

Oakwood, Dayton, Ohio

December 2, 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 Avenue, Dayton, Ohio, 45419, at 4:37 p.m.

The Chair, Mr. Jeffrey Shulman, presided and the Clerk, Mrs. Cathy Gibson, recorded.

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

MR. JEFFREY B. SHULMANPRESENT
MR. ANDREW AIDTPRESENT
MRS. REBECCA BUTLER.....PRESENT
MRS. HARRISON GOWDYPRESENT
MR. STEVE BYINGTONPRESENT

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:

Millard and Cristine Mier, 2518 Hillview
Martha Haley, 400 Irving Avenue
Sally Walters
Rudolf Numaueu, 21 Brookway Road
Mark Risley, 151 Aberdeen Avenue
John Orr, 9080 Springboro Pike
Mark Seitz, 349 Monteray Avenue
Anthony Canterbury, 244 W. Grand Ave.
Thy Vo re: 2515 Far Hills Avenue
S. Wreath
Lance Stewart, 2414 Far Hills Avenue
Sam Morgan, 2414 Far Hills Avenue
Ann Rotolante, 10 E. Schantz Avenue
Irvin H. Harlamert, 330 Southview
Harvey Lehrner, 126 E. Schantz Avenue
Heather Ratliff, 4081 Forest Ridge Boulevard

It was moved by Mr. Aidt and seconded by Mr. Byington that the minutes of the commission meeting held November 18, 2009 be approved as submitted and the reading 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 and asked that anyone who plans to speak on an issue be sworn in. City Attorney Dalma Grandjean swore in those who stood.

Application #09-7, the joint application submitted by the Oakwood Investment Group and the Versant Group to amend the Residential Master Plan originally approved on April 23, 2007 and later amended on May 5, 2008 to replace 12 residential duplex units (24 units) planned for the north side of the development (Old River Trail) with 20 single residential units. The proposed amendment will reduce the overall density of the development from 147 to 143 units. Mr. Weiskircher referenced a PowerPoint presentation and a chart that reviewed the current and proposed number of units, i.e., going from 59 to 79 single-residence; from 24 attached units to none; and the 40 condo and 24 town home units will remain the same. He reviewed the proposed density site plan; currently approved attached double site plan and Old River Villa sketch with the amended density single family unit plan and explained the commission's recommendation will be forwarded to city council. He reiterated this amendment is driven by market demands and there will be five clusters of four single residential units, each cluster sharing a driveway.

Mr. Herold Williams explained after talking with quite a few people, the market shows that duplexes, which were in the original application, aren't in need. Although there is a cost advantage in terms of land and construction, the architectural cost is higher so rather than spend \$395,000 for a half a duplex, consumers would rather pay \$430,000 for a single residence unit. He noted two potential buyers (who are Oakwood residents) are interested in a home in that area and prefer single residence unit. He noted further research shows a project in Washington Township was also amended from duplexes to single residence unit. Mr. Williams indicated the 24 units (12 duplexes) will be amended to 20 single residence units and built in five clusters surrounding a brick private drive and all parking will be in the rear of the building, a more attractive development. Mr. Aidt asked about square footage. Mr. Williams explained that the units will be two-story, approximately 2,000 square feet. Mr. Aidt asked if these will be part of the common exterior maintenance and still for empty nesters. Mr. Williams responded yes and that the vast majority of inquiries are from empty nesters with one interested party from UD who is in his 50s. Mr. Shulman asked for comments from the audience. There being none, the hearing was closed.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
PRELIMINARY STAFF FINDINGS: The proposed amendment is consistent with not only the 2004 Comprehensive Plan, but also the 2004 Sugar Camp Site Development Alternatives and Guidelines, as well as the 1997 Subarea Plan. The proposed amendment is also in keeping with the overall goal of the development of providing high quality, step down housing for seniors and empty nesters.
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 proposed amendment will not significantly change the character of the development and actually results in a reduction of four (4) units in the overall density.
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 amendment will not be detrimental to or endanger the public health, safety, moral, comfort, convenience or general 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: The proposed single residence units will be constructed of the same high quality building materials and be subject to the same maintenance covenants as all other residential properties within the development.
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 single residence units are consistent with the rest of the development and will not adversely affect the use or development of 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 style and building materials proposed for the single residence units will be consistent with the high-end theme of the entire development.

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: The proposed changes will not increase the amount of public funds already committed by the city for this component of the overall Sugar Camp development. Any additional expenses that may result from this proposed amendment will be borne solely by the developers.

