

Oakwood, Dayton, Ohio

September 7, 2005

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 4:55 p.m.

The Chair, Mr. William Kendell, presided and the Clerk, Ms. Cathy Blum, recorded.

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

MR. WILLIAM KENDELL.....PRESENT  
MR. JEFFREY B. SHULMAN.....ABSENT  
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  
Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Dave Bunting, City Inspector

The following visitors registered:

Roger Doolin, 228 Byers Road  
Don Kiley, 581 Alpha Bellbrook Road  
Dave Muha  
Irv Merdinger, 4090 Marshall Road  
Max and Darlene Gutmann, 2331 Far Hills Avenue  
Mr. & Mrs. Jerry Gordon, 24 Triangle Avenue  
Karen Kawsky, 2331 Far Hills Avenue  
Kara Burkhardt, 195 Byers Road  
Bill Siedling, 245 Park Road

It was moved by Mr. Byington and seconded by Mr. Aidt that the absence of Mr. Shulman be excused. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

It was moved by Mr. Kendell and seconded by Mr. Byington that the minutes of the commission meeting held August 3, 2005 be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Application #05-11, the request from DDG Investments, LLC for a major site development plan review associated with the proposed construction of a new one-story retail building, including parking, at 2500 Far Hills was reviewed. Mr. Weiskircher explained this major site review also includes two variances; one to reduce the off-street parking requirement by 25%, and a second to reduce the required corner side yard setback. He noted that Mr. and Mrs. Gutmann and their professional team are in the audience to answer any questions. Mr. Weiskircher reviewed photos of the existing parking lot north of Talbot's that has 29-30 parking spaces, including 8 spaces adjacent to the alley; photos of the alley side of the property, pointing out the drop off from the site; and the cruise lane abutting the site. He explained plans for an 11,000 square foot building (10,500 of which will be leasable), the rear will be cantilevered, and the front angled display window. He noted there are ten diagonal parking spaces proposed in the front and six diagonal spaces along Orchard, where there are currently only four parallel spaces. Mr. Weiskircher reviewed the building concept design which includes stone features along the base and the use of efis, the height of the building is 5' taller than Talbot's, and the proposed clock is 31' in height. He noted the materials, colors and lighting are consistent with the Business District Design Guidelines. He reviewed the elevation drawings and pointed out that the west (front) elevation may be modified depending upon the number of building tenants. Mr. Weiskircher pointed out the east elevation - the cantilevered area that will include parking and the wrought iron fence to screen the dumpsters.

Mr. Weiskircher indicated several years ago the city landscaped the north side of this parking lot which they lease for evening usage. He noted all of that plant material will be removed, but the proposal includes new landscaping. He referenced the traffic/parking report recommendations submitted by Bob Wert, which suggested that additional plantings may be needed if the parking space along Orchard is eliminated. He referenced the photometric plan and noted most of the lights go down to zero at the edge of the right-of-way, the exception is the three-four candles in the alley associated with the covered parking. He pointed out staff's concern that the rear lights not spill over into the residential area to the east. Mr. Weiskircher referenced ongoing business district parking concerns, some perceived, some real, and noted that the area is thriving because of the Gutmann's success with Talbot's, Chico's, Starbucks and Graeters, plus the Oakwood Club. He noted that more retail space raises parking concerns and referenced a chart that outlines parking requirements, what exists, and that it is not unusual for users not to be able to meet off-street parking requirements. Accordingly, the ordinance permits shared parking or the use of available parking within 400' and referenced a diagram that extends that out to Shafor on the east, Triangle on the north and across Far Hills to the west side of the business district.

Mr. Weiskircher referenced the parking analysis done by Bob Wert, LJB Traffic Engineer, and summarized conclusions that the proposed parking blocks along the cruise lane be eliminated; the front sidewalk be widened by an additional foot; the corner island at Orchard be adjusted to allow for proper turning movements; and, the first diagonal space on Orchard eliminated in order to provide sufficient clearance to the fire hydrant. Mr. Weiskircher indicated he has already worked with the applicant on the recommendations in Mr. Wert's report and referenced a revised site plan, based on those recommendations that: eliminates the parking blocks; widens the front sidewalk by one foot; adjusts the island radius; and eliminates one diagonal parking along Orchard.

