

Oakwood, Dayton, Ohio

October 1, 2008

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 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. JEFFREY B. SHULMAN.....PRESENT
MR. ANDREW AIDT.....PRESENT
MRS. REBECCA BUTLER.....ABSENT
MRS. HARRISON GOWDY.....PRESENT
MR. STEVEN BYINGTON.....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:

Mary & Claude Malone, 303 E. Schantz Avenue
R. L. Ordeman, 619 Oakwood Avenue
Matthew & Lisa Kell, 247 Volusia Avenue
Nancy Cauley, 241 Volusia Avenue
Martha Haley, 400 Irving Avenue
Kate Burch & Rodger Gamblin, 8 Springhouse Road
Susan Schaller, 241 E. Schantz Avenue
Tommy Routsong, 494 Lookout Ridge
Dave Montgomery, 2700 Kettering Tower
Lance & Patty Roll, 201 Volusia Avenue
John Holdren, 269 E. Schantz Avenue
Allison Dinning, 224 Volusia Avenue
Lois Thomas, 223 Volusia Avenue
Rob Degenhart, 248 Volusia Avenue
Joanne McPortland, Dayton
Judy Cook, 417 Schenck Avenue
Therese Grycz, 308 Irving Avenue
John Wittman, 256 Volusia Avenue
Larry Stockmyer, 242 Volusia Avenue
Jane Kuntz, 222 Irving Avenue
Denise Feeney, 468 Irving Avenue
Steve Young, 320 Irving Avenue
Dan & Barbara Miller, 6 Glendora Avenue
Leslie Allen, 472 Irving Avenue
George & Jane Liston, 111 Oakwood Avenue
Evie Evers Kling, 139 E. Dixon Avenue
Deanna Kissell, 269 Volusia Avenue
Lisa Corbean, 25 Oakwood Avenue
Gary & Judy Haines, 223 Oakwood Avenue
Kent & Phyllis Miller, 109 Oakwood Avenue
Leslie Paolucci, 259 Volusia Avenue
Ted Bucaro, UD
Molly Dineen, UD
Harvey Lehrner, 126 E. Schantz Avenue

Jason Archdeacon, 226 Irving Avenue
C. C. Beardsley, 246 Irving Avenue
Mike Bruggeman, 220 Volusia Avenue
Sonya Goecke, 217 Oakwood Avenue
Joseph Thoma, 223 Volusia Avenue
Al Leland, 1 Talbott Court
George & Linda Skuns, 1716 S. Main, Dayton
Zerla Stayman, 1221 Runnymede Road

Mr. Shulman reviewed the meeting procedure and gave the applicants the option to postpone their hearing until all five members are present.

It was moved by Mr. Aidt and seconded by Mr. Byington that the absence of Mrs. Butler 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 Mrs. Gowdy and seconded by Mr. Byington that the minutes of the planning commission meeting held August 13, 2008 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 #08-9, the request by Routsong Realty, LTD. To rezone residential Lots 149, 150, 151 (20 Oakwood Avenue), 153 and 154 (222 Irving Avenue) to Neighborhood Business District for the purpose of using those properties as part of a planned development that includes a 10,465 square foot retail building, was presented. Mr. Weiskircher referenced a PowerPoint presentation and reviewed the following. The applicant is requesting to rezone Lots #149, 150, 151, 153 and 154 from residential to business use. This rezoning request is associated with a new commercial building which includes the razing of the funeral home and two nearby residential structures and construction of a 10,465 s.f. commercial building at the southeast corner of Irving and Oakwood Avenues. He indicated today's hearing will focus primarily on the rezoning requests. Mr. Weiskircher explained the Planning Commission will hold a public hearing on the proposed Map Amendments (rezoning requests) and will eventually vote, by simple majority, to recommend approval or denial. City Council will then hold a public hearing on the proposed Map Amendments. By simple majority, City Council will approve or deny the proposed Map Amendments. If the rezoning requests are approved, a second public hearing will be held to focus on the specifics of the site development plan. He referenced photos of the property which depicted the southeast corner of Oakwood & Irving where the Routsong Funeral Home is located within the NBD; the existing parking lots south of the Funeral Home; 20 Oakwood Avenue (proposed to be rezoned and demolished); 222 Irving Avenue (proposed to be rezoned and demolished); and the east alley entrance from Irving. The next slide included a colored zoning legend of the three zoning classifications, existing Neighborhood Business District (NBD), R-5 transitional use parking lots and the R-4 residential lots. Mr. Weiskircher referenced a chart that outlined the legislative history involving the Routsong lots and east alley (which has been incorporated into the application file) and noted that according to research conducted by Harry Ebeling, the single-family home was converted to a funeral home in 1938. The next slides included the existing plot plan, the plan with the proposal sketched in, and a sketch of the proposed Routsong retail center.

Mr. Weiskircher reviewed the proposed commercial building and site plan features. Approximately 10,500 s.f. in size; 54 on-site parking spaces (12 more than required by the Code); Exterior building materials include stone and brick with tower elements on three corners and asphalt shingles; Landscape buffers between the edges of the parking areas and adjoining residential properties; Primary ingress/egress from Irving Avenue and Oakwood Avenue; and Secondary ingress/egress from public alley. He reviewed sketches of the proposed west and southwest elevations. Mr. Weiskircher referenced guidance from the 2004 Comprehensive Plan. *"The Comprehensive Plan establishes the ground rules for private improvement and development. It provides guidelines by which the Planning Commission and City Council can review and evaluate private development proposals."* Commercial uses should be located in existing commercial areas and these areas should remain small and compact, and their present

scale and character should essentially be maintained. Commercial and business areas should not adversely impact adjacent neighborhoods. Commercial traffic and parking should not “spill over” into adjacent neighborhoods. The Comprehensive Plan defines Oakwood Avenue and Irving Avenue as one of these small commercial areas within the city and recommends that: “These areas remain small and compact, and should not be expanded in the future.”

