

Oakwood, Dayton, Ohio

August 1, 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 4:30 p.m.

The Vice Chair, Mr. Jeffrey Shulman, presided and the Clerk, Ms. Cathy Blum, recorded.

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

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

Officers of the city present were the following:

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

The following visitors registered:

Dr. Kathryn Sanford, 209 Forrer Boulevard  
Martin Kim, MVRPC  
Ana Raminez, MVRPC

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

The minutes of the June 6, 2007 meeting were reviewed. Mr. McGinnis indicated some of his comments during the special use standard review of the Wright Family Foundation/Hawthorn Hill application were not correctly noted and he did not hear the chair make a decision on the special use standards as the minutes reflect. Mr. Shulman concurred; he did not hear the chair's vote. Mr. Weiskircher explained there is an understanding between Mr. Kendell and Ms. Blum that unless he states nay, it is a yea vote and although everyone concurs that Mr. Kendell did not verbally vote, in an e-mail exchange with Ms. Blum, he confirmed that the minutes were correct and his silence meant a yea vote. Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that the minutes of the planning commission meeting held June 6, 2007 be approved as submitted subject to revision submitted by Mr. McGinnis with his reference to the standards, and the reading thereof dispensed with at this session. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Weiskircher indicated Mr. Butt has requested his written comments be officially included in the record. Mr. Shulman referenced Mr. Butt's written comments and request that this be made part of the record. Mr. Byington would prefer that the document not be included since they are opinion statements, the commission had a different perception and it is their duty to change the minutes. Mr. Shulman concurred with Mr. Byington so withdrew the suggestion that the comments be included.

Mr. Shulman reviewed the meeting procedure and asked that City Attorney Dalma Grandjean swear in witnesses. Dr. Sanford indicated she has no presentation but will answer questions. Ms. Grandjean swore in Dr. Sanford. Application #07-5, the special use request by Kathryn Sanford to vary the 50% rear yard green space requirement for the installation of a deck and paver patio to the rear of 209 Forrer was presented. Mr. Weiskircher referenced a PowerPoint presentation on this request and the plot plan – explaining the area highlighted in yellow is the 35' rear yard area, 50% of which should not be covered with impervious surface. He reviewed a picture of the rear yard that depicted several large trees which make it difficult to grow and maintain grass.

Mr. Weiskircher referenced the originally submitted concept plan of the wood deck and pavers which extend along the east property line. The 50% green space requirement is 875 s.f., the existing garage and drive take up 522 s.f., and the proposed wood deck and pavers cover 755 s.f.; with an excess of 402 s.f. He explained since the original concept was submitted, staff has worked with the applicant and proposals A and B were submitted. Mr. Weiskircher referenced proposal A which removes some of the pavers in lieu of more landscaping for a net decrease of 60 s.f. in pavers; thereby reducing the proposal and only exceeding the requirement by 342 s.f. Proposal B is what is being requested and preferred by the applicant. The majority of planting stays the same but the area on the east, by the fence, is reduced by another 105 s.f.; therefore exceeding the requirement by 269 s.f. Mr. Byington asked what the percentage is, since the original was 68%. Mr. Weiskircher indicated he would calculate same.

Mr. Shulman asked about the proposal. Dr. Sanford explained she has been remodeling the interior of the house over the years and is now ready to work outside. Given all the existing trees, which she doesn't want to sacrifice, she'd like to use the area for small gatherings. Mr. Shulman referenced the fence across the rear. Dr. Sanford indicated there is a green easement on the backside of the fence, a four-unit apartment to the west (therefore wants privacy so the proposal is toward the rear of the lot) and noted the neighbor to the east submitted a letter of support. Mr. Shulman indicated they do have a letter from the Carmichaels, 215 Forrer. Mr. McGinnis questioned the width of the wood deck across the rear of the lot. Dr. Sanford explained the hot tub will be located behind the garage for privacy and since the northeast corner of the lot gets sun in the afternoon, they'd like pavers for a sitting area. Mr. McGinnis suggested they not use the entire width. Mr. Byington asked about the patio area. Dr. Sanford explained that will contain an oval dining table that seats six plus a grill. Mr. Byington asked about connecting the planting areas. Dr. Sanford explained that area is open for traffic flow. Mr. Shulman asked about the doorway. Dr. Sanford explained there is no rear access; she will use the steps off the drive, easier kitchen access.