Mr. Weiskircher indicated the major site development plan review requires that certain criteria be reviewed. He read the following criteria set forth in Section 1013.9 of the codified ordinances.

A. Conformance with Ordinances. The application must comply with the provisions of this Ordinance and other Ordinances of the City and of any other applicable laws.

**Response:** Except for the variance requests to reduce the off-street parking requirements and the corner side yard setback, the application complies with all other city ordinances and regulations.

B. Comprehensive Plan. The plan must be in reasonable conformity with the Comprehensive Plan and any specific recommendations associated, or related to the subject property.

**Response:** The updated Comprehensive Plan speaks to a number of issues on development in the Business District.

- Adequate off-street parking should be provided with all commercial and business uses.
- New commercial and business development should be of a size and scale compatible with the established image and character of Oakwood.
- Commercial and business development should be characterized by the highest possible standards of design and construction.
- New commercial buildings should respect the existing scale of the Far Hills Business District and avoid extreme differences in building height.
- New commercial buildings should be located at or very near the sidewalk line in order to maintain close contact between pedestrians and adjacent stores, shops and display windows.
- Building should "front" the street. The placement of buildings at odd or irregular angles to the street should be discouraged. However, buildings at key intersections may incorporate angled corners or other small setbacks.
- New buildings should be constructed of traditional building materials such as brick and stone in the red and buff ranges.

Based upon a review of the recommendations in the Comprehensive Plan, it appears that for the most part, the proposed development is consistent with those recommendations.

C. Land-Use Compatibility and Integration. The overall design integrates neighborhood and site characteristics into a compatible expression of building mass, building scale, circulation and site improvements.

**Response:** The mass and scale of the building, and the use of the site, are consistent with characteristics of other developments in the immediate area.

- D. Minimize Impacts to Surrounding Land-Uses. The spatial and functional design minimizes the potential impacts of noise, light, debris and other undesirable effects of development upon adjoining properties and the area in general.
- Response:** There do not appear to be any issues related to development of this site that will have undesirable effects on adjoining properties since the proposed use is consistent with uses already existing in the immediate area.
- E. Architectural Compatibility. The plan is sensitive in the design of structures through appropriate treatment of vertical and horizontal planes of building facades, and makes use of appropriate building materials in establishing an overall architectural “theme” for the development.
- Response:** The architecture, scale and proposed building materials are consistent with other structures in the immediate area and throughout the Business District.
- F. Signage. Signage is designed compatible in scale and character with the overall development.
- Response:** Although there are no firm tenants at this time, the plans depict a number of building-mounted sign boards that appear to be compatible with the scale of the building.
- G. Site Access. Access to the site is designed to safely and efficiently facilitate ingress and egress. The use of shared curb-cuts and cross-access easements should be provided when appropriate.
- Response:** There are no curb-cuts to this site.
- H. Vehicle Circulation and Parking. Adequate provision has been made for traffic circulation which is coordinated with, and minimizes impacts to the adjoining street system. The plan should also demonstrate the provision of safe and convenient off-street parking and loading areas. When appropriate, cross-access easements should be provided between adjoining properties to allow for expanded on-site circulation of vehicles.
- Response:** Vehicular traffic will primarily travel down the cruise lane to access the diagonal parking along the cruise lane and Orchard Drive. Bob Wert, a traffic engineer with LJB, has reviewed the proposed diagonal parking space plan for the cruise lane and Orchard Drive and has made several recommendations for proposed changes. A copy of his report is attached. In sum, Bob is recommending that the proposed parking blocks along the cruise lane be eliminated and the sidewalk be widened by an additional foot. On the Orchard side, the corner island will need to be adjusted for proper turning movements, and the first diagonal space on Orchard will need to be eliminated so as to provide adequate clearance from the existing fire hydrant. Even with the elimination of one (1) diagonal space, there is still a net increase of two (2) spaces on this block of Orchard.
- I. Pedestrian Circulation. Adequate provision has been made to ensure that the development will not create hazards to the safety of pedestrian traffic on or off the site, vehicular or pedestrian circulation paths, or undue interference and inconvenience pedestrian travel.
- Response:** Pedestrians will access the site from public sidewalks located on the west and north sides of the building.
- J. Utilities and Community Facilities. Reasonable provision has been made to ensure that development will be served by essential public facilities and services such as police and fire protection, drainage structures, refuse disposal, public water supply, wastewater collection, and related facilities.
- Response:** Provisions have been made for essential public services and private services as appropriate.
- K. Screening and Landscaping. The arrangement and selection of landscaping materials should reinforce functional use areas of the site as well as add natural beauty. Screening in the form of fences, walls and landscaping should minimize the potential for nuisance impacts to surrounding properties.
- Response:** All of the existing landscaping on the north side of the site will be removed and replaced with new plant material as described in the landscape plan. With the elimination of one of the diagonal spaces near the intersection of the cruise lane and Orchard Drive, there is an opportunity to expand the planting area. If there is adequate sidewalk space available, the applicants have also pledged to place seasonal flower urns and other landscaping enhancements along the frontage of the property. The refuse containers to be stored along the alley will be enclosed with wrought iron gates.
- L. Lighting. On-site lighting shall provide for adequate illumination for vehicle and pedestrian safety. Lighting should not be permitted to illuminate adjoining properties.
- Response:** The building will be illuminated by wall mounted light fixtures that will not

