

Oakwood, Dayton, Ohio

January 7, 2009

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 Acting Clerk, Mrs. Lin Rich, 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

The following visitors registered:

Lisa, Kell, 247 Volusia Avenue
Martha Haley, 400 Irving Avenue
Brad Judge, 1201 E. David Road
Tommy Routsong, 494 Lookout Ridge
Lisa Routsong, 494 Lookout Ridge
Alan Schaeffer, 134 Patterson Road
Claude & Mary Malone, 303 E. Schantz Avenue
Jane Kuntz, 222 Irving Avenue
Kevin Weaver, 201 E. Schantz Avenue
Larry Stockmyer, 242 Volusia Avenue
Phyllis Miller, 109 Oakwood Avenue
Carol & Steve Young, 320 Irving Avenue
Dan & Barbara Miller, 6 Glendora Avenue
Karen Haverland, 2517 Roanoke Avenue
Kelli Wynn, 1611 S. Main Street
Donald Kiley, 1204 E. Dorothy Lane
Matt Kell, 247 Volusia Avenue
Jane & George Liston, 111 Oakwood Avenue
Jane Balquiedra, 414 Irving Avenue
Robert Conard, 416 Irving Avenue
C. William Hager, 312 Forrer Blvd.
Lance & P. Roll, 201 Volusia Avenue
S. Ted Bucaro, UD
John Dinning, 224 Volusia Avenue
Deanna Kissell, 269 Volusia Avenue

It was moved by Mrs. Gowdy and seconded by Mrs. Butler that the minutes of the planning commission meeting held October 22, 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, the same passed unanimously and it was so ordered.

Ms. Grandjean asked that anyone who plans to speak during the meeting to stand and be sworn in. Members of staff, professionals representing the applicant, and several members of the audience stood and were sworn in.

Mr. Shulman reviewed the meeting procedure with the audience if the Plannign Commission acts today.

Tabled 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 (NBD) for the purpose of using those properties as part of a planned development that includes a 10,465 s.f. retail building was placed back on the table for review. It was explained since the matter was tabled at the October meeting; the application has been amended and no longer includes a request to rezone the residential properties at 20 Oakwood Avenue (Lot 151) and 222 Irving Avenue (Lot 154) to NBD. The size of the planned office/retail building has also been reduced to 8,129 s.f.

Mr. Weiskircher reviewed the amended request explaining that there are two issues before the Planning Commission – Rezoning and review of Major Site Development Plan. Today’s hearing focuses on rezoning Lots #149, #150 and #153 from R-5 Residential to Neighborhood Business District. The rezoning request is associated with a Major Site Development Plan which includes the razing of the funeral home and construction of an 8,129 s.f. retail/office building at the southeast corner of Irving and Oakwood Avenues. Today’s public hearing is part of a two-step process. The Planning Commission will vote, by simple majority to recommend approval or denial of the rezoning request; if the Planning Commission acts today, the recommendation will then be forwarded to City Council which will hold a public hearing on February 2 on the proposed Map Amendments and also by a simple majority vote, will approve or deny the rezoning requests. Mr. Weiskircher added that if the rezoning request is approved, a second public hearing before Planning Commission will be held to focus on the specifics of the site development plan. The earliest date for the site development hearing is March. Lot #148, where the existing funeral home stands was zoned for business use in 1956, and then for Neighborhood Business District in March, 1995; in 1961 a residential structure was razed on Lot #153 to create a parking lot; Lots #149, #150 and #153 were rezoned from R-4 to R-5 in October, 1975; City Council passes legislation in October, 1975 to vacate the east alley from the north side of Lot #148 to the south side of Lot #149. The applicant’s original request was to rezone all five parcels to NBD, the amended request before the PC today involves only three parcels. The amended request is to rezone Lots #149, #150 and #153 from R-5 to Neighborhood Business District, maintain R-4 zoning, residential structures and garages for lots at 20 Oakwood Avenue and 222 Irving Avenue and not include the R-4 lots as part of the proposed commercial development. Mr. Weiskircher referenced the 2004 Comprehensive Plan which provides guidelines for Planning Commission and City Council to review and evaluate private development proposals. The guidelines state the commercial uses be located in existing commercial areas and remain small and compact; should not adversely impact adjacent neighborhood; and commercial traffic and parking should not “spill over” into the neighborhood. Mr. Weiskircher then reviewed comments from the city’s zoning consultant, Phil Hanegraaf, at HNTB in Chicago, based upon his review of the original October proposal. The consultant recommended that the rezoning request not include the residential properties at 20 Oakwood Avenue and 222 Irving Avenue; that the residential structures at 20 Oakwood Avenue and 222 Irving Avenue remain and generous landscape buffers in installed; only R-5 lots be included in the rezoning request; access to parking lots be from Oakwood Avenue and Irving Avenue only, with no access to adjacent public alley, and that the vacated portion of the all be included in the redevelopment plan. It was noted that all of these recommendations have been incorporated into the applicant’s amended plan.

