Sustained.

- 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: Except for the side yard variances, the proposal conforms with all other zoning regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that whereas the Planning Commission has heard and considered the evidence presented by the applicant and other interested parties, and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are each met; and wherefore, the Planning Commission approves a portion of application #07-3, the special use request by the Chabad of Greater Dayton for the installation of a children's play area and accessories at 2001 Far Hills Avenue, and known as lot 3497-3499, be approved based on plans and information previously submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

At this public hearing evidence was presented by the applicant to meet the requirements of ordinance 1006.7, and based upon the information presented to it the Planning Commission hereby makes the following findings of fact which have been met.

## STANDARDS FOR VARIANCES

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.  
PRELIMINARY STAFF FINDINGS: The applicant is proposing to create a play area on the south side of the building in what is the side rather rear yard. This side yard area is less conspicuous than the rear yard located on the west side of the structure. There are several accessories associated with the play area that encroach into the 6' side yard setback.  
PLANNING COMMISSION FINDINGS: Sustained.
- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.  
PRELIMINARY STAFF FINDINGS: As already mentioned, this area was previously used as a play area by the Miami Valley Unitarian Church. Although the applicant has attempted to locate most of the play area accessories beyond the 6' side yard setback, the succah structure, which is 7' in height, will encroach within one foot of the property line. Keep in mind, however, that only the top two feet of the structure will be visible above the fence line.  
PLANNING COMMISSION FINDINGS: Sustained.
- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.  
PRELIMINARY STAFF FINDINGS: The purpose of the variance is to offer children an opportunity to combine play activities with religious education.  
PLANNING COMMISSION FINDINGS: Sustained.
- D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.  
PRELIMINARY STAFF FINDINGS: The alleged difficulty is created by the limited space available and the desire of the owner to place most of the equipment behind the south wall of the existing building.  
PLANNING COMMISSION FINDINGS: Sustained.
- E. The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.  
PRELIMINARY STAFF FINDINGS: The owner could still have a viable play area for children if the accessories located within the side yard setback have to be removed or relocated.  
PLANNING COMMISSION FINDINGS: Sustained.
- F. The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.  
PRELIMINARY STAFF FINDINGS: Representatives from Envision-Works and the Chabad Center met with neighbors several weeks ago to discuss the proposed plan. To date, we have not received any verbal or written communications, either pro or con, from the adjoining property owners.  
PLANNING COMMISSION FINDINGS: Sustained.
- G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.  
PRELIMINARY STAFF FINDINGS: The proposed variance should not impair an adequate supply of light to the adjoining properties nor create an adverse aesthetic appearance or impair property values.  
PLANNING COMMISSION FINDINGS: Sustained.
- H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.  
PRELIMINARY STAFF FINDINGS: The applicant has a limited amount of space and

they are trying to use the existing building to screen the taller accessories from Far Hills Avenue and Grandon Road.

PLANNING COMMISSION FINDINGS: Sustained.

- I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

PRELIMINARY STAFF FINDINGS: This application entails installing a play area for children to be used primarily on Saturdays and be enclosed with a privacy fence. Most of the accessories being proposed are typically used in residential settings, and the plans provide for extensive landscaping and hardscape features also typical of residential applications. For these reasons, it does not appear that the variance requests will be detrimental in any way to the adjoining properties.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that whereas the Planning Commission has heard and considered the evidence presented by the applicant and other interested parties, and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves a portion of application #07-3, the special use request by the Chabad of Greater Dayton to vary the side yard setback for the installation of a children's play area and accessories at 2001 Far Hills Avenue, and known as lot 3497-3499, be approved based on plans and information previously submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Application #07-2, the special use request by the Wright Family Foundation and Dayton History for a museum use at Hawthorn Hill in order to present the former home of Orville Wright at 901 Harman Avenue to the general public for limited and controlled use, was presented. Mr. McGinnis announced that he will recuse himself from this application per the direction of the city's Law Director since his home is in the immediate neighborhood and it could present an ethical issue. Ms. Grandjean concurred per ORC 102.03. Mr. Kendell noted if the commission votes, it will require unanimity from all three for approval since Mr. Shulman has also recused himself as an immediate neighbor. Ms. Grandjean concurred but noted they do have a quorum to proceed. Mr. Kendell asked if Mr. McGinnis may be asked questions since his opinion as a planning commission member is valued. Ms. Grandjean explained Mr. McGinnis may participate as a member of the audience. Mr. Kendell explained they are short another member who also lives in the neighborhood and has asked to be excused.