Mr. Weiskircher referenced comments from the city’s planning consultant. Phil Hanegraaf is a planner with the Chicago office of HNTB, a prominent national design and planning firm. Mr. Hanegraaf was involved with the preparation of the city’s first Comprehensive Plan in 1989. More recently, he was the lead consultant on the 2001 Zoning Code Update and the 2004 Sugar Camp Subarea Plan. Excerpts from his three (3) page report: ♦ Drive-thru feature suggests a significant increase in traffic. ♦ Developer is proposing more parking than required by the Code thus increasing the overall size of the site. ♦ Recommend that the requested rezoning of the two existing residential homes not be approved. The consultant’s recommendations include: Commercial building with a reduced footprint; Redevelopment confined to the properties currently zoned NBD and R-5; Limit parking to the number of spaces required by Code; Access to the parking lots limited to Oakwood and Irving Avenues – no access from the adjoining residential alleys; Existing homes should remain and generous buffering installed between the parking areas and the adjoining residential uses; Building design should be scaled back to more closely reflect the scale of nearby residential uses; and Drive-thru uses should not be included.

Mr. Weiskircher suggested staff’s recommendations on the Findings of Fact be heard after the applicant’s presentation. He indicated the city asked the applicant to perform a traffic study, their traffic engineer did so, and it has been reviewed by the city’s consultant and returned with suggestions but the revised study has not yet been resubmitted. Mr. Weiskircher referenced the petition received from approximately 80 neighbors objecting to the proposal as being inconsistent with the 2004 Comprehensive Plan. Mr. Aidt explained this request is to rezone the five abutting lots into NBD where the funeral home exists.

Mr. Dave Montgomery, Esq., Pickrel, Schaeffer & Ebeling, has been working with the applicant, thanked staff for its thorough report and introduced property owner Mr. Tom Routsong, K & A Architect Mr. Don Kiley, and Engineer Mr. Brad Judge. He noted sometimes zoning issues are emotional and after approaching staff several months ago, the applicant held an informal meeting with the neighbors on the proposal. He agrees the rezoning is a separate issue but you need to discuss both issues together for this proposal at Oakwood and Irving Avenues, i.e., property surrounding Routsong Funeral Home, which is currently on a lot zoned NBD and its related use has spilled over into R-5 zoned parking lots which are grandfathered non-conforming uses. Mr. Montgomery referenced surrounding uses which include the U.S. Post Office; and in Dayton a Sunoco Station and small business district that houses the Pine Club, Ben & Jerry’s, etc., and further down Brown Street, the UD campus. He explained the primary surrounding use in Oakwood is residential. Mr. Montgomery indicated the Routsong Funeral Home is no longer operational, has a long history in the community, Mr. Routsong has been a resident for many years and has a vested interest in Oakwood and future use of this site. He pointed out this isn’t an outside investor but someone who wants something good for Oakwood that is compatible with the surrounding uses. The funeral home use didn’t generate much traffic and had a limited impact; however, it’s an old building that has been through several improvements and aside from being a funeral home, the building is un-useable. Mr. Montgomery indicated the applicant wants an economically viable use that will protect surrounding property owners. He referenced staff’s report of the existing building and proposed overlay at a 250% increase; however, it is only a 2,500 s.f. increase. He also referenced staff’s report on traffic concerns; and explained access from the alley is not contemplated.

Mr. Montgomery referenced the neighborhood meeting that received publicity and compared what was initially presented at that meeting and the modifications that have been made based on comments, and with staff’s assistance, to reduce the square footage. He indicated the Comprehensive Plan has three main points staff referenced as it relates to this request. Mr. Montgomery indicated given that he received staff’s report and the consultant’s suggestions on September 30, they have not had adequate time to review and respond appropriately. He believes the Comprehensive Plan is a fluid document which can be modified, it is only a guiding tool and most communities update their Plan every 5-7 years. This Plan is

approximately five years old and when it was written, the funeral home was a viable use. He explained the rezoning is for a compact site that includes two residential lots, would bring the parking areas in the R-5 district in conformance with the NBD and cleans up access points (currently there are five and the proposal only has two). Mr. Montgomery referenced the findings and explained one relates to the interest of the community in terms of good real estate planning and use. He believes this small encroachment makes sense from a planning standpoint and the reality of change is to have a project that is in the best interests of the community and the property owner's rights.

Mr. Kiley, Architect, explained he has done a lot of work in the region and Mr. Routsong began work on this project about a year ago. Since the NBD lot is not very large, they determined it needed to be redeveloped into a viable commercial property and based on the needs of future users would include parking since there is a lack of space in the area. However, based on infrastructure and square footage costs, they needed a building that would be economically viable. He reviewed the plans shared with the neighbors at the initial meeting. Mr. Kiley reiterated they are dealing with Mr. Routsong who is a local person with a vested interest and from that neighborhood meeting comments were taken into consideration, yet a balance is needed between the neighbors' interests and the applicant's right to make reasonable use of the property. Concern was expressed about the alley traffic and safety of nearby children; the congested intersection at Oakwood and Irving; existing curb cuts; buffers between the parking and neighbors; and architecture of the building. Mr. Kiley referenced an amended plan which changed the building architecture to include a shingle roof; closed off alley access so as to not impact traffic; increased the buffer areas three times more toward Irving and four times more toward Oakwood with serious landscaping; and the existing retaining wall to the south will remain. However, based on the square footage needs they could only remove 2,400 s.f. of building so the investment may remain viable.

