

Oakwood, Dayton, Ohio

June 4, 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.....PRESENT

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:

Michael Disbrow, 2750 Ridgeway Road

Roger Doolin, 228 Byers Road

Herold Williams, 75 Holiday Drive

George Kinzeler, 2730 Fairmont

Alan Rinzler, OIG

Brandon Godzik, 2750 Fairmont Avenue

Rhonda Wootton, 2736 Fairmont Avenue

It was moved by Mrs. Butler and seconded by Mr. Aidt that the minutes of the commission meeting held May 7, 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.

Mr. Shulman reviewed the meeting procedure with the audience.

Tabled application #08-5, the special use request by Ron Waker to further reduce the 50% required rear yard green space to enlarge the parking area next to the apartment building, add a sidewalk next to the garage, and add a parking area near the garage at 820-824 Far Hills was placed back on the table for review. Mr. Weiskircher referenced a PowerPoint presentation and reviewed the following special use requests: 1) widen drive to 14 feet; 2) construct pull-off area on east side of driveway next to garage; 3) widen access drive on east side of apartment building; and 4) construct sidewalk next to garage. He then reviewed the plot plan and photos taken from various angles. Mr. Weiskircher referenced the landscape plan which the commission had asked staff to work on with the applicant. He pointed out proposed boxwoods to screen the parking area fronting on Far Hills Avenue, existing overgrown foundation vegetation that will be removed throughout the property, and the location along the east property line where 15 junipers will be planted to screen the pull-off area next to the garage. He noted along the east side of the building, a landscape bed with boxwoods and grasses will be installed; this is currently a muddy area. Mr. Weiskircher asked the applicant about the drive width. Mr. Waker indicated he will comply with the 12' requirement. Mr. Weiskircher noted that eliminates one special use request. He further explained to the commission that Horticulturist Ms. Collins has reviewed the landscape plan and felt it was appropriate to achieve the desired ends. Mr. Waker reviewed the additional foot beyond the garage door and the additional area for the trash cans. Mr. Bunting indicated that still violates the green space requirement. Mr. Waker reviewed the additional one foot to assist with the 20 degree access angle. Mr. Byington asked what is still included in the application. Mr. Weiskircher explained the sidewalk next to the garage, pull-off area south of the garage and the area to the east side of the building. The commission reviewed the plans. Mr. Weiskircher noted that the applicant has agreed to a 12' driveway width which no longer necessitates that special use and asked that approval include approval of the proposed landscape plan.

## **SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: The proposed improvements are inconsistent with the principle that improvements be compatible with the scale and character of the surrounding neighborhood. The amount of impervious surface on this lot is already the exception and not the norm for this 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: Since there is already an excessive amount of impervious surface on the site, you need to carefully consider the added impact of the proposed improvements.  
PLANNING COMMISSION FINDINGS: With the proposed plantings, the added impervious surface 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: While not directly endangering the public health, safety, morals, comfort, convenience or general welfare, given the amount of impervious surface already on the site, there does not appear to be a compelling reason to increase the amount of impervious surface, especially for parking purposes.  
PLANNING COMMISSION FINDINGS: The proposed improvements will not be detrimental to the public.
- 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 amount of impervious surface already on the site far exceeds the norm for this particular neighborhood.  
PLANNING COMMISSION FINDINGS: The applicant has taken steps to screen the proposed improvements and will be adding new plant material throughout the property.
- 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: Although the proposed improvements will probably not adversely affect the use of adjacent nearby properties, the 50% green space requirement is designed to ensure that residential lots are not overly developed. This lot was already fully developed prior to the adoption of the Zoning Code.  
PLANNING COMMISSION FINDINGS: The applicant will be adding plant material throughout the property in order to soften the appearance of existing and new impervious surface.
- 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 plan further reduces the limited amount of green space still remaining in the rear yard.  
PLANNING COMMISSION FINDINGS: Sustained.
- G. That adequate utilities, access roads, off-street parking and loading facilities, drainage and/or other necessary facilities, have been or are being provided at the applicant's cost.  
PRELIMINARY STAFF FINDINGS: All drainage related requirements associated with the added impervious surface 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: The two existing curb cuts - one on Wisteria Drive and the other along Far Hills Avenue - will remain.