Mr. Weiskircher referenced a PowerPoint presentation and reviewed the following. In August, 2006, after more than 58 years of ownership, NCR returned the home to the Wright Family through the Dayton Foundation. If the museum special use request is granted, the applicants are proposing to open the home for public tours subject to the following conditions and restrictions:

- 3 tours per day, duration of 45 minutes to one hour.
- Tours to be held Wednesday-Saturday from 9 a.m. to 3 p.m.
- Tour participants must purchase a ticket at Carillon Park and be transported to Hawthorn Hill in a mini-bus or van.
- No one may park on the street and participate in the public tours.
- No retail sales will be permitted at Hawthorn Hill.
- No outside signage to be erected identifying Hawthorn Hill to the public.
- No exterior changes or improvements to the property are contemplated except those that may be required by the Americans with Disabilities Act.

Mr. Weiskircher explained the Wright Family has expressed their desire to test this “model” for at least six months and then review it with the city, Dayton History, The Aviation Heritage Foundation and a committee of two or three neighbors. The Wright Family has also expressed their desire to eventually transfer the property to the National Park Service (NPS). Should the NPS assume operation of the property, the Wright Family Foundation, in cooperation with Dayton History, intends to remain involved in operations and programming as outlined in a Park Partnership Operating Agreement (PPOA).

Mr. Weiskircher referenced a proposal submitted by the Hawthorn Hill Neighbors Association at a March 20 meeting that was held with some council members, staff, neighbors, Stephen Wright, Amanda Wright Lane, and Dayton Aviation Heritage representatives. At the conclusion of the meeting, Mr. Butt, representing the neighbors, submitted the conditions acceptable to the neighbors. Mr. Weiskircher reviewed a chart that compared the public access proposals and conditions from the Wright Family Foundation and the Hawthorn Hill Neighbors’ Association as it relates to proposed public tours, site access, origin of tours, on-street parking, exterior change or improvements, signage, on-site sales, special events, care and maintenance and future ownership. He noted that Jones Lang LaSalle, originally hired by NCR to oversee the maintenance of Hawthorn Hill is being retained by the Wright Family. (Note: Said chart has been incorporated into the planning commission application file).

Mr. Kendell asked how many meetings have been held on this issue and the number of neighbors in the Hawthorn Hill Neighbor’s Association. Mr. Klopsch explained there have been 15-20 meetings with various groups over the past six months. The first several months, included the Wright Family Foundation, Aviation Heritage and Dayton Foundation to which he was asked to participate due to the surprise gift from NCR of the Hawthorn Hill home to the Wright Family. Mr. Klopsch noted within the last couple months the city organized two meetings, one in early February, the next in March and notices were mailed to the abutting 25 neighbors.

Mr. Kendell explained the Planning Commission’s first interest is to the neighbors/community and he believes the second is the importance of Hawthorn Hill and the Wright Brothers to the world. His initial impression is that he doesn’t want people driving around; however, Oakwood has a significant structure in the community as it relates to aviation heritage. It is his understanding the neighbors aren’t against sharing the home with the public but are concerned with how. He indicated a lot of different groups are meeting and discussing the issue and the commission’s role is to listen to all comments and determine what is in the best interest of the community. Mr. Klopsch indicated over the last few weeks, it has become very clear to him that there is not one unanimous position from the neighbors, there are differing opinions. Mr. Kendell indicated the commission will probably not vote today.

Mrs. Amanda Wright Lane introduced her brother Stephen Wright, Mary Mathews with Dayton Aviation, Mike Parks with The Dayton Foundation and Don Huber, neighbor across the street. She thanked everyone for participating and hopes they will understand why they want to open the home. They have put together a thoughtful plan that will not change the complexion of Oakwood and that initial model will probably need to be tweaked after it is tried. She indicated it would be a shame not to try and make this work since Hawthorn Hill is full of stories to share which will inspire many. Mrs. Wright Lane reviewed a reminiscence of her father opening Christmas packages from his Uncle Orv which succeeded in getting him to think and be challenged. She indicated not only was he a famous man, but a fun family uncle. She also reviewed several thank you notes from Harman School children that were recently entertained at

Hawthorn Hill. Mrs. Wright Lane indicated they have a chance to bring an unforgettable experience to the community and nation by opening the front door of Hawthorn Hill.