Mr. Montgomery pointed out the applicant has listened to the neighbors and scaled down the project. He reiterated since he only received staff's report and consultant's recommendations yesterday, they are open to tabling the issue or prepared to go forward. He also asked that he be given the ability to respond to comments from the audience. Mr. Shulman asked if increasing the amount of parking from 42 to 54 spaces was necessary. Mr. Montgomery explained they don't yet know the exact use but concern was expressed by possible business tenants about the current lack of parking in the area. Mr. Shulman asked if there is discussion with a potential user/tenant. Mr. Kiley explained some interest has been expressed, not a Wendy's but some type of transient tenant for a retail/restaurant use, a good mix to include pedestrian traffic. Mr. Aidt wondered who currently parks in the lot. Mr. Routsong explained Pine Club and Post Office staff.

Mr. Shulman asked about the traffic study. Mr. Brad Judge, Judge Engineering, explained based on the ITE trip generation information for a general retail use (which would include a restaurant) and compared to the existing funeral use, the report projected an additional two trips in the morning and 17 in the evening. Mr. Judge reported this concludes there will be no impact on the signalization. He explained the additional numbers for a drive-thru were difficult to come by. Mr. Shulman asked if there will be an impact on traffic. Mr. Judge responded only a minimal impact.

Mr. Byington asked how it makes sense to include two R-4 lots in the plan. Mr. Montgomery explained the chance is nil that the same use (funeral home) would be located there, so they are looking for a commercial use that would be economically viable for quality tenants in Oakwood. He indicated this is a good commercial corner and with a slight expansion to the east and south makes good planning sense for an upscale development. Mr. Byington asked if they looked at the economic viability of razing the funeral home and using only that site, as well as the R-5 grandfathered parking areas. Mr. Montgomery explained it makes good planning sense to eliminate the non-conformity. Mr. Routsong explained the "lease" sign has caused several inquiries; however he plans to own the property so he can control the use and do the right thing for Oakwood. He indicated the shops will be "boutique" similar to the Shops of Oakwood, not a national chain, but something that will bring the community together. Mr. Routsong indicated it would have been simple to sell but the wrong thing would be there, he is part of the community and wants something nice. Mr. Shulman asked if they looked at developing the property without demolishing the two homes. Mr. Routsong explained in studying the area and concern with lack

of parking and traffic, they didn't want to further expose the neighbors to other traffic and parking issues, so in order to attract a good tenant he wants to make something unique for the community. Mr. Shulman asked about developing only the funeral home site. Mr. Routsong indicated that is aesthetically not valuable for the neighborhood; this proposal will increase property and social values. Mr. Shulman asked if there is a possibility of a restaurant. Mr. Routsong responded yes and indicated he has a commitment for 6,000 s.f., and close to another 2,000 s.f. Mr. Shulman wondered who the tenants are. Mr. Routsong indicated he can't announce that at this time. Mr. Byington referenced comments that the building would not be commercially viable if it were two stories. Mr. Kiley indicated a two-story building gets into elevators, accessibility, etc., which is not good for retail.

Mr. Shulman opened the public hearing and invited citizen comments.

Mr. Steve Young, Irving Avenue, explained he is President of the North Oakwood Avenue Neighbor Association and believes additional retail will not delineate Oakwood from Dayton, nor do they want to provide parking for Ben & Jerry's, etc. Mr. Young submitted an additional petition, which together with the original petition brings the total to 160 neighbors who are opposed to razing the two residential homes and prefer that the NBD not extend beyond its current site. He noted although the applicant has given extensive consideration into an attractive development, the neighbors do not feel it will enhance the area. A member of the audience indicated if they rezone the R-5 parking lot areas, it will have a continuous domino impact.

Mr. David Hulme, long-time Oakwood resident and owner of the building on the north side of Irving which includes his Pine Club and tenants, explained the Pine Club has been there 62 years, he has been there 35 and understands the circumstances in the area. He indicated they have a unique opportunity to make sure this is done properly and in good taste for Oakwood. He agreed parking is a problem in that area and there are several new and enhanced buildings along Brown Street. Mr. Hulme has been concerned with Dayton's lack of judgment/attention to parking requirements for new businesses and reiterated Oakwood has a unique opportunity for a good business use. He indicated Mr. Routsong plans to do this right with parking, buffers, etc. He explained the second story above Ben & Jerry's is residential space, not viable for retail. He suggested the Planning Commission take advantage of this opportunity to approve a quality commercial development.

Mr. Lance Roll, 201 Volusia, extended thanks to staff for the presentation and referenced concern in rezoning the existing parking lots and residential lots to NBD. He believes the proposed development doesn't provide the proper gateway to Oakwood and they need to distinguish between Dayton and Oakwood as is addressed in the Comprehensive Plan.

Mr. Richard Ordeman, Oakwood Avenue, indicated any intrusion into the residential area by a commercial use is inappropriate. He opposes the rezoning and referenced the Comprehensive Plan which explains Oakwood's philosophy, and is further supported by the consultant's remarks. He hopes the commission will turn down the proposal. A member of the audience doesn't understand how this proposal could work since there wasn't enough business to support Sugar Camp, so why at this corner.