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 proposed amendment will not alter ingress and egress to this portion of the site.

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: Like the amendments to the original plan approved in May, 2008, we view this proposed change as simply a response to market conditions and the desires expressed to the developers by potential buyers as to the type of housing options they would like to see offered. There is nothing included in the proposed amendment that is inconsistent with the current Master Plan for the area.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that the Planning Commission has heard and considered the evidence presented by the applicant and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are each met; the Commission recommends to council approval of application #09-7, the joint application submitted by the Oakwood Investment Group and the Versant Group to amend the Residential Master Plan originally approved on April 23, 2007 and later amended on May 5, 2008. The amendment proposes to replace 12 residential duplex units (24 units) planned for the north side of the development (Old River Trail) with 20 single residential units. The proposed amendment will reduce the overall density of the development from 147 to 143 units. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Application #09-9, the special use request by Lee Schear/Plan B Realty to erect a 4ø x 8ø temporary leasing sign at the main entrance to Sugar Camp near the intersection of W. Schantz Avenue and Sugar Camp Circle, was presented. Mr. Weiskircher referenced a PowerPoint presentation and reviewed photos of the existing marketing signs; sketch of the proposed 4ø x 8ø sign; and site plan and photo depicting the sign location. He noted this recommendation is also forwarded to city council.

For the record, Planning Commission member Rebecca Butler arrived at approximately 4:55 p.m.

Mr. John Orr, Oberer Company, is working with Plan B Realty and the owners of the building (different owner than OIG) and reviewed the sign material which will not peel or fade. Mr. Byington asked how it will be handled if an inquirer wants another building. Mr. Orr explained they have a good working relationship with the other realtor so each firm will make the necessary referrals. Mr. Byington recalled OIG has two signs and wondered if this will replace one of those. Mr. Weiskircher responded no but staff could work with the other realtors to remove one of the signs. Mr. Byington believes the different realtors and numbers of signs will cause confusion. Mr. Klopsch explained they can't make a condition of this request removal of the other realty signs. Mr. Shulman asked about the possibility of one sign with

information for both realtors. Mr. Orr indicated they had looked into that, but decided not to since there is separate ownership - they could install something on the sign stating it relates to Building B. Mr. Aidt asked if there are any building mounted real estate signs. Mr. Weiskircher responded no. Mrs. Gowdy agreed that three signs seem too many. Discussion ensued in regard to concern with the number of signs. Mr. Weiskircher explained since this is forwarded to council, he can work with both parties to try and simplify the signage. Mr. Shulman asked for comments from the audience. There being none, the hearing was closed.

Mr. Shulman suggested they neither approve or reject but have both realtors work with staff to help avoid possible confusion with the number of signs; or table the matter. Mr. Byington suggested they approve subject to asking the other realtor to consider removing one sign rather than having this applicant wait. Mr. Aidt expressed concern with three possible signs. Mr. Byington noted this applicant has every right to ask and receive a sign since they did so for the other group and the city needs to work with the other realtor. Mr. Klopsch recalled the two signs were approved subject to a time limit. Mr. Weiskircher concurred, either 12 or 18 months. In either case, the other realtor should be coming back to the commission for review at which time a request could be made to remove one of the two OIG marketing signs.

SPECIAL USE STANDARDS

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.
PRELIMINARY STAFF FINDINGS: Consistent with the Comprehensive Plan, the buildings at Sugar Camp are being redeveloped for office use and the proposed sign is being used to market the space for this purpose.
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 proposed temporary sign is for marketing purposes only and will not 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: So long as the sign is placed in a location that does not create a visual obstruction for either pedestrian or vehicular traffic, the sign will not endanger public safety.
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: Since there are already two (2) other marketing signs on the site, there is no reason to believe the proposed sign will negatively impact other properties in the area or 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 sign is being placed in this location to advertise available office space in Building B consistent with the Master Plan already approved for the development.
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: This sign will be similar in appearance and content to the other two (2) marketing signs previously approved by the Planning Commission.

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 does not apply 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: The sign will be placed in a location that will not create traffic congestion nor pose a hazard to pedestrian traffic.

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 its dimensions, the sign complies with all other requirements set forth in the Zoning Code.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that the Planning Commission has heard and considered the evidence presented by the applicant and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are each met; the Commission recommends to council approval of application #09-9, the special use request by Lee Schear/Plan B Realty to erect a 4' x 8' temporary leasing sign at the main entrance to Sugar Camp near the intersection of W. Schantz Avenue and Sugar Camp Circle; said sign to be reviewed in 12 months. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Byington asked staff to work with the other realtor on the number of signs.