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 issues as noted, the special use conforms to all other applicable regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mr. Byington that application #08-5, the request by Ron Waker to further reduce the 50% required rear yard green space to enlarge the width of the driveway next to the apartment building, add a sidewalk next to the garage, and add a parking area near the garage at 820-824 Far Hills Avenue, and known as lot #465 pt., the Planning Commission has heard and considered the evidence presented by the applicant, has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning Commission approves the request subject to execution of the submitted landscape plan and based on plans and information 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. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Weiskircher explained the next item of business is the Disbrow Replat Proposal at 2750 Ridgeway Road, which is not a public hearing. He referenced the proposed replat map, photos taken from various angles and the following preliminary plat approval requirements. He reminded the commission approximately two years ago, the Disbrows requested to rezone their R-1 property to create three lots fronting on Fairmont Avenue. Two of the newly created R-4 lots would be available for development, and the third lot left in its natural state for drive access – the re-zoning proposal was subsequently denied by council. This request is to create one additional R-1 lot fronting on Fairmont Avenue which meets all zoning regulations. He reviewed the rendering which depicts the generous building area and the following designated yards: front, Dorothy Lane; corner side, Fairmont Avenue; and rear yard to the north. Mr. Weiskircher envisioned that when the lot is eventually developed, in all likelihood, the front of the house would face Fairmont. He explained this is a straight forward replat except for the fact that the property abuts the Kettering corporation limits. He added that Mr. Weaver, Engineering & Public Works Director has worked with Kettering engineering staff on right-of-way and corporation line issues. If the commission concurs with this replat, then Kettering and Oakwood councils will adopt legislation adjusting the corporation limits.

Mr. Weiskircher indicated Mr. Weaver is available to answer questions as is Mr. Doolin, the engineering consultant for the applicant, who will review the topographic and horticultural plans. Mr. Weiskircher added that the subdivision regulations require that the plat may not be approved unless the Planning Commission finds that: Topographic Plan – The establishment of the proposed plat and development of the land will not be injurious to the use and enjoyment of any property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair any property values within the neighborhood. Mr. Weiskircher reported the establishment of the proposed plat will not create any lots with topography that would endanger any aspect of the public health, safety, morals, comfort, convenience or general welfare. Horticultural Plan – The establishment of the proposed subdivision will not be detrimental to or endanger trees, bushes, flowers and other forms of growth which could be preserved through the exercise of special care, i.e., substantially more than reasonable care, in developing the land. Mr. Weiskircher explained the establishment of the proposed subdivision will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.

Mr. Doolin explained he is representing the Disbrows and referenced the topographical plan. He explained the site is relatively flat with enough slope for proper drainage and very little grading will be

required to build a home. He indicated the building envelope is a good size and the property has enough room to stage construction, it's an easy lot to develop. Mr. Doolin referenced the horticultural plan and pointed out all the major trees on the dense site and noted the building envelope area has open space so very few trees will have to be removed. He noted the area abutting Dorothy Lane and Fairmont can remain natural; the site is set up to go with very little impact. Mr. Shulman asked if the Disbrows will still have access from Fairmont. Mr. Doolin indicated currently yes, but with the replat, no.

Mr. Shulman asked if there were comments from the audience. Mr. Kinzeler, 2730 Fairmont, indicated they have been blessed for many years with the beauty of foliage and like Sugar Camp, this area will change. He asked if they would consider keeping the current foliage and wondered if the home will face Dorothy Lane. Mr. Weiskircher explained although the Dorothy Lane is the front yard, any house built on the lot will most likely face Fairmont. Mr. Kinzeler asked if they could include in permission that the house may not face Dorothy Lane. He also believes this is setting a precedent; others with large lots on Ridgeway will want to divide up the property. Mr. Shulman doesn't believe this is setting a precedent; the last request was to rezone a portion of the Disbrow property from R-1 to R-4. Mr. Kinzeler believes this could impact other lots. Mr. Weiskircher indicated neither property abutting this lot would be able to subdivide based on square footage requirements. Mr. Klopsch indicated historically there are very infrequent changes to the zoning, the last major change was when two estate lots were joined together by Mr. Gray and that property has a preservation easement. Mr. Aidt explained as a member of the commission who agreed with the original rezoning, he voted in favor because the lots on Fairmont were similar.

Mr. Godzik, 2750 Fairmont, recently purchased the home, and indicated his front porch looks directly onto the property and asked if any trees will remain. Mr. Doolin believes a future property owner would want the seclusion. Mr. Kinzeler indicated if approved, a new owner then has the choice to design the lot. Mr. Byington agreed, like any lot in Oakwood, an owner can do as they wish within zoning; however, as with most corner lots, the front door is not always in the designed front yard. He reminded the audience this is a private property being purchased and as long as they comply with zoning, the commission can't guarantee no trees will be removed.