Mr. George Liston, 111 Oakwood, has lived in Oakwood for 42 years, raised his family and when his son Jon, an Oakwood police officer passed away ten years ago, his service was at Routsong's. He has no problem with the existing use but as a property owner objects to what he believes is a small shopping mall being that close to his home. He indicated the city just put in a beautiful street project with pavers/islands and it looks residential. He referenced his business experience as a board member of a credit union and how location and tenants make the difference, a Wall Street Journal article about excess commercial building space nationwide, and empty shops in the new UD buildings and Town & Country. Mr. Liston asked the commission members if they would want this close to their own property.

Mr. Rob Degenhart, 248 Volusia, agreed this would be economically viable and successful with UD student traffic but disagreed with razing the homes. He believes the applicant is addressing issues in the best interest of himself, not the community, and asked the commission to deny the rezoning.

Mr. Matt Kell, 247 Volusia, explained this is an historic district and the proposal would remove three historic structures, one of which was an original Schantz home at 20 Oakwood Avenue and a beautiful example of four-square architecture on Irving, an architectural gem. He indicated they already have heavy UD student traffic and some behavior that impacts their quality of life and property, this proposal would only add pedestrians/students in their neighborhood. Mr. Kell pointed out it's obvious by the condition of the existing property that it has not been maintained, the roof is falling in on an accessory building, there is garbage strewn, existing landscaped not maintained. He wondered how they could expect higher maintenance of a new development. In regard to traffic, he pointed out this is already a congested area and he disputes the few increased traffic counts mentioned. Mr. Kell believes a restaurant will add additional garbage/food smells in the neighborhood and pointed out the dumpster is located close to the property line. He noted this will drive down property values and asked the commission for their consideration of the neighbor's comments and vote against this. Mr. Weiskircher explained a restaurant is not a permitted use, nor a special use, in the NBD; however, a deli could be approved as a special use.

Mr. Jason Archdeacon, 226 Irving, is next to 220 so his property will be impacted. He asked if the traffic study was taken during the summer or when UD was in session. Mr. Judge explained they reviewed the funeral home use. Mr. Byington appreciated the concern but believes it's unfair to hold that lot accountable for the UD traffic. The study relates to the existing and proposed lot uses. Mr. Archdeacon explained they have a 14 month old baby, are expecting another, and might have reconsidered buying their home with this nearby proposal and the potential impact of strangers and theft.

Mrs. Allison Dinning, 224 Volusia, referenced the proximity of the commercial uses in the area and believes there is a separation from the gas station and post office, yet if they expand this corner it will further encroach into Volusia/Ridgewood/Schantz. She indicated this is an historic neighborhood and in 1938 the property was a single-family home and over time it has evolved. She believes at some point commercial evolution needs to be stopped and even if the Comprehensive Plan is fluid, it is a guiding document to be used. She indicated this infringes into the residential area, these are hard economic times and property is highly valued. Mrs. Dinning believes if the rezoning goes through, they are asking the residents to help defray the commercial area.

Ms. Cauley, 241 Volusia, is a 40 year resident and never thought of the funeral home as a business. It never occurred to her that this area could change; there are many funeral homes in residential areas; but would never have bought there if they thought the commercial area could be expanded.

Mrs. Mary Malone, 303 E. Schantz, agrees that property owners have rights; however, if it negatively impacts the area then the owner should step back and look at the request. She indicated Routsong has been a great and quiet neighbor. She believes Oakwood has a nice business district but if they start building on this corner then the business region impacts the residential area. She indicated the Schantz Historic District designation was a result of Bill Hager and others spending considerable time and money, and part of Oakwood's uniqueness. Mrs. Malone noted a lot of business development has occurred on Brown Street and in her 14 years she has seen criminal activity accelerated with that development - one neighbor's car was recently stolen. She indicated Oakwood is residential, quiet, nicely kept and suggested it stay that way. Mrs. Malone asked that Mr. Routsong protect the border/gateway with a quiet use and the commission vote no.

Mr. Claude Malone, 303 E. Schantz, referenced the Schantz Historic District designation and expressed concern that the intrusion of commercial into residential might impact the designation. Mrs. Gowdy had contacted the National Registry and the two residential homes are on the Registry - 222 is a "Louis Lott" home and the funeral home has an "honorary listing". She was informed if the area is developed; it would not take away the designation but would add more non-contributing property.

Mr. Harvey Lehrner, 126 E. Schantz, extended thanks to Mr. Routsong for approaching this the right way with an informal neighborhood meeting and making some accommodations based on concerns. He indicated they don't want to see the property sit vacant. He summarized that the neighbors don't want a

continuation of the UD commercial area encroaching into Oakwood, that Irving remain the dividing line; they don't want additional parking/retail; and don't want two older homes rezoned or razed. Mr. Lehrner asked Mr. Routsong to look at all the possibilities, perhaps a residential use rather than commercial since residents don't want a restaurant/food nor retail/boutique, or perhaps an office space. He indicated the residents have asked the commission to turn down the rezoning request.

Mrs. Carleen Turner, 230 Volusia, is an eight year resident, has raised three teenagers, and the recent wind storm renewed her neighborhood as they helped each other. She indicated this is an historical district with beautiful architecture and trees; and although they fight UD students for parking, she does not want to see the character changed. She grew up behind the Salem Mall and while it was expanding, the crime rate increased and the neighborhood character went down hill. She can't think of any business that is needed. Mrs. Turner suggested the city purchase the lot and make it into a park with a gazebo and maybe some parking. She asked that the commission represent the citizens and follow the Comprehensive Plan.