illuminate adjoining properties. A photometric plan is included in your packet.

M. Detention and Retention Facilities. When appropriate, detention and retention facilities should be designed to provide for shared storage between properties. Detention and retention facilities should be appropriately landscaped.

**Response:** All stormwater runoff will be captured on-site and directed to existing storm sewers serving the area.

In regard to parking requirements, Mr. Weiskircher explained for a building with 11,000 square feet of gross area, the ordinance requires four parking spaces per 1,000 square feet of gross space which is 44 spaces. He indicated 16 spaces are being proposed, ten in the front, six in the rear. One of the issues is for a 25% variance of the off-street parking requirements. He indicated there are also spaces available behind the Oakwood Club and during his recent review of that lot, he has noted about 15-20 spaces routinely open during the day for retail use, but after 4:30 p.m., the lot converts primarily for use by Oakwood Club patrons.

Mr. Kendell questioned the number of spaces in the lot. Mr. Weiskircher indicated there are 30 at 2500 Far Hills and since the Gutmanns recently purchased the lot from the 2600 building owners, usage has increased during the day since the parking lot "arm" was removed, primarily by Talbot's employees. He noted there are 40 spaces behind the Oakwood Club, ten spaces in the front plus two spaces on the Orchard side. In regard to the corner side yard variance, he noted the rear of the building is only 8 feet from the lot line where 12 feet is required. Mr. Kendell noticed that parking lot has not been used much in the evenings. Mr. Weiskircher indicated even though there was a sign posted; he believed there was concern that people might get trapped in the lot because of the exit arm. Mr. Klopsch explained the Oakwood Club has an agreement with the Gutmanns to use the rear parking lot and when Starbucks and Graeters created more traffic, the Oakwood Club expressed concern with evening parking so the city offered the lot in the 2500 block. He indicated the city signed a \$3,300 per year lease for evening use and early on the lot was hardly used, has recently picked up but is never full. He added that Mr. Stewart also asked his employees to park across the street since the area is so intense in the evenings. Mr. Klopsch indicated the business district doesn't have the luxury of abundant parking since Oakwood was developed as a primarily residential community. He added businesses help the tax base, the city is pleased to see a new business in this important frontage and staff supports the application. Mr. Weiskircher indicated in the early 1990s, there were a lot of vacancies in the business district, however, the Gutmanns got involved and through their connections have attracted several national tenants. They have been good for the business district and the increased pedestrian and vehicular traffic is a direct result of the success of the Gutmann's tenants. He noted the city owes a lot of the current success to the Gutmanns.

