

Oakwood, Dayton, Ohio

July 12, 2006

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. William Kendell, presided and the Acting Clerk, Mrs. Lin Rich, recorded.

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

MR. WILLIAM KENDELL.....PRESENT
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:

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 were present:

Kameelah Diggs, 321 W. Dorothy Lane
Don Draper, 2750 Fairmont Avenue
Mike Disbrow, 2750 Ridgeway Road
Roger Doolin, 228 Byers Road
Robert and Rhonda Wootton, 2736 Fairmont Ave.
Bea Davis, 111 Aberdeen Avenue
George Kinzeler, 2730 Fairmont Avenue
Nance Bradds, 1701 Shafor Blvd.

It was moved by Mr. Kendell and seconded by Mr. Shulman that the minutes of the planning commission meeting held May 3, 2006 be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Application #06-7, the special use request from Oakwood Board of Education for the installation of a gazebo at Smith Elementary School, 1701 Shafor, and known as lot #2780 pt., was reviewed. Mr. Weiskircher explained that educational institutions are special uses so the placement of an accessory structure requires special use approval. He referenced a Power Point presentation and reviewed the location and style of the proposed gazebo. The proposed gazebo will be located next to an existing play structure and the next several slides showed the north, south and east views screened with juniper and deciduous trees. The next slide depicted the style of the gazebo, Charelston Classic, approximately 12' x 20' in size, and left in a natural state – no painting. The last slide for this presentation showed all elevations, and Mr. Weiskircher explained that the north elevation will have a handicap ramp. He then stated that Nance Bradds from the Board of Education was present if anyone had questions.

Mr. Aidt inquired if the gazebo would be anchored? Ms. Bradds stated yes. Mr. Shulman asked what or who would use the gazebo? Mr. Bradds suggested that children eating lunch or playing games; teachers could use the gazebo for small group activities; and most likely, the general public would use it especially after school hours. Mr. Kendell asked if there were any questions or concerns from the audience, there were none.

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: The Comprehensive Plan suggests that existing community facilities be enhanced so long as the improvements are compatible with the surrounding neighborhood. The proposed gazebo is consistent with this goal and the residential character of the neighborhood.
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 gazebo is a passive use located in an active playground area and adjacent to a playfield often used for soccer and other sports activities.
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: This passive use of existing playground space will not be detrimental to the public health, safety, morals, comfort, convenience or 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: The use of the gazebo by students and the general public should have no impact on the neighborhood nor should it impact 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, size and height of the proposed gazebo will have no affect whatsoever on development of adjacent or 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 proposed gazebo will be built of high quality building materials typically used in residential settings and be of an appearance consistent with other gazebos on public and private property throughout the community. There is already a row of junipers in place which will partially screen the gazebo from Telford Avenue. There are no plans at this time to paint the gazebo unless you deem it appropriate.
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: This standard is not applicable to this application.
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 standard is not applicable to this application.

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 gazebo complies with all other applicable regulations for this zoning district.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Byington that application #06-7, the special use request from Oakwood Board of Education for the installation of a gazebo at Smith Elementary School, 1701 Shafor, and known as lot #2780 pt., 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 #06-6, the request from Michael and Lynn Disbrow to re-zone a portion of the lot at 2750 Ridgeway Road, also known as lot #2867 pt., from R-1 to R-4, and to subdivide that portion of the zoned property for the purpose of creating three buildable lots fronting on Fairmont Avenue, was reviewed.

Mr. Weiskircher stated that the Disbrow's are requesting a map amendment to rezone a portion of their property at 2750 Ridgeway Road for the purpose of creating three buildable lots fronting on Fairmont Avenue. He referenced a Power Point presentation and explained that the yellow area on the slide represents the portion of the property to be rezoned. This area is approximately 1 acre. Lots in this area fronting on Ridgeway are in the R-1 zoning district, while lots in the Oak Knoll Plat, including the proposed lots fronting on Fairmont Avenue, are in the R-4 zoning district. There were several slides depicting the existing vegetation on the property along Fairmont Avenue and a slide showing the driveway curb cut on Fairmont Avenue which allows the Disbrow's entrance to their property either from Ridgeway Road or Fairmont Avenue. Mr. Weiskircher went on to explain the square foot minimums for properties in both the R-1 and R-4 properties. Each of the three proposed lots front Fairmont Avenue are larger than the required 8,000 square foot minimum for R-4 zoning district. He then reviewed the six standards for the request, along with the staff comments.