Mr. Stephen Wright explained although they are requesting a museum status for the property, for the past 97 years it has been a museum/monument. The Wright Family Foundation would like to invite guests in during restricted hours to visit the home since the region embraces its strong aviation heritage. If approved, there is a concise plan for a few visits to this landmark and they are committed to a low neighborhood impact. He is also an Oakwood homeowner and is concerned with property values, safety and security. The details include minimum visits, a short van ride that will avoid the Harman School lunch time, a reasonable number of visitors limited by captive transportation and the vigilance of a tour guide. Mr. Wright believes this proposal is far more controlled than public walks near his home. He reiterated the plan may need to be adjusted but it takes into consideration that the quality of life be maintained. The Wright Family have welcomed input from the neighbors, planning commission, Mayor Cook and Mr. Klopsch. It is their belief the sooner they start the better - that is the true test. Mr. Wright indicated they owe it to Uncle Orv to share his home and stories to the world and if the commission thinks that is impossible, they should think about his uncle's dreams and visions.

Mrs. Mary Mathews, Aviation Heritage Chair, explained they are the managing entity of 8 counties in Ohio. She has served as Director of the Carillon Historical Park and on the National Centennial of Flight. She indicated Hawthorn Hill is a national treasure they are proud to have in the area, the only remaining house in the region connected to Orv. She indicated for 100 years, the house has been the object of interest and visited by many from Presidents to fourth graders, it makes an impression. Mrs. Mathews noted Hawthorn Hill makes an impression in the Dayton region, has been well preserved and adds to the beauty and peace of the neighborhood. She noted Orv recognized the value of living in Oakwood as does Stephen Wright. She has been fortunate to know three generations of the Wright Family, attested to their family traditions and is pleased this generation wants to take on the stewardship to protect the home. On behalf of the Aviation Heritage, Mrs. Mathews urged approval and noted the city will be seen as national leaders in opening Hawthorn Hill.

Mr. Mike Parks, Dayton Foundation President, is pleased with the relation the Foundation has with the Wright Family and is very excited to partner on this national treasure project. He explained Amanda and Stephen are trustees of the Wright Family Foundation and have maintained the structure since last August when NCR contacted Amanda about the gift. He noted the house is in impeccable condition thanks to the tremendous upkeep of NCR but an expensive venture of approximately \$100,000 per year to maintain. Mr. Parks indicated the Wright Family has made a commitment and has the necessary funds - revenues are received from the use of the Wright Brothers' images. He indicated the Dayton Foundation will support the Wright Family with contracts, insurance and other issues and are proud to work with them on this request. Mr. Parks urged that the application be approved.

Mr. Don Huber, 121 Park Avenue, introduced he and his wife Roni who live across the street from the front of Hawthorn Hill. He referenced a letter of support they submitted. He indicated for 30 years, they have been inspired by that wonderful home which is an asset that should be enjoyed by more. He hopes it will be made available to the area and is assured it will continue to be preserved. Mr. Huber indicated they will be impacted the most and thinks this national museum will benefit them and the city. He urged the commission to consider this which in turn will inspire others.

Mr. Wright asked if there were any questions. Mr. Byington referenced the agreement with NCR which requires the property be turned over to NPS. Mr. Wright explained the agreement states they must make a good faith effort to transfer to the NPS. Mr. Byington asked if there is a time frame. Mr. Wright indicated by August, 2014, they must make good faith effort to transfer to NPS or another non-profit organization. If not done, then the property will revert back to the NCR Foundation. Mr. Byington asked about annual maintenance. Mr. Wright responded \$100,000 per year. Mr. Aidt asked about the cost of the tours. Mr. Wright indicated they propose 45 a day and will have to wait and see how to factor in the wear and tear – they don't know how that will impact the wooden floors. Mr. Byington asked if they have consulted any experts. Mr. Wright indicated the NPS has inspected the home which they said is in

great shape, however, since they aren't official partners yet, they don't offer specifics. Mrs. Wright Lane indicated as part of the Aviation Heritage, they can consult with the NPS and have applied for grants as it relates to furnishing and restoring the interior. Mr. Byington questioned the logistics of running a museum. Mrs. Wright Lane has spoken with experts on how tours are run and are working on the model of a maximum of 45 participants per day. She indicated they have also looked into renting or purchasing a vehicle, safety of neighbors and the proposed tours. Mr. Byington asked if there is a preservationist available to help with the potential impact on the home. Mr. Wright referenced Jones Lang LaSalle which has maintained the home and will notice any potential impact. He indicated the cost of the tour is designed to only cover the vehicle, tour guide, reservations, etc., no planned profit.