Mr. Montgomery explained the commission is charged with balancing property owner rights, neighbor rights and all of Oakwood. He referenced the petition they received and explained the property is currently zoned commercial; they can't preclude commercial use on the site. He explained Mr. Routsong looked at residential possibilities but given the significant amount of residential development proposed for Sugar Camp, that wasn't an option nor is a single-family home. He indicated Mr. Routsong is attempting an appropriate and realistic use and since he didn't hear any specific questions, he has no specific points to respond to. Mr. Montgomery reiterated they are open to tabling the request since they haven't had time to take into account staff/consultant information. He noted traffic is not a consideration of a rezoning request and until the end use is known it's hard to measure specific traffic information.

Mr. Byington recalled a market study on the commercial component of Sugar Camp, which was later removed, and asked if a market study has been done for this. Mr. Routsong explained he lives in Oakwood, believes the community is driven by its school system and it's unusual for residents to stay after their children graduate from high school. He reviewed statistics that home sales were 12% up in 2002 but down ½% in 2008; and selling prices have dropped 30% with 66% more on the market than last year. Mr. Routsong indicated he has never asked the city for money, he took over the alley; yet Oakwood bought land and is constructing a new parking lot in the Far Hills Business District. Mr. Routsong added he has never asked the city to shovel snow nor spend any money on his project. Mr. Byington asked about the market study. Mr. Routsong noted commercial property is up 6% and referenced Mr. Hulme's information that the area is viable even without parking. Mr. Byington asked what kind of barriers there would be to prevent overflow parking from the Pine Club, etc. Mr. Judge explained there would be posting and noted the difference between this and Sugar Camp is demographic. Mr. Montgomery believes the business tenants would self police parking on the site. Responding to Mr. Routsong's statements about housing statistics, Mr. Klopsch indicated although not germane to the issue, each quarter he gives council a detailed report on the housing market. He reported in June, 2007 there were about 140 homes on the market and June, 2008 only 119; the value of homes continues to go up; yet the average home sales and values in Oakwood are highest in the greater Dayton area. He noted Oakwood is jokingly called "The Dome" and they live in a tough area in southwest Ohio, not immune to economic struggles; however, Oakwood has weathered the storm because of its schools.

Ms. Grandjean asked if they received copies of the Findings of Fact and if they could verbally address them at this time. Mr. Montgomery responded he could but hasn't had the opportunity to rebut the consultant's report and believes it would be more prudent to table the issue but is happy to proceed. He also pointed out they have received comments from 16 residents today to consider. Mr. Byington questioned the documents. Mr. Weiskircher explained at the request of Mr. Schaeffer, he gave him the staff report, HNTB and LJB information. Mr. Klopsch explained legally the city is not required to automatically give the applicant the internal staff memos provided to the commission. Mr. Shulman indicated normally this is an internal memo with staff and the commission, but would certainly do so if requested. Mr. Weiskircher explained Mr. Schaeffer requested the report late this past Monday afternoon and the staff report, including the traffic study and consultant's memo, were delivered to Mr. Schaeffer's

residence on Monday evening. Mr. Montgomery explained he has been a land use attorney for over ten years and has never not seen the staff report prior to. Mr. Shulman indicated he has been doing land use law for 45 years and has yet to see the staff report in advance. Discussion ensued in regard to the Findings of Fact having been received and read, the applicant's request that it be tabled, and that the Findings of Fact be discussed at this time. Mr. Weiskircher referenced the following in the PowerPoint presentation.

WRITTEN FINDINGS OF FACT

The ordinance requires that the Planning Commission submit Findings of Fact to City Council on a proposed amendment to change the zoning classification of a particular property. Those findings are to be based upon evidence presented to it with respect to, but not limited to, the following matters.

1. Existing uses of the property within the general area of the property in question.

Proposed Findings of Fact: Except for the Routsong Funeral Home site, all lots to the east along Irving Avenue and south along Oakwood Avenue are zoned residential, including those lots that are currently used for parking purposes. On the west side of Oakwood Avenue, at the southwest corner of Springhouse Road, the Post Office parcel is zoned Neighborhood Business District (NBD) and all property south is zoned residential. The properties on the north side of Irving Avenue and the west side of Brown Street, located within the city of Dayton corporation limits, are zoned for business purposes.

2. The zoning classification of property within the general area of property within question.

Proposed Findings of Fact: Again, except for Lot #148, which is already zoned NBD, the adjoining lots to the south along Oakwood Avenue are in the R-3 residential zoning district, except for Lots #149 and #150 (existing parking lots) which have an R-5 zoning classification and Lot #151 which is R-4. Along Irving Avenue, all residential lots, with the exception of Lot #153 which is R-5 and is currently being used as a parking lot, have R-4 zoning designation. Across the street on Oakwood Avenue the Post Office parcel is zoned NBD, and the adjoining lots are R-5 so as to permit the transitional parking lot use. All residential properties south along Oakwood Avenue are zoned R-3. R-5 zoning begins at 111 Oakwood Avenue and continues south along Oakwood Avenue.

3. The suitability of the property in question to the use as permitted under the existing zoning classification, as well as, the proposed zoning classification.