Application #09-8, the special use requests by Lance Stewart for shared parking; outdoor seating; operating hours after 9 p.m.; and a parking space variance associated with a proposed Technology Café at 2515 Far Hills Avenue was presented. Mr. Weiskircher referenced a PowerPoint presentation and explained this is new and unique not only to Oakwood but the Dayton area and has been successful in other areas in the country. He reviewed the following components of the "Select Start Café": full technology center with advance computers to operate and learn the latest software; complete laser printing, scanning, faxing and copying services; workshops to help students and business-oriented individuals understand how to fully utilize the most current software; state-of-the-art video conference room; display and sell fine art; and a café to offer customers a selection of gourmet coffee and teas with a light food menu to include soups and sandwiches, gourmet pizza, pastries, cakes and desserts prepared off site. The three special uses include: 1) outdoor seating on roof deck; 2) hours of operation beyond 9 p.m.; and 3) shared parking with buildings to the north. The variance is to reduce the number of required off-street parking spaces by 25%. Mr. Weiskircher reviewed a photo of the Far Hills frontage, proposed sign, elevation drawings, proposed location of exterior stairs to roof deck and building layout. In regard to outdoor seating, the applicant is proposing to install cedar decking and enclose the existing flat roof with a railing. The deck will accommodate up to 24 persons. The new set of exterior steps will be installed on the south side of the building.

Mr. Weiskircher referenced the hours of operation: uses operating before 7 a.m. and after 9 p.m. require a special use and the applicant is requesting that Select Café be permitted to remain open until Midnight. In regard to shared parking, Mr. Weiskircher explained the Zoning Code allows up to 50% of required off-

street parking to be provided by off-street parking facilities provided for other uses. Lance Stewart owns 2515 Far Hills and two adjacent buildings to the north at 2501 and 2507 Far Hills. Based on the square footage of the 2515 Far Hills building, 18 off-street parking spaces are required. There are currently six (6) available off-street parking spaces at 2515 Far Hills and five (5) excess off-street parking spaces available at the two adjacent buildings to the north for a total of 11 off-street parking spaces. One of the parking spaces at 2515 Far Hills will be dedicated as the location for the trash dumpster. Mr. Weiskircher reviewed photos of the parking spaces for 2515 Far Hills as well as the parking spaces for adjoining buildings to the north. In regard to the variance to reduce the number of required off-street parking spaces, Mr. Weiskircher explained the Zoning Code permits an applicant to request a reduction of up to 25% in the number of off-street parking spaces required. In this application, the maximum possible reduction is five (5) spaces for a total of 13 off-street parking spaces. With the available off-street parking provided by the adjacent building, and assuming one of those spaces will be lost for storage of a trash dumpster, the applicant is still three (3) spaces short unless he is able to identify other available on-street parking within 400 feet of the building. Mr. Weiskircher concluded that since this venture will probably be successful and popular, they need to anticipate how parking and noise will impact the area.

Mr. Vo representing Select Start, referenced a PowerPoint presentation on the proposed technology café. After polling several people in the area, it was determined a place was needed for lunch, youth and entertainment. The proposed location is in the center of the Oakwood business district, the concept includes serving coffee/gourmet drinks and lunch; learning about technology and software (classes or one-on-one); document printing; etc. He believes customers will include Oakwood residents; students since they are located between two high schools and close to the University of Dayton, a great place to meet, eat, play board games, and look at art ó every 30 days theyøll change out the art. He noted the classes/workshops are for those who arenø computer savvy or want to learn a new skill. Mr. Vo reviewed the proposed deck from simulation software capabilities including the location and the entrance into the shop which will include a coffee bar and sitting area, modern decorations and area for art. The patio will seat 24 and includes a beautiful view of the Far Hills shopping area. In regard to parking, Mr. Vo indicated they will be able to fit 7 spaces on the lot, including one under the steps and within 400øthey found 150 parking spaces, which are depicted in green; plus parking across the street as well as numerous spaces just outside the 400ø a total of 214 possible spots. Mr. Vo reviewed the existing sound level and explained Far Hills is busy with four lanes of traffic and the noise level is 90dB which is the equivalent of screaming and a diesel truck. He referenced the existing foliage to the rear of the lot which will help dampen the sound. In regard to their request for a later closing time, they want people to stop by after sports and theater activities which generally end at 10 pm. Mr. Vo referenced the vision of the building and the elevation sketches including the outside ramp which makes the first floor ADA accessible.