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

Staff Comments: All property along Ridgeway Road and Fairmont Avenue south of Oak Knoll Drive is zoned for residential purposes and contain single family dwellings. The proposed rezoning request provides for the creation of three buildable lots; all of which are larger than the R-4 lots on the east side of Fairmont.

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

Staff Comments: From the south corporation limit to the terminus at Harman Avenue, all lots fronting on Ridgeway Road are zoned R-1. All lots fronting on the east side of Fairmont Avenue and continuing throughout the Oak Knoll Plat north to the south side of West Peach Orchard Road are zoned R-4. Under the rezoning request, the frontage on Ridgeway Road will continue to be R-1 while the east side of the property will be R-4; the same zoning classification as the lots on the opposite side of Fairmont.

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

Staff Comments: Under the proposed rezoning request, the remaining R-1 parcel will be 83,784 square feet, which is more than double the minimum lot size for the R-1 zoning district. For comparison purposes, the adjacent R-1 property to the immediate north at 2730 Ridgeway Road is 56,478 square feet, and the corner property at 2700 Ridgeway is 40,293 square feet. On the Fairmont side, the three proposed lots will be 16,012, 12,984 and 11,890 square feet respectively.

Each of the three proposed lots are larger than the 8,000 square foot minimum for the R-4 zoning district and a minimum of 32% larger than the existing lots on the east side of Fairmont Avenue.

- 2716 Fairmont – 6,721 square feet
- 2724 Fairmont – 9,000 square feet
- 2730 Fairmont – 7,200 square feet
- 2736 Fairmont – 8,100 square feet
- 2744 Fairmont – 8,169 square feet
- 2750 Fairmont – 6,000 square feet
- 2754 Fairmont – 6,000 square feet

Average – 7,314 square feet

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

Staff Comments: While the Comprehensive Plan does not address rezoning initiatives, it does acknowledge that a number of estate properties could be subdivided and notes that current zoning would permit the subdivision of some estates. Even with the proposed subdivision, the remaining lot fronting on Ridgeway is nearly two acres, which is consistent with the estate residential character of the adjacent homes along this stretch of Ridgeway Road. The Comprehensive Plan goes on to say that new construction serves to upgrade the community's housing stock, and the city should ensure that residential improvements and new developments complement existing neighborhood character. The primary areas of concern include:

- Bulk
- Setbacks
- Building Height
- Lot Coverage
- Traffic Access
- Site Landscaping
- Design Characteristics
- Building Materials for new homes

5. A lot, or zoning lot less than 25,000 square feet shall not qualify for a map amendment unless it adjoins a lot or parcel of land zoned under the same classification as the one proposed class.

Staff Comments: The proposed lots are less than 25,000 square feet and are adjacent to R-4 lots, thus meeting the requirements for a map amendment.

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

Staff Comments: There certainly is an economic benefit to the Disbrows if the rezoning request is approved and they are able to create three buildable lots. On the public interest side, most of the vacant lots currently available in the community are at least 40,000 square feet or more. This rezoning request is an opportunity to maintain the estate residential character along Ridgeway Road while at the same time creating three buildable lots void of the development challenges seen in other recent subdivision proposals.

Mr. Byington inquired why the Board is considering the rezoning phase of the application before the subdivision portion, adding what if the rezoning is approved, but not the subdivision. Ms. Grandjean explained that the applicant has the right to request the rezoning and then design the subdivision. There was a general discussion as to which request should be considered first – rezoning or subdivision. Mr. Shulman stated that Planning Commission recommends to City Council approval for rezoning, while Planning Commission can approve subdivision requests. Ms. Grandjean and Mr. Weiskircher both agreed that considering the rezoning first is the appropriate action. Mr. Shulman inquired if it is the Disbrow's intention to build on all three lots. Mr. Disbrow explained their intention is to sell two lots to builders and keep the middle lot with the existing curb cut on Fairmont Avenue. Mr. McGinnis questioned the requirement that in order to rezone the lots in question need to be considered adjoining to other lot in the district, and these three lots are on the other side of Fairmont Avenue and currently a part of an R-1 district. He asked what precedent recommending the approval of this would set elsewhere in the city. Mr.

Weiskircher stated the consultants concur with the city's interpretation that adjoining does not necessarily mean "next to"; Mr. Klopsch and Ms. Grandjean both agreed. Mr. Shulman brought up the Larkin case from many years ago where it may have been an attempt to define the term "adjoining".