Mr. McGinnis asked if the building is envisioned for retail. Mr. Kiley, project Architect, responded yes. Mr. McGinnis asked about space behind the 2600 building for evening parking. Mr. Klopsch indicated there is a portion of the lot that has a gate for employees but believes other spaces are accessible in the evening even though there is no lease agreement. Mr. McGinnis is pleased to see plans to use accent landscaping, questioned whether pedestrian crossing across Far Hills Avenue is adequate, and concerns that rear lighting not spill over. He added this is great for the city. Mr. Klopsch explained there is money budgeted to improve the pedestrian crossing, perhaps even a crossing light. Mr. Kendell asked if they are looking at retail or a cocktail lounge since there is concern with parking and wondered about Talbot evening hours. Mr. Gutmann indicated Talbot's hours vary and he has encouraged their employees to use the 2500 parking lot. He referenced the parking lot on the other side of Talbot's that is also available. In regard to the tenant, it is not their wish to have a tenant that needs a lot of parking. He noted technically the Oakwood Club has no parking. Mr. Gutmann indicated they are hoping for an apparel or furniture tenant but competition is up given "The Greene" and Dayton Mall developments, and they haven't yet advertised pending approval. Mr. Gutmann noted they are not requesting a drive through or restaurant. Mr. Kendell indicated this is an exciting project and great addition to the business sector. Mr. Gutmann noted if the area is busy, people will feel safer.

Mr. Aidt questioned the mechanical unit locations. Mr. Kiley explained they are on the roof and screened from the street by the mansard. Mr. Aidt asked about the rear utilities. Mr. Kiley indicated the overhead poles are 3' from the building and the rear lights are for employee parking safety concerns. Mr. Byington asked if there is access from the alley. Mr. Kiley reviewed the east (rear) elevation and pointed out the rear gate that screens the dumpsters and common area for access/deliveries. Mr. Byington questioned the north elevation glass. Mr. Kiley indicated that is in keeping with the architecture. Mr. Kendell asked if there were any comments from the audience. There were none.

Mr. Kendell reviewed the variance requests for parking and the setback. He indicated the commission has a new form to use for review/motions based on staff findings. Mr. Klopsch referenced the three-step process that Ms. Grandjean has suggested: (1) concur, concur with exceptions, or don't concur; (2) agree standards were met, agree only some were met, or disagree; and (3) approve, approve with conditions, or disapprove. He noted in this manner they can omit reading every finding and staff's recommendation.

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.

### **STANDARDS FOR VARIANCES**

- A. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

#### **PRELIMINARY STAFF FINDINGS:**

- Parking: The applicants have already used a portion of the Far Hills frontage to provide ten (10) diagonal parking spaces. To further reduce the size of the building in order to provide additional off-street parking spaces is not functionally or economically practicable.
- Setback: The variance request is not directly related to the shape, physical surroundings or topographical conditions of the site.

#### **PLANNING COMMISSION FINDINGS: Sustained.**

- B. The conditions upon which a petition for a Variance is based are unique to the property for which the Variance is sought and are not applicable, generally, to other property within the same zoning classification.

#### **PRELIMINARY STAFF FINDINGS:**

- Parking: Throughout the Business District, with rare exceptions, the size of the lots are such that it is nearly impossible to meet the off-street parking requirements. Over the years, most developments have been approved factoring in available on-street parking and unused adjoining parking lots. On the east side of Far Hills, only the 2700 block has more off-street parking (one space) than is required by the Ordinance.
- Setback: The condition in this application is unique to corner side yard properties. As an example, Dorothy Lane Market was previously granted a corner side yard variance for a building addition.