Mrs. Butler wondered since they are targeting students how will they address filtering the computers for underage kids. Mr. Vo explained technology is their specialty and they will have a ñannyø filter to prevent blocked sites. Mr. Aidt asked about frequency of classes. Mr. Vo responded once a week with a limit of six per class or one-on-one sessions. Mr. Byington asked about outdoor seating. Mr. Vo indicated as they interviewed people, they heard that there was no place to sit other than a bench outside Starbucks, one outside Graeters and the curb around the corner. Mr. Byington wondered whether there will be food service on the upper deck. Mr. Vo explained it is self serve. Mr. Shulman asked about handicap accessibility to the deck. Mr. Vo indicated the building was built in 1951, prior to ADA regulations, and due to finances, an elevator is out the question. The ramp will only access the first floor for ADA and baby carriages since the front entry canø be adjusted for a ramp. Mr. Shulman asked about utilizing the parking at the two lots to the north that Mr. Stewart owns. Mr. Vo indicated they will use the parking behind the furniture shop in the evening since that shop closes at 5 p.m. Mrs. Gowdy asked if the attached two-story house to the rear will be utilized. Mr. Vo indicated that will house the computer equipment. Mrs. Butler wondered if they considered modifying the existing front of the building to accommodate outdoor seating rather than the deck. Mr. Vo indicated outside the door would only provide two seats on either side, they did not consider knocking out the large front glass window. Mrs. Gowdy wondered how late Starbucks is open. Mr. Vo indicated 11 p.m.; Graeters is open until 10 p.m. in the winter, later during summer hours, and the Oakwood Club closes at 12:30 on Friday and Saturday nights. Mrs. Butler asked about the layout on the first floor. Mr. Vo explained a coffee bar and 200 square foot

seating area, book shelves with books and board games, art work displays and in the rear of the building a lounge and prep area for the food. Mrs. Butler asked if all the computers are upstairs. Mr. Vo confirmed but noted there is Wi-Fi access throughout the building.

Mr. Klopsch concurred with Mr. Weiskircher that this is an interesting application, great use of the building; and that the youth will utilize the deck in warmer weather but probably with Graeters ice cream. Mr. Vo hopes that etiquette will prevail, he wouldn't go into Wendy's with MacDonald food and eventually their food will catch on. Mr. Shulman indicated Graeters and Starbucks are on the east side and wondered if an analysis of businesses on the west has been done. Mr. Vo indicated he has been in Central Perc, however, they have an older clientele, open around 8 a.m. and close around 5 p.m.; their customer base is different. Although they are competitive with Starbucks, competition is good for the community. They heard a lot of need for a lunch spot and will feature pizza from Cousin Vinny's, sandwiches/soups from Oakwood Club; and pastries from Evans Bakery which has been in business for 36 years. Mrs. Gowdy noted Graeters and Starbucks have helped revitalize the business district and she is pleased this isn't a chain; she likes the roof deck plan and isn't concerned with parking since this is an urban area. Mrs. Gowdy wondered how they will monitor the deck during and after business hours as well as noise, trash, etc. Mr. Vo explained they will install trash cans to handle drinks and food items. Mrs. Gowdy indicated she lives on Irving near UD and believes some of the young adults forget what a trash can is for. Mr. Vo indicated they have employees who will clean up and part of their technology includes cameras to monitor the deck. In regard to closing off the deck at 9 p.m., he referenced the gate at the bottom of the steps/top of the ramp which will be locked. In response to a question, Mr. Vo indicated there is no access to the deck from the rear two-story home. Mr. Byington questioned the variance for 25% of the parking. Mr. Weiskircher indicated they don't have to act on that if they feel there is sufficient parking.

Mr. Shulman opened the public hearing. Mr. Millard Mier, 2518 Hillview, explained he lives behind the property and is concerned with noise and traffic; believes this will be a high traffic business which differs from other business in their quiet residential neighborhood. He noted most businesses are more compact with no space between; however, that is not the case in this area which doesn't assist in filtering the noise to his yard. Mr. Mier referenced the existing vegetation which doesn't act as a sound screen, is located in a DP&L right-of-way and subject to removal and given its age needs to be replaced. He expressed concern that the deck will include live music and this application terrifies him and how it will impact his quiet neighborhood. There being no other comments from the audience, the hearing was closed.