Proposed Findings of Fact: Uses within the NBD classification are intended to serve the immediate neighborhood and community with a wide range of retail goods and services. The district is intended for smaller development parcels, proximate to residential areas. In contrast, the Community Business District (Far Hills Avenue) includes uses which are generally compatible with a traditional "downtown" shopping environment. There are 32 permitted uses in the NBD and an additional four (4) uses that can be approved as special uses. The intent of the NBD is to have smaller structures that are of a scale compatible with adjoining residential properties. The Tudor Salon, the two businesses at the corner of Far Hills and Schantz Avenue, and the businesses along Park Avenue are all good examples of the types of businesses, as well as the size and scale of structures intended for a NBD. The applicants are proposing a building with more than 10,000 s.f. of space. The footprint of the proposed retail building is nearly 2 ½ times the size of the existing funeral home and will extend to the south along Oakwood Avenue crossing over Lots #149 and #150, which currently serve as parking lots. The scale of this building appears to be better suited for the Community Business District rather than a NBD. Moreover, the square footage of the proposed building necessitates the request to rezone residential parcels in order to accommodate the number of parking spaces required by the ordinance. (Note: In reference to a previous comment by Mr. Montgomery, Mr. Weiskircher noted that indeed the footprint of the proposed commercial building is 2 ½ times the size of the funeral home.)

4. The current Comprehensive Plan for the city of Oakwood.

Proposed Findings of Fact: The Comprehensive Plan is very specific that small commercial areas, including the area encompassing the Post Office and Routsong Funeral Home, should remain small and compact, and should not be expanded in the future. There is nothing in the Comprehensive Plan which encourages or supports the proposed rezoning request.

5. A lot or zoning lot less than 25,000 square feet in area should not qualify for a Map Amendment, unless it adjoins a lot or parcel of land zoned the same classification as the proposal does.

Proposed Findings of Fact: On the Oakwood Avenue side of the proposed development, the only lot currently zoned for business use is the corner property (Lot 148). Lots 149 and 150 are zoned R-5, and Lot 151 is zoned R-4. Since the lot immediately to the south (Lot 149) adjoins the NDB zoned lot, it qualifies for a map amendment. However, neither Lot 150 nor Lot 151 (20 Oakwood Avenue) currently qualify for rezoning consideration since the lots do not adjoin a lot zoned for business use. If, however, Lot 149 is approved for business zoning, then Lot 150 becomes eligible for business zoning. Likewise, if Lot 150 is approved for business zoning, then Lot 151 (20 Oakwood Avenue) becomes eligible for rezoning consideration. In other words, Lot 151 (20 Oakwood Avenue) only becomes eligible for business zoning if the other two R-5 lots immediately to the north are rezoned for business use.

Along Irving Avenue, Lot 153, which is currently being used as a parking lot, is eligible for rezoning since it adjoins a lot (Lot 148) already zoned for business use. However, Lot 154 (222 Irving Avenue) is not currently eligible for business zoning since Lot 153 is zoned R-5. Lot 154 only becomes eligible for rezoning consideration if Lot 153 is rezoned for a business use. All of the lots in question, along both Oakwood and Irving Avenues, are well under the 25,000 s.f. threshold.

6. The Planning Commission shall not recommend the adoption of the proposed amendment unless it finds that the amendment is in the public interest, and not solely for the interest of the applicant.

Proposed Findings of Fact: There has been no information submitted by the applicant thus far to support why the zoning request is in the public's interest. The rezoning request and the proposed razing of the residential structures at 20 Oakwood Avenue and 222 Irving Avenue is directly related to the additional space needed in order to accommodate the parking needs for the larger retail building being proposed by the applicant. Parking for a smaller building can probably be accommodated using the existing parking lots. The adjoining neighbors have expressed their concerns during an informational meeting earlier this year over a number of the proposed plan components including, but not limited to: the proposed size and scale of the building; the additional traffic associated with the proposed use; the rezoning of residential properties for commercial purposes; the impact of a large commercial building on residential property values; and, the further encroachment of a business use into a residential district

In closing, Mr. Weiskircher indicated that city staff, and the city's planning consultant, believe that a commercial building on the corner of Irving and Oakwood Avenue is an appropriate use of the land assuming the building is in scale and compatible with the surrounding residential area. Any development should be confined to the lots that have traditionally served the existing business use and that the two residential lots being used for residential purposes should remain.

Mr. Aidt wondered what happened if the rezoning wasn't included. Mr. Weiskircher indicated the parking lots and funeral home lot would still require a site development plan review. Mr. Montgomery reiterated his request to table this. He then asked that the Comprehensive Plan points be projected so he can address the Findings of Fact (see above for numbered findings). The following is Mr. Montgomery's response to each.

1. Ohio law states adjacent residential uses (which include those in Dayton) are to be taken into consideration. The uses on the Oakwood side are residential, two abutting R-5 lots which have been used for parking along this commercial corridor in Oakwood.
2. The zoning classification is R-4, R-5 and NBD and he could bring in land use planners that state this fits the corridor, land use and existing uses.
3. They believe this is the perfect fit, the funeral home will go away and some type of viable commercial property – they can't regulate the impact of the viability of the corner, argue regulatory taking, the overall development of what they propose is reasonable and appropriate. He noted there is a small encroachment into the residential area but they plan to create a greater buffer/setback around the parking lot. He believes they presented the project appropriately as it relates to the development of this corner.

4. He referenced Mr. Schaeffer's letter dated September 18, 2008 which has been incorporated into the file and referenced herein.
5. He believes staff touched on this well.
6. This is not solely for the benefit of the applicant but a smart development of a NBD. They believe this is the most appropriate use and protects the adjacent neighbors. He indicated the property owner has certain rights and expectations, the plan has gone through reiteration and the square footage decreased for an appropriate use. He disagrees with some of the facts and believes smart zoning planners would permit this.