Mr. Kendell indicated there has been a lot of concern with NPS assuming control of the property since they are not bound by local ordinances. He wondered if they have anything from the NPS about their philosophy in that regard. Mr. Wright indicated the website clearly states the intent to become involved with the community to assist in the history and education. Mr. Byington noted some citizens are excited about the NPS involvement. Mrs. Wright Lane referenced the Thomas Edison home in New Jersey that is part of a gated community and NPS. She indicated 20 years ago, a cooperative agreement was made between the neighbors and NPS which has since run its course and they neighbors were so pleased, they didn't need another agreement. She indicated the NPS becomes part of the community. Mr. Wright also referenced the Park Cottage from the FDR estate and Eugene O'Neals home in an exclusive California neighborhood. Mr. Kendell asked for more information from the NPS. Mrs. Wright Lane noted she is working on legislation before congress, but tonight they'd like to begin the tour process in partnership with Dayton Aviation.

Mr. Kendell asked for a representative from the Neighbors Association. Mr. William Butt, 944 Harman, referenced the question about the number of involved neighbors and indicated they have 30 signatures on the petition that opposes this proposal, the NPS and outlines their suggestions. He reviewed his personal background – eighth generation and his great-grandfather moved to Oakwood in 1913 after the flood and knew the Wright Brothers. His grandfather grew up in Oakwood and lived in town until he was 99, his mother grew up in Oakwood and walked to Harman School and they have lived in town for 30 years and raised their children here. He indicated they didn't leave when their children graduated because Oakwood has great schools, the city is well run, wonderful safety and how zoning ordinances are enforced to maintain the quality of housing. Mr. Butt noted Oakwood is a beautiful city with tree lawns, high property values, a most desirable place in the area to live. They are proud of Oakwood, Dayton Aviation and the Wright Brothers but wonder if a special use for a tourist attraction/National Park will adversely change the character of the neighborhood. He believes it is impossible not to change the character and added they have already noticed a change with the recent advertising of public tours. Mr. Butt indicated the Wright Family members, city and representatives have tried to work together. He questioned whether this is good for Oakwood since having this on the aviation tour would change the heritage of the neighborhood and diminish property owner's enjoyment. Mr. Butt believes this would take away his privacy and safety, decrease the value of the home and hurt all of Oakwood.

Mr. Butt indicated they have known Hawthorn Hill as a quiet residential neighbor for 30 years and in the R-1 zoning district, a museum use is prohibited except as a special use. He referenced the proposed tour vans in the area, however, reiterated due to advertising, they have seen a significant increase in the number of cars, buses, people on their lawn getting photos, etc. Mr. Butt agreed no one can control who or when someone is in the neighborhood but with approval of the proposed tour schedule, there could be 10,000 visitors per year paying \$15 to visit which only would dwarf the number of those driving by and taking photos. He wonders if the visitation schedule would change if Hawthorn Hill becomes popular. He indicated there are no guarantees from the NPS, changes can be made regardless of an initial agreement and given the high profile of the NPS, there would be an increase in the numbers of people visiting the site. Mr. Butt believes the vans from Carillon will create a commercial atmosphere to the area and noted the zoning ordinance is written to protect the residential character. He gave credit to his wife's suggestion that the house remain residential. Mr. Butt requested the proposed plan be abandoned, recalled 30 years ago when NCR guaranteed they would always own Hawthorn Hill, never open it to the public and since NCR returned the home to the Wright Family, he suggested that perhaps one of the Wrights

should reside there. He suggested the city make a contribution to an endowment for maintenance of the home from the recent estate tax windfall. Mr. Butt urged that the home remain residential and if the Wrights want to open to the public, it be on a limited basis only specific days of the year. He also suggested a fundraising effort to help maintain the home and personally pledged \$10,000 to the Wright Family Foundation contingent on the Family accepting the neighbor's proposal.

Jeff and Susan Nielson, 125 Park Avenue, purchased the home across the street this past June and being new to the area chose Oakwood because they were assured that based on strict zoning, Oakwood is worth the investment. They never imagined within a year the request to rezone the property and expressed concern with the increase in tourist traffic. He has seen two separate vehicles within minutes park, walk on the Hawthorn Hill lawn and asked them for details, as well as two vans with tourists and a volunteer guide, limousine letting a wedding party stop for photos as well as using their property to get pictures. Mr. Nielson indicated they are concerned with the increase in traffic, with the request for 10,000 visits per year which will drastically change the character of the area and impact the city's children and schools. They recently met with a woman who grew up in their home as a child and learned a lot of Orville Wright who loved children, loved living in Oakwood but was a quiet man. Mr. Nielson wondered what Orville would think of the neighborhood being overrun with visitors. He believes the proposal will exacerbate the problems they have already encountered and asked the commission to vote no.