Mr. Weiskircher indicated the overage is 31%, without calculating the garage area. Mr. Byington noted since proposal B is a reduction of 140 s.f. from the original, then this is an 11% overage from the required 50%. Mr. Aidt asked that the rear yard line be depicted on the concept plan. Mr. Weiskircher pointed out that is approximately at the planting beds. Mr. Byington indicated they need to review the reasons for this request – difficult to grow grass in the shaded area and the situation warrants the improvement although it creates additional impervious area. Mr. Weiskircher added that Dr. Sanford and her landscaper have been very cooperative in reworking the proposal once they became aware of concerns with the amount of impervious surface being proposed. Mr. Aidt asked about similar applications. Mr. Weiskircher explained there have been a number of cases over the years in which applicants proposed improvements that exceeded the 50% green space requirement. He noted the root system from the existing large tree along the west property line near the garage has caused the driveway to heave and the applicant is willing to improve that area. Mr. Shulman asked about timing. Dr. Sanford explained after she completes the yard project then she will address the drive and noted several experts have indicated she needs to be careful not to cut the tree root so she hasn't finalized plans on the driveway and preservation of the tree. She noted she will not leave the drive as is. Mr. McGinnis extended compliments on the concern for the tree but expressed concern that a precedent not be set on everyone building up the rear yard. He reiterated concern with the large deck. Dr. Sanford indicated the proposal has already been reduced.

There being no other comments, Mr. Shulman closed the hearing. Mr. Byington understands concern with not setting a precedent but believes these are unusual circumstances in order to save a large tree, etc. He indicated if they say “nay”, the yard could remain as is versus saying “yea” which would improve the property. Mr. Byington noted each application is reviewed and evaluated on its own merit. Mr. Shulman concurred and noted historically they have had these requests on small lots and added the owner has reworked the proposal.

#### **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: We do not believe that the proposed improvements are consistent with the goal of the Comprehensive Plan that improvements

be compatible with the existing neighborhood character.

PLANNING COMMISSION FINDINGS: The reductions in the amount of impervious surface in the amended plan is more in keeping with the goals of the Comprehensive Plan.

- 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: Under the proposed plan, expect for a 4.5 foot landscaping area adjacent to the rear fence line and a foundation planting bed that will extend to the west side of the house, the entire remaining rear yard will be covered with a wood deck and paver patio. Covering this much green space with impervious surface is inconsistent with ongoing efforts, especially with smaller lots, to maintain as much green space as possible and at the same time allow residents the opportunity to make improvements to their property to meet lifestyle needs. In short, allowing this much rear yard space to be covered with impervious materials changes the character of the area.

PLANNING COMMISSION FINDINGS: The revised proposal is consistent with what other residents have done when faced with similar yard conditions created by tree canopies so the proposal will not change 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: Granting the special use would be a departure from the planning commission's longstanding practice of maintaining traditional neighborhood character by limiting the amount of impervious surface that may be used to cover available green space.

PLANNING COMMISSION FINDINGS: The Planning Commission concluded that the proposed modifications to the original plan resulted in a plan that was consistent with what other residents have been permitted to do in similar circumstances so the resulting deck and paver patio should not be detrimental to the neighborhood.

- 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: While the plan will probably not be injurious to the reasonable use and enjoyment of other property in the immediate area, covering nearly an entire rear yard with impervious surface may impact property values if it becomes an acceptable practice.

PLANNING COMMISSION FINDINGS: The resident is making a significant investment to improve conditions in her rear yard and there is no evidence to suggest the improvements will diminish property values in the immediate area.

- 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: Not applicable to this application.

PLANNING COMMISSION FINDINGS: Concur.

- 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: Not applicable to this application.

PLANNING COMMISSION FINDINGS: Concur.

- 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: Any drainage related improvements associated with the deck and paver patio will be provided at the applicant's expense.

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: Not applicable to this application.

PLANNING COMMISSION FINDINGS: Concur.