Mr. Aidt wondered if they plan to have music on the deck. Mr. Vo responded no and explained noise is part of a business and they are open to installing additional screening along the rear property line to assist the neighbors. Mr. Shulman noted the rear two-story house should assist with screening from the patio. Mrs. Gowdy asked Mr. Mier if they can hear street noise. Mr. Mier indicated they can hear cars in the parking lot and pointed out the attached two-story home has a hip roof. Mr. Vo explained they can install a noise buffer on the building to help shield the noise. Mrs. Gowdy understood his concern and indicated as a neighbor near UD the noise that travels isn't always nearby.

Mr. Mark Risley indicated this looks like a nice business for the area; however, suggested the façade be made more traditional to match the attached craftsmen style home. He believes changing the glass and metal front façade to a more traditional look will help improve the ambiance. Mr. Klopsch wondered what kind of investment it would take to make that change. Mrs. Gowdy referenced a building on Brown Street where Second Time Around is located, a 1910s building with a large front glass window and indicated she prefers the different styles in the business district. Mr. Risley indicated he has no idea about cost, maybe less than \$10,000 and suggested they consider no ramp on the outside for security reasons, only access from the inside. Mr. Vo explained they only have a certain amount of money in the budget, the outside ramp makes it ADA compliant, they prefer the front open view of the building, added the police do a great job in patrolling the area and they have adequate lighting.

Mrs. Mier expressed her concern with the noise from the deck. There being no other comments from the audience, Mr. Shulman reclosed the public hearing.

Mr. Aidt expressed concern with the deck. Mr. Shulman also had concerns about parking and hours of operation; and wondered if the two adjoining properties to the north have first option to utilize that parking. Mr. Stewart concurred, that is part of the lease. Mr. Byington pointed out the new city parking lot across the street; the city knows parking is tight and installed this lot to encourage businesses in this premier walking community. Mr. Aidt noted primary users are probably walkers. Mr. Shulman recalled years ago a discussion about expanding the parking on the west side of Far Hills and suggested they re-explore that. Mr. Klopsch explained four-five years ago, the city developed parking plans to develop pods of parking on the west side and still have that information available.

Mr. Byington asked about procedures on a business that violates sound regulations. Ms. Grandjean explained the police would investigate a noise concern; the owners could be cited and if it continued, could be declared a nuisance and shut down. Mr. Shulman suggested they grant approval for a time certain to see how it works. Ms. Grandjean indicated they can't grant a special use on a one-year condition. Mr. Byington understands the concern with 25 potential students on the deck and possible noise violation. Mr. Aidt suggested if approved, a condition be included for additional screening to help buffer the noise. Mr. Shulman questioned the extended business hours. Mr. Vo believes midnight is ideal to accommodate customers after school events/theater, etc. Mr. Shulman suggested only midnight on the weekends. Mr. Vo explained based on their business plan, that won't work since they work with a west coast company on software simulation; he noted if people don't show up after 10, then they might alter their hours. Mr. Byington also suggested if approved they require video monitoring on the deck since it is unsupervised. Mr. Vo explained they have high speed capacity lines so can put web cams on remote so parents can enjoy a cup of coffee and watch their kids; they plan to utilize the technology.

Mrs. Butler presented a motion to approve the outdoor seating on the deck subject to monitoring; that they be open beyond 9 p.m. and shared parking subject to the applicant working with the city on appropriate screening to the rear to mitigate noise. Mr. Shulman suggested they require the applicant to install sound-proofing material on the building to help buffer the sound and that the hours of operation only be extended on the weekend. Mr. Aidt suggested they approve the variance. Mr. Shulman asked that they look into expanding the parking on the west side of the business district. Mr. Aidt suggested they approve subject to the applicant working with staff to screen the west line and trash receptacle requirement. Mr. Byington disagreed with limiting the hours only on the weekends. Mr. Shulman agreed.

SPECIAL USE STANDARDS

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

PRELIMINARY STAFF FINDINGS:

- Outdoor Seating ó The Comprehensive Plan provides that business uses should be compatible with the immediate area and should not adversely impact adjacent neighborhoods. We question whether outdoor seating is compatible with this area.
- Parking ó The Comprehensive Plan recommends that adequate off-street parking be provided for all commercial business uses and that consolidation of parking functions for two (2) or more businesses should be encouraged.
- Hours of Operation ó As already mentioned, we question whether the extended hours and the associated noise and parking are really compatible with the neighboring businesses and residential uses.