Mr. C. William Hager, 312 Forrer, has been a real estate broker on Park Avenue for 35 years and involved in the sale and preservation of properties in Oakwood. He put his own money into the National Registry of the Schantz Historic Park and the Shafor Park Hill. In 1992, the National Trust met with he at the then Mayor Ireland's home to accept 377 homes into the Registry. Over the years, he has been involved in the historic preservation of properties in Ohio and in 1995; the National Trust referred to the best nominations from Oakwood of architecture significance. Mr. Hager expressed concern that the ordinance to protect the city can be over-ruled by the federal government and the tranquility/safety of the community will be at issue. He indicated in 1948, NCR purchased the Wright estate for \$68,000 and has done a great job of maintaining the property. He had an Oakwood resident who wanted to purchase the magnificent home for \$3M. Mr. Kendell wondered about the acreage when NCR purchased the property. Mr. Hager responded it was five acres, now there is approximately three. Mr. Hager expressed concerns with the safety of children, increased car visits which in turn will affect the security and welfare of the citizens. Mr. Hager referenced problems with federal funds for NPS from the Department of Interior. He wondered who would have authority if federal funding can't maintain the property. Mr. Hager urged the commission to postpone this request and the neighborhood remain as is.

Mrs. Lori Keller, 906 Harman, responded to the Wright Family's desire for community involvement and the reception held for 33 neighbors when NCR gave the property to the Family. She recalled hearing how excited they were and although they hadn't reviewed options, would make no plans and would include the neighbors. She indicated at the initial reception there was no mention of the NPS. Mrs. Keller indicated seven months later, they are presented with a formulated plan, haven't listened to the neighbors, only respond in writing with incorrect information. She indicated they want controlled public access yet have allowed Dayton Aviation and others to add Hawthorn Hill's address to be published on nationwide information which has brought numerous visits to the property. She believes the Carillon vans will only compound the traffic which in turn will necessitate greater police patrol and manpower at a cost to the citizens, not the Wright Family Foundation. Mrs. Keller indicated the city will obtain nothing but prestige of Hawthorn Hill; citizens need to take care of Oakwood, not the region. She noted Hawthorn Hill was built in 1915 and Orville lived there until 1948 when NCR took it over. She indicated many neighbors have owned their homes for 20-50 years and when they bought their home they were told Hawthorn Hill would remain as a private guest home and the public was not allowed to visit. They live near this quiet beauty and if Hawthorn Hill is opened, they will lose that beauty and privacy. She expressed concern with children walking while strangers mill around and although times have changed, they need to look at the impact to the citizens. Mrs. Keller referenced how the proposed tour route was reviewed by Harman School Principal Loper and that it wouldn't interfere with school hours which will increase the impact on Park Avenue which is already congested with the police/fire and businesses. She noted kids visit Ashley's during the times of the tours which will add to traffic and potential accidents.

Mrs. Keller indicated she has lived in Oakwood most of her life, third generation and her grandfather and father knew Orville who was a private person. She wondered what they think Orville would say about this intrusion.

Mr. Andy Waibel, 930 Harman Avenue, asked that the commission table or deny the request. He referenced the city's Comprehensive Plan and concern from neighbors about the NPS and sharing this treasure with the nation. He agreed this is a tough challenge for the commission. In the Comprehensive Plan, it states that the residential use be maintained with future emphasis on maintenance and preservation of the neighborhood characteristics and that commercial areas not impact residential areas. He suggested a middle ground proposal be reached and agreed that 10,000 visitors a year is too many in a neighborhood, much less the city. Mr. Waibel had a recent conversation with a neighbor who wouldn't let their children walk to school given the "Santa Claus character". He indicated Oakwood is a protected city and he doesn't want the national government controlling it. He believes the tranquility is in jeopardy and asked that they consider tabling the request.