- 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 exceeding the 50% green space requirement, the application conforms to all other applicable regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Ms. Grandjean asked if the standards have been met. Mr. Shulman indicated the 50% requirement has not been met since the proposal is at 61% but the commission approves the request with that exception. Discussion ensued in regard to the special use standards. Mr. Weiskircher asked if the motion will include any time restriction in regard to staff's suggestion that the driveway be improved. Mr. Shulman wondered if there is a general idea on timing. Dr. Sanford reviewed her timing schedule. Mr. Byington suggested a year be given for the driveway improvement.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that in regard to application #07-5, the special use request by Kathryn Sanford to vary the 50% rear yard green space requirement for the installation of a deck and paver patio to the rear of 209 Forrer Boulevard, and known as lot #742, that the Planning Commission has heard and considered the evidence presented by the applicant and has heard and reviewed the staff's preliminary 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 except that the standard relating to the percent of impervious surface was not met but they grant an approximate 61% area; and wherefore, the Planning Commission approves the application with the following condition that the applicant will address the driveway issue upon completion of Proposal B by July 31, 2008; 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.

Mr. McGinnis explained he is council's representative to the MVRPC and has asked Martin Kim, MVRPC Director of Regional Planning, to review a new plan for the region. Mr. McGinnis explained MVRPC is a clearinghouse for federal funding, helps individual jurisdictions meet regional and state transportation plans and provides planning components for innovation in the region.

Mr. Kim distributed the following information: DVD that shows sustainable growth; copy of the Power Point presentation; proposal of the regional land use plan; and a diagram that outlines the process and timing. He urged that this information be shared with others. The following is a brief outline of the PowerPoint presentation on the MVRPC Regional Land Use Planning. MVRPC is a voluntary association of government and other organizations serving the Miami Valley to perform transportation planning activities in the region. Those activities include transportation planning, land use planning and environmental planning. He reviewed a diagram of MVRPC's role in regional issues which include whether the Miami Valley will be competitive in the global society, sustain a sense of place for future generations and continue to provide a good quality of life for future generations.

Mr. Kim referenced a chart outlining the region's population trends, a map of existing development trends and how future land use might exist. He noted given the suggested decrease in population and future land use planning, the trend is utilization of more land. Mr. Kim reviewed slides that depict urbanization trends, population statistics from the 1950's to date and a proposed trend map for 2030. The implications include: higher infrastructure and service delivery cost; "thinner" tax base; longer police, EMT and fire runs; less open space and farmland; and longer commutes, etc. Mr. Kim indicated they have surveyed citizens about land use at the regional level and were informed that a regional land use plan should be undertaken. Mr. Kim reviewed the land use planning process and referenced the proposal that was

undertaken in 2006 and received endorsement in 2007. The next slides review the purpose and scope of work with a four year timeline and project cost of \$1 million. Mr. Kim reviewed the land use planning principle to implement a conceptual land use process that is data-driven and incorporates the collective and shared vision of regional stakeholders.

Mr. Kim reviewed the three phase planning process noting they are currently in Phase I - evaluate the region's physical landscape and various socioeconomic trends. The next phase will be to explore the future landscape options based on knowledge from Phase I. The final phase will be to share the vision with the region. Mr. Kim reviewed implementation of the proposal that will take four years and noted the first phase will be funded by existing transportation funds. He then reviewed reasons why everyone should be an active participant: conserve local government resources; balance development and preservation; foster more cooperation; increase awareness of the process; and prevent inefficient development. He noted this region needs participation to be competitive, sustain a place for future generations and continue a good quality of life. Mr. Kim urged everyone to visit the MVRPC website for additional details.

Mr. Byington asked if the website will include a list of meetings/forums for participation. Mr. Kim indicated they are trying to make the website more interactive. He indicated they also plan to set up workshops with local area staff members on the initial phase. Mr. Kim noted MVRPC is also looking into a marketing/media strategy. Mr. Shulman asked about interaction with RTA. Mr. Kim indicated they work closely together; however, MVRPC works on other planning activities aside from transportation. Mr. McGinnis wondered how much money they need to raise. Mr. Kim believes they have approximately one-third allocated and aren't yet certain how they will fund the rest. He urged everyone to stay involved and support this project.

It was moved by Mr. Byington and seconded by Mr. Aidt that the Planning Commission meeting be adjourned. The public meeting concluded at 6 p.m.

---

VICE CHAIR

ATTEST:

---

CLERK