Mr. Aidt inquired what regulations are required regarding streets, curbs, sidewalks for a subdivision in an R-4 zoning district. Mr. Weiskircher stated that would be at the discretion of the Planning Commission. Mr. Klopsch added that the Planning Commission can vary requirements as appropriate. Mr. Byington stated he is concerned that the three proposed lots are approximately 32% larger than what is required in an R-4 district; the lots are really R-2 zoning. Ms. Grandjean explained that the adjoining rule prohibits the rezoning of these lots to R-2. Mr. Byington asked if the current lots on Fairmont Avenue, which are under the minimum lot side, were grandfathered? Mr. Byington also stated that without knowing the plans for subdivision, he finds it hard to see the rezoning. There was general discussion that there could possibly be four to five lots on the property if approved.

Mr. Kendell stated while he is lukewarm on the subject, this application meets all the requirements. He would like to see the Planning Commission have more input than just on the subdivision portion. Mr. Byington inquired if the Planning Commission makes the recommendation for approval to City Council, what basis does City Council use to make their decision. Mr. Klopsch explained that City Council will envision if three to five homes can be built on the lots, if this is good for the community and feel the Planning Commission will make good decision on the subdivision portion of the request.

Mr. Shulman asked if a traffic study needs to be done. Mr. Doolin explained the Disbrow's intend to keep the middle lot which will not increase traffic and the additional two houses will impact traffic minimally. Mr. Doolin went on to state the Disbrow's included the plan to subdivide the property into three lots with the rezoning request to show how this will be an asset to the neighborhood and it fits very well in this location. Mr. Byington appreciated Mr. Doolin's comments, but feels the current residents of Fairmont Avenue do not agree.

Mr. Dan Draper, 2750 Fairmont Avenue, stated he speaks on behalf of all residents who currently live on this block of Fairmont Avenue. He stated that Fairmont Avenue is a busy and narrow street and recommending the zoning change will put more cars on the street; lack of sidewalk on the west side of the street is a safety issue; the elimination of deer habitat increases deer encroachment in the area; Fairmont Avenue has just been repaved; fewer trees will result in drainage problems; new homes would not be consistent with current cottage type homes; and the demand for new housing is low, were all reasons Fairmont Avenue residents were against the rezoning request.

Mr. Kinzeler noted that if this request is approved the possibility exists for rezoning and subdividing the two adjoining properties to 2750 Ridgeway Road. Mr. Weiskircher responded that the Disbrow property is the only one of the three properties large enough to subdivide. Mr. Weiskircher then read the comments from Phil Hanegraaf of HNTB, a consulting firm out of Chicago. Mr. Hanegraaf's conclusion is that the request for rezoning will benefit the property owner and the city by providing additional residential tax base and medium-density housing opportunities and the rezoning will not compromise the estate residential character along Ridgeway Road.

Mr. Shulman inquired about any concerns the city of Kettering has, because of the Dorothy Lane right-of-way. Mr. Weiskircher stated that Kettering has no issues or concerns with the plan.

Mr. Kendell stated the Board has three options – recommend approval to City Council; not recommend approval to City Council; or table the request. Mr. Aidt asked if Planning Commission is able to add conditions to the recommendation for approval. Ms. Grandjean stated the Planning Commission can only make suggestions, if the request is approved, then the R-4 provisions will govern. Any such conditions could be made when the subdivision request comes before the Planning Commission.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that application #06-6, the request from Michael and Lynn Disbrow to re-zone a portion of the lot at 2750 Ridgeway Road, also known as

lot #2867 pt., from R-1 to R-4, and to subdivide that portion of the re-zoned property for the purpose of creating three buildable lots fronting on Fairmont Avenue, is recommended for approval of the rezoning request by the Planning Commission and to be forwarded to City Council for review.

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

MR. WILLIAM KENDELL.....YEA
MR. JEFFREY B. SHULMAN..YEA
MR. STEVEN BYINGTON.....YEA
MR. ANDREW AIDT.....YEA
MR. CARLO C. McGINNIS.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said motion was declared duly carried and it was so ordered.

Mr. Klopsch updated the Board members on the status of Sugar Camp. Oakwood Investment Group, LLC, who purchased Sugar Camp, are planning to hold a public informational meeting in late July. The preliminary plans are for a synagogue, medical/professional space and residential housing. As was the case with Miller-Valentine, there are several interested parties for the office space. The development of the property will be accomplished in stages. Mr. Shulman stated this is a very exciting time for the city. Mr. Klopsch agreed.

The Planning Commission adjourned. The public meeting concluded at 6:43 p.m.

CHAIR

ATTEST:

CLERK