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:

- Outdoor Seating ó Although Central Perc offers patrons limited outdoor seating opportunities, since Cøest Tout enclosed their patio several years ago, there are currently no other eating or dining establishments in the Business District with outdoor seating. While alcohol will not be served at this establishment, noise generated by patrons, as well as the fact that the building abuts residentially zoned property to the west are important factors to consider in determining whether the

proposed use will change the character of the neighborhood.

- Parking ó Assuming the Technology Café is successful; the lack of convenient off-street parking may create a further strain on the limited cruise lane parking already available during normal business hours thereby negatively impacting other businesses in the immediate area.
- Hours of Operation ó Given the close proximity of this property to residentially zoned property and the fact that there are currently no other extended hour uses on the west side of the street, granting this special use request will indeed 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:

- Outdoor Seating ó Again, the proposed outdoor seating arrangement will be unique to the Business District and its potential impact on other business and residential uses in the immediate area need to be carefully considered.
- Parking ó The absence of available parking could negatively impact traffic flow along the cruise lane and pedestrian safety in this immediate area.
- Hours of Operation ó Having an extended hour business use immediately adjacent to a residential area will certainly impact the comfort of nearby property owners.

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:

- Outdoor Seating ó The outdoor seating component of the proposed use is a significant departure from how the building has been used in the recent past. Prior to its most recent use as a ògallery of boutiquesö, the space was used for many years as a high-end dress shop where all customer transactions took place within the interior of the building and parking was not an issue.
- Parking ó Again, introducing a business which has the potential to attract a significant amount of vehicular traffic and related parking issues will negatively impact other businesses in this immediate area.
- Hours of Operation ó It is reasonable to assume that remaining open until midnight will negatively impact residential properties in the immediate area.

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:

- Outdoor Seating ó If the outdoor seating request is approved it will in all likelihood impact how this area is developed in the future. Besides the impact on adjoining businesses, there are also legitimate concerns that the outdoor seating will negatively impact adjoining single family residential properties to the west.
- Parking ó The potential for increased traffic and the absence of available off-street parking at this location has the potential to discourage certain types of businesses from locating to this area.
- Hours of Operation ó An extended hour business in this section of the Far Hills Business District is inconsistent with the current business mix.

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:

- Outdoor Seating ó Once again the outdoor seating component and building modifications necessary for the roof space to be used will be unique to the area. There will be a set of steps constructed on the south side of the building to provide user access and a 4ø high railing installed around the perimeter of the roof to protect patrons.
- Parking ó The planned use for this building and the lack of available off-street parking may create conditions that will depreciate property values within the Business District as well as adjacent residentially zoned lots.
- Hours of Operation ó Similarly, the proposed hours of operation will be at variance with the surrounding properties and may diminish both commercial and residential property values in the 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:

- Outdoor Seating ó Since there is no elevator in the building and the only means of access to the deck is a set of exterior steps, the deck area will not be handicap accessible.
- Parking ó Due to a shortage of available space the applicant is unable to provide adequate off-street parking facilities to serve this use.
- Hours of Operation ó This standard does not apply to this issue.

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:

- Outdoor Seating ó The added building occupancy created by outdoor seating will, in all likelihood, increase traffic congestion in the area.
- Parking ó It is unclear at this time as to what measures may or will need to be taken in order to minimize traffic congestion and avoid hazards to pedestrians.
- Hours of Operation ó As already pointed out, staff has serious reservations that there is adequate parking in the immediate area to accommodate this proposed use.

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:

- Outdoor Seating ó The applicant has met with Kettering building officials and the roof deck has been determined to be structurally capable of supporting the added load associated with the outdoor seating use.
- Parking ó Even with approval of the shared parking use, the applicant still does not have sufficient parking available unless a variance is granted, or the applicant is given credit for other available parking primarily located across the street on the east side of Far Hills Avenue.
- Hours of Operation ó If the special use for extended hours of operation is approved, there should be consideration given to placing restrictions on the times the west parking areas behind the buildings and adjacent to residential properties may be used.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that the Planning Commission has heard and considered the evidence presented by the applicant and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are each met; the Commission approves application #09-8, the special use requests by Lance Stewart for shared parking; outdoor seating; operating hours after 9 p.m. for a proposed Technology Café at 2515 Far Hills Avenue, and known as pt lot 1725 subject to a monitoring system to view activity on the outdoor deck, sound proofing material to mitigate noise, the applicant working with the city on vegetation and opaque screening at the rear line, installation of security cameras and trash receptacles on the outdoor deck, the outdoor deck will close at 9 p.m. and the business be permitted to remain open until midnight. 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 6:40 p.m.

CHAIR

ATTEST:

CLERK