Mr. Neil McLachlan, 814 Harman Avenue, moved to Oakwood eight years ago since it is a special place to live, good schools, neighborhoods, sidewalks and shared values. He came from an historic neighborhood in Orchard Park, New York and a home that was built in 1865 with a small brass plaque which resulted in lots of drive by tours, people pulling on to their lawn, and being comprised by well meaning observers. Mr. McLachlan indicated they had concerns buying near Hawthorn Hill but were assured by the realtor that local controls are in place. He is uncomfortable in speaking and urged the commission to continue their sound judgment, preserve the character of the neighborhood and turn this request down. He feels it would be bad for the neighbors and the city would have nothing to gain – 10,000 visitors is too many and with those numbers something bad would happen. He noted although they propose controlled access, it will create uncontrolled disruption which will change the character of the area. Mr. McLachlan indicated from his experience this will create problems including the city's infrastructure, traffic, strangers, parents afraid, etc. He believes this will lead to requests from Hawthorn Hill to expand the parking, variances, and an increase in city costs for additional safety services, street cleaning, etc. Mr. McLachlan indicated this proposal is just the beginning and without local controls, the changes may be dictated and unforeseen. He asked that this not happen and will support other Oakwood neighbors if this was requested in their area. He referenced the special use standards and believes this request violates various sections. Mr. McLachlan urged the commission to turn down this proposal, thanked them for their hard work, and looks toward a good solution.

Mr. John Chambers, Esq., Coolidge Wall, is representing Hawthorn Hill neighbors and will finish up the comments. He indicated there is evidence that the plan fails to meet special use standards. He understand the legend of Orville as do many in the audience and he personally worked as a member of the Montgomery County Historical Society and recalled the excitement when they got to visit Hawthorn Hill. He indicated the proposed 10,000 visits per year on a van to Hawthorn Hill, with a lot of strangers in the vans, and driving around in cars will create problems. Mr. Chambers indicated the Comprehensive Plan calls for the maintenance of residential use and the museum proposal doesn't fit. He noted special use standards B, C, D and H are in violation and a significant change to the neighborhood would happen. He indicated they have already publicized the home and there was even a television story earlier in the day which has increased drive-bys. Mr. Chambers referenced the Wright Family stating this would be no different than the NCR use, however, NCR only opened Hawthorn Hill privately. He noted the internet is available to everyone and they have already advertised on websites. Mr. Chambers indicated a lot of problems and reasons have been stated which would justify denying the request. He understands the Wright tradition but Oakwood is a special community. He recalls being on Oakwood staff and issues with citizens concerns with regulations and how evident it was that the city strongly enforces its rules. Mr. Chambers noted everyone knows they can count on the city to do the right thing for the neighborhoods and asked them to vote no.

Ms. Betty Darst, Beavercreek, moved to Dayton in 1979, lived in Oakwood for a while and was personally touched to know that someone who changed the world had also lived in Oakwood. She hopes the children of tomorrow can have that same feeling. She urged the commission to do the impossible and

approach the next century by making this monument available to children so they can hear the stories. She presented information about the famous people who have visited Hawthorn Hill and visitors from France who received such joy in visiting. Ms. Darst indicated Oakwood has this legacy and she asked that it be shared with the world.

Mrs. Lori Mitchell, 655 Garden, agreed this is a treasure that Oakwood should open. She heard a lot of concerns but asked that the Wright Family be permitted to open up Hawthorn Hill.

Mr. Kendell asked for other comments. There were none. Mr. Kendell suggested that the matter be tabled; he appreciated all the comments and in the interim, suggested the commission look carefully at the special use standards. He also urged the Wright Family Foundation and neighborhood groups meet and work toward a compromise. He had asked the city manager, prior to his departure, if the city could invite the groups to meet again, to work out the items yet to be resolved. He suggested the issue be reviewed in June or whenever the parties are ready. Mr. Byington agreed the issue should be tabled since a lot of points were made at the meeting, a lot of information to review. He'd also like to verify some things and get the facts straight. Mr. Aidt concurred and would like to see a compromise reached. Mr. Weiskircher indicated staff will coordinate same.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Byington that application #07-2, the special use request by the Wright Family Foundation and Dayton History for a museum use at Hawthorn Hill in order to present the former home of Orville Wright at 901 Harman Avenue, to the general public for limited and controlled use, be tabled.

Mr. Weiskircher updated the commission on the Sugar Camp OIG/Versant request. He indicated council adopted enabling legislation at the April 23 meeting.

The Planning Commission adjourned. The public meeting concluded at 7:07 p.m.

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CHAIR

ATTEST:

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CLERK