Mr. Weiskircher read the 6 Findings of Fact that Planning Commission submits to City Council on a proposed amendment to the zoning classification of a particular property. Mr. Shulman asked Mr. Weiskircher to explain the differences of R-5 and NBD zoning. Mr. Weiskircher explained that R-5 can include single and two-family homes; NBD is neighborhood business district. He went on to explain that currently under R-5 zoning, parking lots are not permitted, that the parking lots for the funeral home are grandfathered and unique to that use and can not be transferred to another use.

Mr. Alan Schaeffer, 134 Patterson Road, stated he represents the applicant and that a great deal of time and effort has been spent on the redevelopment of this corner. He went on to state the he felt the original application was a logical and legitimate use, including the demolition of the adjoining residential

structures, however the realization that the project was not well-received is back today with a proposal that does not include the demolition of the adjoining residential structures, a proposed new building with less square footage and fewer parking spaces which will result in more of a residential feel. Mr. Schaeffer added that Mr. Weiskircher had a well prepared presentation and mirrored most of staff's comments on the Proposed Findings of Fact. He and his applicant are confident they can work with the plan and would be happy to answer any questions.

Mr. William Hager, 312 Forrer Blvd., has resided in Oakwood for over 42 years. He stated he has spent over 20 years researching, identifying and recording the architectural history of Oakwood. The "George Schantz District", which includes the Routsong property, was named the most outstanding residential district in the United States at a convention in San Francisco in 1995. Unfortunately, if the request to rezone is approved, the change may affect the George Schantz District distinction. Therefore, he is requesting that the rezoning not be approved.

Robert Conard, 416 Irving Avenue, inquired as to what businesses are allowed under the NBD zoning? Mr. Weiskircher read the list of permitted uses.

Barbara Miller, 6 Glendora Avenue, thanked the Planning Commission and city staff for their consideration in preserving the homes at 20 Oakwood Avenue and 222 Irving Avenue. She wanted to lend her support to the idea mentioned in a November Oakwood Register article that perhaps the city could use the area for a recreation center or senior center.

Steve Young, 320 Irving Avenue, stated he felt the presentation was complete, but feels the existing retail on Far Hills Avenue is sufficient and there is not a need for more retail in this particular area.

Pat Roll, 201 Volusia Avenue, stated she understands Mr. Routsong's investment in the property and his search for another venue for the property, but her concern primarily is with the adjoining lots. She stated that it is her understanding that because the parking areas are under the 25,000 sq.f. requirement but the lots adjoin an NBD lot they then become eligible for rezoning. Will this be a domino effect in the future, that the properties at 20 Oakwood & 222 Irving will then be eligible for NBD zoning?

Mr. Weiskircher and Mr. Shulman confirmed this to be true, however, the request would need to come before the Planning Commission and again meet certain requirements. As the requirements limit commercial uses in primarily residential areas, both felt this would be an unlikely outcome.

There was general discussion on possible future commercial expansion into residential areas because of the adjoining lot rule. Mr. Klopsch stated that all areas zoned Business (B) and NBD (Neighborhood Business District) are adjacent to residential property. This particular neighborhood is not protected by maintaining the R-5 zoning.

Robert Conard, 416 Irving Avenue, stated that there is already commercial property near this corner which is empty. He questioned the benefit of redeveloping, better to not rezone and hope something develops in the public interest.

Mr. Byington reiterated without rezoning only another funeral home could use the property as is.