#### **PLANNING COMMISSION FINDINGS: Sustained.**

- C. The purpose of the Variance is not based primarily upon a desire to make more money out of the property.

#### **PRELIMINARY STAFF FINDINGS:**

- Parking: The purpose of the variance is to provide sufficient space on the lot for a retail building that is large enough for the applicants to realize a reasonable return on their investment. If the applicants were required to meet the off-street parking requirements, it would not be economically feasible to develop the lot.
- Setback: The purpose of the variance is to accommodate that portion of the proposed building which encroaches into the corner side yard setback.

#### **PLANNING COMMISSION FINDINGS: Sustained.**

- D. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.

#### **PRELIMINARY STAFF FINDINGS:**

- Parking: The alleged difficulty or hardship in this application is caused by the parking requirement and has not been created by anyone having an interest in the lot.
- Setback: The size of the building and thus the need for a variance is being driven by the applicant's desire to maximize the amount of leasable space for prospective tenants.

PLANNING COMMISSION FINDINGS: Sustained.

E The property in question cannot yield a reasonable return if permitted to be used only under the regulations of district in which it is located.

PRELIMINARY STAFF FINDINGS:

- Parking: As has already been mentioned, the property cannot yield a reasonable return if the applicants are required to meet the parking requirements for a building of this size.
- Setback: To reduce the size of the building in order to meet the setback requirement may create a situation where the size of the building is insufficient to justify development related costs.

PLANNING COMMISSION FINDINGS: Sustained.

F The granting of the Variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

PRELIMINARY STAFF FINDINGS:

- Parking: The granting of the variance should not be detrimental to the public welfare since there are typically 15 to 20 spaces available in the lot behind the Oakwood Club throughout the day. As a retail use, the operating hours should not conflict with the hours the lot is being used by patrons of the Oakwood Club.
- Setback: The granting of the variance should have no impact on the public welfare or other properties in the area.

PLANNING COMMISSION FINDINGS: Sustained.

G. The proposed Variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, the danger of fire, or danger to persons or property, nor will it create unreasonable noise, create a substantially adverse aesthetic appearance or substantially diminish or impair property values within the neighborhood.

PRELIMINARY STAFF FINDINGS:

- Parking: Except for the clock tower on the corner, the proposed building is only 5 feet taller than the adjoining Talbot's building. The proposed parking spaces should not have a significant impact on the flow of traffic either in the cruise lane or along the first block of Orchard Drive. The proposed building is architecturally compatible with other buildings in the area, and the proposed building materials are consistent with other applications throughout the Business District. The proposed building is high-end in nature and should only enhance the value of other properties in the immediate area.
- Setback: Granting the variance will not impair the supply of light, create an adverse aesthetic appearance or diminish property values.

PLANNING COMMISSION FINDINGS: Sustained.

H. The shape, topography, or other conditions of the land is such that it is extremely difficult to comply with the regulations generally applicable to the property.

PRELIMINARY STAFF FINDINGS:

- Parking: Again, as has already been mentioned, the limited size and purchase price of the lot makes it nearly impossible for the applicants to meet the parking requirements and realize a reasonable economic return on their investment.
- Setback: The reason for the variance request is the desire of the applicant to be able to maximize the size of the building and thus the availability of leasable space.

PLANNING COMMISSION FINDINGS: Sustained.

I. The applicant must show that the Variance requested will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvements permitted in the vicinity; will not materially impair an adequate supply of light and

air to properties and improvements in the vicinity; will not substantially increase congestion in the public streets due to traffic or parking or increase the danger of flood or fire; will not unduly tax public utilities and facilities in the area; or will not endanger the public health, safety or welfare.

No yard, setback, or lot area or width Variance may be granted unless any structure subsequently placed on the lot, and the result of any changes in existing structures, must be of such appearance, size and location that it will not have an adverse impact upon the value of other residences in the immediate vicinity and on approximately the same size lots and, while recognizing the diversity of Oakwood housing, is reasonably compatible with the appearance, size and location of such other residences on such lots.