Mr. Montgomery referenced the Comprehensive Plan and indicated this proposal will have a minimal impact on the property owners and the use will have a greater impact than a vacant funeral home. In regard to the consultant's recommendations, Mr. Montgomery noted the consultant stated that he is not opposed to commercial development at this corner and reiterated his request that this be tabled.

Mr. Shulman commended Mr. Montgomery on his quick study and response; commended the neighbors for their patience while democracy is in action; and commended fellow commission members and staff for their patience. He wondered if this commission decided to table, would the applicant consider coming back with a different proposal. Mr. Montgomery could not guarantee the proposal would be different, but they will give the information a thorough review. Mr. Shulman indicated the commission is not interested in the same plan. Mr. Byington believes it's a fair request to table so they can review the information, but not fair for the city to ask if the request would be changed. Mr. Shulman also commended Mr. Routsong.

Mr. Dan Miller, 6 Glendora, believes the citizens have a say in this, there is a plan on the table, information has been shared and the Planning Commission owes it to the citizens to vote. Mr. Degenhart agreed, they should vote on the rezoning. Mr. Young suggested they rule on what was submitted at this meeting. Mr. Shulman believes now is the time to work on outstanding issues. Mr. Roll doesn't think the reduced footprint is viable to the neighbors, they don't want these historic homes razed and wondered what benefit there is to table the matter. Mr. Aidt explained the commission makes a recommendation which is forwarded to council; the applicant has the right to withdraw their request or table.

Therefore, it was moved by Mr. Aidt and seconded by Mr. Byington that application #08-9, the request by Routsong Realty, LTD. To rezone residential Lots 149, 150, 151 (20 Oakwood), 153 and 154 (222 Irving Avenue) to Neighborhood Business District for the purpose of using those properties as part of a planned development that includes a 10,465 square foot retail building, be tabled. Upon a viva voce vote on the question of the motion, same passed unanimously with three yea votes and one nay (Ms. Gowdy) vote.

For the record, the majority of the audience departed the meeting at approximately 7:45 p.m.

Application #08-7, the special use request by Zerla Stayman to construct a semi-circular drive in the front yard of 1221 Runnymede was introduced. Mr. Weiskircher referenced the PowerPoint presentation and reviewed photos of the property, the existing driveway condition, location of the proposed circular driveway and plot plan. He then reviewed the following curvilinear drive standards and indicated that items #1-7 meet or exceed the standard.

CURVILINEAR DRIVE STANDARDS

1. The zoning lot on which the curvilinear driveway is to be located is at least 1.5 acres.
2. The front door of the principal structure is at least 100 feet from the edge of the street.
3. Year-round vegetation screening must be installed so as to reduce the visual impact of the curvilinear driveway.
4. The curvilinear driveway may not exceed 10-12' in width at any point and must be constructed of the same material as any existing or proposed driveway. This policy shall also require that any existing driveway that is substandard must be upgraded or replaced.
5. The curvilinear driveway may not be used for storage of material or long term parking of any vehicles, boats, RVs or other similar items.

6. The square footage of the curvilinear driveway may not occupy more than 50% of the total square footage of the front or corner side yard.
7. At the furthest point from the edge of the street, the curvilinear driveway must be least twice as far from the street as it is from the front door of the structure.
8. Exceptions to these guidelines may be granted from time to time because of unusual circumstances. Those circumstances, may include, but are not limited to: prohibited parking along the zoning lot, safety concerns over ingress and egress, special conditions of the property residents and topography.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
PRELIMINARY STAFF FINDINGS: The Comprehensive Plan states that residential development should be characterized by high quality construction that is compatible with the character of the surrounding neighborhood. There are a number of newer and older homes on the west side of Far Hills that have semi-circular driveways in the front yard so this proposal is not inconsistent with like uses in the immediate area.
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: As there are already numerous semi-circular driveways along Runnymede Road, there is nothing associated with the proposed plan that will adversely affect or change the character of the area.
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 proposed semi-circular driveway seems appropriate for the scale of the home and there is no indication that granting the special use will be detrimental in any way to the public welfare.
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: There area already a number of semi-circular driveways along Runnymede Road so there is no indication or history to support that his proposal will be injurious to the use and enjoyment of other property in the area, or impair property values within the neighborhood.
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: There is nothing associated with this proposal that will adversely affect the use and development of adjacent and 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 primary reason for the semi-circular driveway is to make it easier for the applicant to enter and exit the three-bay garage. In addition, the semi-circular driveway provides safe and convenient off-street parking opportunities for guests.
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 costs associated with construction and maintenance of the semi-circular driveway will be borne solely 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: This semi-circular driveway addition will not affect the current means of ingress and egress to the property from Runnymede Road.

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: The proposed semi-circular driveway conforms to all other applicable regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Mr. Weiskircher explained two existing trees will be maintained and the owner plans to complete the work yet this fall. Ms. Stayman explained it will look much nicer than it currently does. There were no comments from the audience. Mr. Weiskircher asked if they will maintain the 12' width for the circular driveway to which the contractor responded yes.