Mr. Steve Young, real estate broker inquired about limiting progression into a residential area by including a deed restriction. Mr. Shulman explained that deed restriction is personal – act of good faith – and not in the Planning Commission's power to require.

Lance Roll, 201 Volusia Avenue inquired since today's issue is rezoning and if approved as requested, could the property then be sold? Mr. Klopsch stated Mr. Routsong or a future buyer can redevelop the property as allowed under the permitted uses. In either case, the owner would come before the Planning Commission to receive approval for any development of the parcel(s).

Mary Malone, 303 E. Schantz Avenue, stated she has not changed her opinion (against the rezoning), but is pleased that the residential structures will remain intact. She added her concern about maintaining the historical district and even boundaries for the district. She went on to say there is a great business area not far away.

Robert Conard, 416 Irving Avenue, asked if building homes on the three lots was feasible? Mr. Weiskircher replied it would depend on the size of the lots, location of proposed structures, setbacks, etc.

Matt Kell, 247 Volusia Avenue, inquired if the structure (funeral home) could be used as a historical building with a business?

Mr. Shulman asked for comments or questions from the Board. Mr. Aidt requested 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, including the parking lot, 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 and used for business purposes.

Planning Commission: Adopted.

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 designations. 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.

Planning Commission: Adopted.

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. The proposed building could be used for professional office space, retail uses or a combination thereof, consistent with the 32 permitted uses in the NBD and the additional

four (4) uses that can be approved as special uses. As stated during the October 1 meeting, the building could not house a restaurant or fast food establishment, other than a delicatessen, which is one of the permitted special uses.

Under the revised proposal, except for the expansion of the proposed professional/retail building onto a portion of Lot #149, Lots #150 (Oakwood Avenue) and #153 (Irving Avenue) will continue to be used exclusively for parking.

Planning Commission: Adopted.

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. The revised proposal includes a somewhat larger building than the funeral home and the adjoining R-5 lots, which have been used for parking for many years, will continue to be used for that purpose. There is no proposed expansion beyond the areas that have historically provided parking for the funeral home use.

Planning Commission: Adopted.

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: The applicant is proposing to rezone Lots #149, #150 and #153 (parking lots) from R-5 to NBD, the same zoning classification as Lot #148 at the southeast corner of Oakwood Avenue and Irving Avenue. Although Lots #149 and #153 are significantly smaller than the 25,000 s.f. needed to qualify for rezoning, they adjoin the NBD zoned lot and therefore qualify for rezoning. Lot #150, also significantly smaller than 25,000 s.f., becomes eligible for rezoning if Lot #149 is rezoned to NBD.

Planning Commission: Adopted.

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: This rezoning request does not represent a departure from how the lots have been used for many years. Even though the proposed professional/retail building is larger than the funeral home, the adjoining lots, which have provided parking to the funeral home use for more than 50 years, will continue to be used for this purpose under the rezoning proposal. If these lots are not rezoned, the applicant does not have sufficient space to serve the parking needs of the proposed building since the existing transitional parking use is specific to the funeral home and can not be transferred to another use. As part of the revised plan the applicant is proposing to incorporate the previously vacated portion of the alley into the development plan, thereby eliminating the opportunity for business traffic to encroach into the adjoining residential neighborhood. The applicant's rezoning request seems reasonable given the historical use of the lots in question for parking purposes and the applicant's legal right to realize a reasonable economic return on his property.

Planning Commission: Adopted.

Therefore, it was moved by Mr. Aidt and seconded by Ms. Butler that application #08-9, the request by Routsong Realty, LTD to rezone the three (3) lots currently use for parking from R-5 to NBD, and known as Lots #149, #150 and #153 be approved based on plans and information previously submitted and in

compliance with all applicable city rules and regulations.

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

MR. JEFFREY B. SHULMAN.....YEA
MR. ANDREW AIDT.....YEA
MRS. REBECCA BUTLER.....YEA
MRS. HARRISON GOWDY.....NAY
MR. STEVEN BYINGTON.....YEA

There being four (4) yea votes and one (1) nay votes thereon, said motion was declared duly carried and it was so ordered.

The Planning Commission adjourned. The public meeting concluded at 6:00 p.m.

CHAIR

ATTEST:

ACTING CLERK