Plans for any structure to be placed upon, or improved or expanded upon, a lot granted such a Variance must be submitted in advance for approval by the BZA, and no structure may be erected except in accordance with plans approved by the BZA on the basis of meeting these conditions and the other standards required for Variances. In considering the plans, the BZA must give notice and hold a public hearing in the same manner as described above in this Section.

**PRELIMINARY STAFF FINDINGS:**

- Parking: In this application the applicants are already the owners of a 40 space parking lot adjacent to the site and typically underutilized during the hours retail establishments are usually open. The ten (10) new parking spaces along the cruise lane and the net increase of two (2) spaces in the first block of Orchard Drive will benefit all businesses in the immediate area.
- Setback: There is no indication that granting the four (4) foot corner side yard variance for the NEC of the building will have any impact whatsoever on the adjoining residential property or business uses in the area.

**PLANNING COMMISSION FINDINGS:** Sustained.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that the Planning Commission has heard and considered the evidence presented by the applicant and the consultant hired by the city to review the parking plan, has heard and reviewed the staff's preliminary findings, and the Commission concurs with the staff findings subject to the city horticulturist reviewing the landscape plan; and based on the foregoing, the Planning Commission finds that the criteria for plans set forth in Oakwood Ordinance Section 1013.9 are each met with the exception of the two variances; and wherefore, the Planning Commission approves application #05-11, the request from DDG Investments, LLC for a major site development plan review associated with the proposed construction of a new one-story retail building, including parking, at 2500 Far Hills Avenue, and known as pt lots #3457, 3458 and 3459. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Byington 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 findings; and based on the foregoing, the Planning Commission finds that the criteria for plans set forth in Oakwood Ordinance Section 1006.7 are met; and wherefore, the Planning Commission approves application #05-11, the corner side yard variance request from DDG Investments, LLC for a major site development plan review associated with the proposed construction of a new one-story retail building at 2500 Far Hills Avenue, and known as pt lots #3457, 3458 and 3459. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that 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 findings; and based on the foregoing, the Planning Commission finds that the criteria for plans set forth in Oakwood Ordinance Section 1006.7 are met; and wherefore, the Planning Commission approves application #05-11, the off-street parking variance request from DDG Investments, LLC for a major site development plan review associated with

the proposed construction of a new one-story retail building at 2500 Far Hills Avenue, and known as pt lots #3457, 3458 and 3459. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. McGinnis asked if a future use other than retail would need to be reviewed. Mr. Weiskircher responded yes due to parking regulations. Mr. Kendell reiterated what a great addition this is to the business district.

Mr. Weiskircher indicated the next agenda item is a preliminary lot split request from Mr. Siedling who purchased 245 Park Road from Stan Smith. The lot is over four acres and he is proposing three lots. The first tract is for the existing home with 2 acres, plus two additional lots of slightly more than one acre each. He indicated development on the two new lots will be a challenge since the area is heavily wooded and has a steep topography. He noted the city also plans to vacate a portion of Park Road and referenced the proposed turnaround and drive access. Mr. Weiskircher explained the commission needs to make a recommendation on the wooded preservation easement, the ordinance allows a 20-50' area, staff is recommending the maximum of 50' and in that area only dead trees can be removed. He noted both the owner and Mr. Doolin are in the audience.

Mr. Byington noted the plan depicts a 60' conservation easement. Mr. Weiskircher indicated 60' is fine with staff. Mr. McGinnis noted north on Runnymede there is a huge open area where new lots were developed and which detract from the canopy ambiance so he wondered if they should request a greater conservation area. He indicated they need to maintain the canopy and wondered if the road is vacated whether the jogging area will remain. Mr. Siedling asked about the public right-of-way. Mr. Klopsch explained in 1976, when the Fairforest plat was approved, the city owned the public right-of-way and obtained an easement from former owner Stan Smith. Mr. Siedling asked when vacated if in lieu of pavement they could use cobblestone to deter traffic and help beautify the area. Mr. Klopsch indicated a 10' public easement needs to be retained but the first step is for council to take action, then the city would obtain a permanent easement from the owner for a 10' wide strip. At this time it is uncertain what type of surface would be used, that would be up to the city. He also suggested some type of bollard/fence at either end for no vehicular access except emergency vehicles. Mr. McGinnis questioned the traffic study that supports vacating that road. Mr. Klopsch concurred, a couple years ago it showed that less than 200 vehicles used it and to improve to public use roadway standards is too costly.