Mrs. Wootton, 2736 Fairmont, reminded the commission that two years ago the community spoke and indicated they did not want the lots divided, yet the application is here again. Mr. Byington clarified the previous application was a rezoning change from R-1 to R-4, a different application. In this application, the newly created lot is an R-1 zoning designation. Mr. Shulman agreed, the previous request took an estate lot and made three new lots; whereas, this application divides the property but maintains the R-1 designation and the commission really doesn't have a vote on this request. Mr. Byington explained the commission has no right to tell the Disbrows they can't replat their property if R-1 zoning regulations are met; whereas, two years ago, it was a change of zoning request. Mrs. Wootton believes the neighbors are still not being heard. Mr. Shulman indicated there is no law that prohibits division of estate property; the property owner has the right to use their own property as they want and if neighbors are concerned about losing trees/greenery across the street, they should purchase the lot. Mr. Byington appreciated the input and indicated there is a balance between what the community wants and property owner's rights. He noted they are always interested in public input and perhaps the law itself needs reviewed. Mr. Shulman asked for other comments from the audience. There were none.

Mr. Byington reiterated the commission does not vote on this and if the new property owner violates any zoning regulation, the matter would return to the commission and the neighbors would be informed. One member of the audience indicated they would object if the new owner wants the front door on Dorothy Lane and removes the vegetation. Mr. Klopsch explained the city can't stop the owner from removing vegetation and can't imagine a new owner wanting the front door facing Dorothy Lane. Mr. Shulman asked what the commission needs to do. Mr. Weiskircher explained action needs to be taken on the topography and horticultural plans - that what has been presented meets the requirements for the replat process. Mr. Byington indicated based on the way the regulation is written, they have no development plan before them. Ms. Grandjean explained they have the civil engineering impact study which depicts a building envelope on a flat area as well as the horticultural plan which indicates very few trees will be removed. Mr. Byington indicated they can say based on the topographical and horticultural plans, there should be no issues and it can be marketed as a buildable lot. Mr. Shulman asked if this is forwarded to

council. Mr. Weiskircher responded no. The commission discussed approval of the topographical and horticultural plans and asked that the Disbrows encourage the new owner to have the house face Fairmont. Mr. Disbrow had no problem with that suggestion. Mr. Aidt indicated the owners of the property could include that as a plat covenant since the commission can't require same. Mr. Disbrow acknowledged that he had no problem with this request.

Therefore, it was moved by Mr. Byington and seconded by Mr. Aidt that the Planning Commission approves the topographical and horticultural findings of the preliminary plat at 2750 Ridgeway Road, a request submitted by Michael Disbrow. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Aidt excused himself from the meeting at approximately 5:35 p.m.

The next item of business related to the Sugar Camp Gate House request. Mr. Weiskircher referenced a photo of the existing gate house and explained that use of that building in the Master Plan was as a coffee shop or deli serving light fare, and the developer continues his search for someone interested in using the gate house for that purpose. In the meantime, a question arose about using that building as a temporary marketing facility. Mr. Byington asked about the time frame. Mr. Williams indicated until the first model is up, no more than two years. Mr. Byington indicated then the marketing area would be relocated and asked what happens if a coffee shop is ready to move in during that two year period. Mr. Rinzler indicated then the shop will proceed into the gate house and added the first model is also contingent on Oakwood's construction of the roadway. He noted many potential occupants aren't ready to pursue until all the parking, lights, landscaping, etc. is completed. Mr. Byington asked if the gate house has functional restrooms. Mr. Rinzler explained it's a fully functional house. Mrs. Butler asked if there is any proposed signage. Mr. Williams indicated there will be a sign at the building. Mr. Shulman asked if the sign will require a hearing. Mr. Weiskircher indicated that approval of the sign can be done administratively.

Therefore, it was moved by Mr. Shulman and seconded by Mrs. Gowdy that the request to use the gate house at Sugar Camp for a temporary sales site until the first model home is built, but for no longer than two years, be approved. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Discussion ensued in regard to removal of the trees on the site, etc. Mr. Shulman asked whether a lot can be purchased without building right away. Mr. Herold responded yes, but there are some time guidelines.

Mr. Klopsch informed the commission that in the past Giving Strings has held a concert on Lonsdale and this year, on August 9, it will be held in Shafor Park. He has authority to approve these temporary use requests.

Mr. Weiskircher asked about the July meeting date. The commission decided to maintain the July 2 date.

Mr. Klopsch announced Dave Bunn, Kettering Plumbing Inspector, is retiring after 25 years of service. He noted that Mr. Bunn has been the primary plumbing inspector in Oakwood since Kettering began Oakwood building inspections in the mid-1990's.

The Planning Commission adjourned. The public meeting concluded at 5:50 p.m.

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CHAIR

ATTEST:

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CLERK