Therefore, it was moved by Mr. Aidt and seconded by Mr. Byington that the planning commission has reviewed the special use standards, staff's findings and the curvilinear driveway standards for application #08-7, the special use request by Zerla Stayman to construct a semi-circular drive in the front yard of 1221 Runnymede Road, and known as pt lot #2711, 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 #08-8, the variance requests by George and Linda Skuns to locate a drive and two-four (4') high stone pillars within a designated buffer yard and a special use for the placement of an auto court in the front yard and associated with the construction of a new single family residence at 1800 Deep Hollow Road, and known as lot #3978, was introduced. Mr. Weiskircher referenced the PowerPoint presentation and reviewed the proposed site plan, front elevation of the home and the stone pillar elevation sketch. He explained the Skuns purchased the Siedling lots on Park Road and Deep Hollow and have replatted the two lots into a single lot of approximately 2.2 acres. The 60' conservation easement was established by the Planning Commission during the platting process and no live trees can be removed in that area other than for the drive. He pointed out the proposed 29" retaining wall next to the auto court that will match the stone on the exterior of the home. The closest part of the home to the street will be the edge of the garage which sets 85' from Deep Hollow; the front door is 110' from Deep Hollow. Mr. Weiskircher indicated the owner doesn't want to lose the fairly large tree where the drive is proposed so it will be rerouted. He noted the setbacks have been dictated by the topography and the owners have done a good job in locating the home on the lot. The auto court is 1,800 s.f., the drive will be constructed from concrete except for an 18' paver transition area leading from the edge of the street.

Mr. Skuns explained the reason for the pillars is due to their home being across the street from property owned by Five Rivers Metro Parks. Since this will be the second drive off Deep Hollow, they felt the pillars would better identify the residence.

DRIVEWAY ACCESS AND STONE ENTRY PILLARS

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:

Driveway Access: Given the steep topography, especially on the east side of the site, the most logical driveway access is from Deep Hollow Road through the conservation easement.

Stone Pillars: Except for the fact that the entry pillars are located within the conservation easement, they comply with all other design standards.

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:

Driveway Access: This is a unique lot that can be accessed from public roads on either the east or west sides of the site. Nevertheless, access from Deep Hollow is the preferred option due to the steep grade change on the Park Road side of the site.

Stone Pillars: The 60' conservation easement is unique to this property and necessitates the variance request.

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:

Driveway Access: The purpose of the variance is to be able to locate the driveway on the Deep Hollow side of the property and is not based upon a desire to make more money out of the property.

Stone Pillars: The stone pillars are complementary appurtenances and are not associated with a desire by the owner to make more money out of the property.

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:

Driveway Access: The difficulty in this application is created by the steep topography on the east side of the site and the logical preference to access the site from Deep Hollow Road through the conservation easement.

Stone Pillars: The stone pillars meet all city design standards and only require a variance due to their location within the conservation easement.

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:

Driveway Access: Although the property can be accessed from Park Road, the driveway would be extremely steep, nearly twice as long as the Deep Hollow driveway; and, require removal of additional trees and vegetation.

Stone Pillars: The property in question can yield a reasonable return if the variance for the stone pillars is not granted.

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:

Driveway Access: A single driveway cut along this portion of Deep Hollow Road will not be detrimental to the public welfare or injurious to other property in the immediate area.

Stone Pillars: Granting the variance for the stone pillars will have no impact on the public welfare or be injurious to other property in the area.

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:

Driveway Access: This request for a single driveway cut through the conservation easement will not increase congestion on the public streets nor create an adverse aesthetic appearance or diminish property values within the neighborhood.

Stone Pillars: The stone pillars will be constructed of the same stone veneer being used on the house so they will not create an adverse aesthetic appearance nor 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:

Driveway Access: The topography of the site is such that it would be impractical to access the proposed home from Park Road.

Stone Pillars: The existence of the conservation easement rather than the shape or topography of the land necessitates the variance request.

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:

Driveway Access: The proposed routing of the driveway cut will require the removal of 1-6" and 2-12" caliper maple trees. The driveway apron will be constructed of pavers and will extend for a distance of 18' to give the area a natural appearance. The rest of the driveway and the auto court will be poured concrete.

Stone Pillars: The stone pillars are appropriate complementary appurtenances to this development.

PLANNING COMMISSION FINDINGS: Sustained.

AUTO COURT

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.

PRELIMINARY STAFF FINDINGS: The Comprehensive Plan states that residential development shall be characterized by high quality construction compatible with the neighborhood. There are any number of estate homes on the west side of Far Hills Avenue with auto courts. At approximately 1,800 s.f., this auto court is about one-third the size of the auto court approved for John Gray's home on Ridgeway Road.

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: Auto courts are a fairly typical feature for estate homes on large parcels. Therefore, there is no reason to believe this use will affect or change the character of the area.
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 proposed auto court will have no impact whatsoever on the general welfare of the public.
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: Likewise, the auto court will not be injurious to the use of other property in the area, nor diminish property values.
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 location and size of the auto court will not impact the development of adjacent and 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 architectural features of the home, including the proposed auto court, are in keeping with the character of the immediate area.
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 costs associated with constructing and maintaining the auto court will be borne solely 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: Access to the auto court will be from the proposed driveway leading from Deep Hollow Road. The driveway cut will not create traffic congestion nor will it create a hazard to pedestrians using Deep Hollow Road.
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 special use request, the auto court complies with all other regulations, including the following standards that apply to parking areas containing more than four (4) parking spaces.
PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that the planning commission has reviewed the standards and staff findings for application #08-8, the variance requests by George and Linda Skuns to locate a drive and two-four (4') high stone pillars within a designated buffer yard and a special use for the placement of an auto court in the front yard and associated with the construction of a new single family residence at 1800 Deep Hollow Road, and known as lot #3978 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.

The Planning Commission adjourned. The public meeting concluded at 8:10 p.m.

CHAIR

ATTEST:

CLERK