Mr. Aidt questioned the 60' radius noted on the lot. Mr. Doolin indicated that is the rear yard setback. Mr. Weiskircher asked the commission about the conservation easement. Mr. McGinnis suggested the easement be greater. Mr. Byington pointed out 60' goes up to the building envelope so it couldn't be larger. Mr. McGinnis expressed concern that the character of the street not be changed. Mr. Klopsch reminded the commission that on the Runnymede Hills development they required that there be an additional 12' beyond the envelope and noted the footprint of the home will be much smaller than the building envelope. Mr. Doolin indicated if they enlarge the easement, then the house will need to be moved more into the slope with a greater disturbance of the area and the owner is already giving 10' more than the code requires. Mr. Aidt suggested a setback that varies along Deep Hollow. Mr. Doolin indicated it's a large building envelope and expressed concern with the slope. Mr. McGinnis doesn't believe any other home is only 60' from the road and referenced citizens' comments on this important wooded area. Mr. Doolin suggested it remain as is until a specific home is requested. Mr. Weiskircher added that before the lot is developed, the owner will need to come before the Planning Commission to request permission to remove trees in the conservation easement in order to construct a driveway.

Mr. McGinnis suggested it not be a buildable lot. Mr. Klopsch indicated it has met the minimum lot size requirements in the R-1 district and they need to be careful not to deny property owner's rights which would be difficult to defend. He referenced the various plans/issues encountered with the Schuster subdivision. Mr. Aidt asked since this is a lot split, could the commission add stipulations. Mr. Klopsch indicated they can under the subdivision regulations, which are rather objective. Mr. Byington reiterated the conservation easement is beyond what is required and anyone who buys the site is probably interested in maintaining the trees. Mr. Doolin noted there are 300 trees on the overall parcel. Mr. Byington

indicated a 60' easement is very thick and would preserve the canopy. Mr. McGinnis reiterated they need to be sensitive to that canopy. Mr. Kendell wondered why this isn't a subdivision. Mr. Weiskircher explained his interpretation of the ordinance is this is a lot split and technically it can be approved administratively, but historically, the commission has reviewed the requests. Mr. Weiskircher indicated it's also not a subdivision since no roadway is needed; however, the potential Park Road vacation compounds the issue. Mr. Klopsch cautioned that they not tread on property owner's rights.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that the submitted 60' conservation easement for the preliminary plat at 245 Park Road be recommended and approved. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. McGinnis wished the owner good luck. Discussion ensued in regard to the preservation easement, subdivision regulations, Comprehensive Plan, etc.

Mr. Klopsch referenced several photos of garages that are lacking doors. Although this isn't an issue for the commission, the matter will go to council. He felt doors were probably originally on the structure, but without the door everything in the garage is visible and the garage is not secure. He indicated this is not a good trend and they propose to amend the property maintenance code to require doors. Mr. Byington questioned carport versus garage. Mr. Bunting explained some carports exist but they are no longer permissible. Mr. McGinnis asked staff to check on the property near Schantz and Far Hills that was recently granted permission for additional garage area. He recalled a sign stating "storage space for lease" which they didn't contemplate.

There being no further business to come before this session of the planning commission, it was moved by Mr. Kendell and seconded by Mr. Aidt that this session of the planning commission of the City of Oakwood, now adjourn. Upon a viva voce vote on the question of the motion, it passed unanimously. Thereupon, this session of the planning commission did adjourn at 6:46 p.m.

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CHAIR

ATTEST:

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CLERK