

Oakwood, Dayton, Ohio

January 4, 2006

The planning commission of the City of Oakwood, State of Ohio, met this date in the council chambers of the City of Oakwood, city building, 30 Park Ave., Dayton, Ohio, 45419, at 4:30 p.m.

The Chair, Mr. William Kendell, presided and the 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.....PRESENT  
MR. STEVEN BYINGTON.....PRESENT  
MR. ANDREW AIDT.....PRESENT  
MR. CARLO C. MCGINNIS.....PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager  
Ms. Dalma Grandjean, City Attorney  
Mr. Jay A. Weiskircher, Assistant City Manager  
Mr. Dave Bunting, City Inspector  
Mr. Kevin Weaver, Public Works & Engineering Director

The following visitors registered:

Lisa Schreck, 1031 Paxon Drive  
Judy and Z. Koehler, 331 Fairforest Circle  
Bob Rhoads, 55 Rhoads Center  
Greg Robinson, 236 Rubicon Road  
William Siedling, 245 Park Road  
Al Leland, 1 Talbott Court

Mr. Kendell indicated they need to address some organizational issues, election of a chair and vice chair and asked for nominations for chair.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that Mr. Kendell be nominated as chair. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Kendell asked for nominations for vice chair.

Therefore, it was moved by Mr. Kendell and seconded by Mr. Aidt that Mr. Shulman be re-elected as vice chair. 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. Shulman that the minutes of the planning commission meeting held November 2, 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 #06-1, the request from Dr. Stephen and Lisa Schreck for a special use to install a curvilinear driveway and to vary the front yard setback for the construction of a new home at 249 Park Road and known as lot #3934 Deep Hollow Woods was reviewed. Mr. Weiskircher reviewed plans to build a new home on a vacant lot in the Deep Hollow Woods Subdivision that was approved in 1995. There are two issues, variance to the front yard setback from the required 70' to 60' and a special use for the installation of a curvilinear drive. He reviewed maps of the area off Deep Hollow/Park Road and access to the property from the private road that leads to the Siedling (formerly Smith) home and Burke (formerly

VanderHoeven/Zorniger) home. He noted the lot is a bit more than two acres and reviewed the lots within that subdivision. Mr. Weiskircher referenced a sketch of the front elevation of the home and pointed out the asphalt shingle roof, stucco, stone veneer and limestone, curvilinear drive and four-car garage. The rear elevation, from the Deep Hollow side of the property will include retaining walls to be constructed with boulders to assist with the change in topography and to preserve the natural features. Mr. Weiskircher indicated when the subdivision was originally approved there was concern about maintaining the vegetation buffer along Deep Hollow so the city required a 50' green space easement and he pointed out that area on the drawing which, at a minimum, will actually be 70'. He also pointed out the available rear yard area between the home and the buffer that could be used for a pool, shed, and a sketch of the required 70' front yard setback and the requested 60'.

Mr. Weiskircher indicated after the subdivision was approved in 1995, Mr. Smith filed a lawsuit and in lieu of litigation an agreement was reached to impose certain conditions, covenants and restrictions on the property which would be enforceable by the adjacent owners and any other subsequent owner that the only vehicular access to the property shall be off of Deep Hollow Road. He noted when Mr. Smith and Mr. Zorniger sold their properties; recently they submitted a cancellation agreement to the aforementioned which would then permit easement access over the private drive. Mr. Weiskircher indicated the latter was recorded on December, 2004 and when he recently spoke to Mr. Siedling (purchaser of the Smith property) he was unaware of either document.

In regard to the variance, Mr. Weiskircher referenced information from the applicant. This is a 2 acre wooded lot that has a very steep change in elevation from the front to Deep Hollow. The land is heavily wooded and slopes uphill from Deep Hollow to the private road at a 25% slope. This is over 76 feet of elevation change. A natural plateau exists at the top (rear) of the slope allowing room for a home within workable terrain and for normal construction techniques, with a front to the private drive. An existing legal easement is in place for access to this property from the private drive. Sewer and water services are provided to the lot from the top of the hill. The sewer lateral is shallow thus requiring the front yard setback. Moving the home back or south by an additional 10 foot would make the existing lateral 4 feet too high and unable to accommodate gravity drainage. Raising the home an additional 4 feet would require large foundations, engineered fill and the destruction of more trees. By facing the home off the private road frontage a natural positioning for the home is achieved. Entering the lot from Deep Hollow with its 25% slope would make the driveway and house construction unworkable. Providing a reduced front yard setback on the private road allows for the most buildable and least impactive positioning of the residence on this lot. The overall effect on adjoining properties would be minimal and the wooded natural views from Deep Hollow would be preserved with minimal impact. Mr. Weiskircher referenced a sketch that depicts the requested 60' setback and the Siedling home at 76' which lines up well.

Mr. Weiskircher reviewed the special use for the curvilinear drive. He referenced staff's concern with the proposed width of the drive in certain areas, since the standards recommend 10-12' in width. The following analysis compares the proposed curvilinear driveway to the standards the Planning Commission has traditionally used in evaluating other curvilinear drive requests.

### **CURVILINEAR DRIVE STANDARDS**

1. The zoning lot on which the curvilinear driveway is to be located is at least 1.5 acres.  
**Response:** This lot is 2.005 acres.
2. The front door of the principal structure is at least 100 feet from the edge of the street.  
**Response:** The front door in this application is 76 feet from the edge of the private driveway.
3. Year-round vegetation screening must be installed so as to reduce the visual impact of the curvilinear driveway.  
**Response:** An extensive landscaping plan is proposed for the front of the curvilinear driveway and all along its perimeter.
4. The curvilinear driveway may not exceed 10-12 feet in width at any point and must be constructed of the same material as any existing or proposed driveway. This policy shall also require that any existing driveway that is substandard must be upgraded or replaced.  
**Response:** The plans show that near the front door the curvilinear driveway is nearly 25 feet in

width. The entire curvilinear driveway as well as the space leading to the four-car garage will be constructed of tumbled pavers.

5. The curvilinear driveway may not be used for storage of material or long term parking of any vehicles, boats, RVs or other similar items.

**Response:** The driveway is being constructed to provide off-street parking during those occasions when the homeowners have guests. There are no plans to use the space for long term parking of vehicles, boats, RVs, or other similar items.

6. The square footage of the curvilinear driveway may not occupy more than 50% of the total square footage of the front or corner side yard.

**Response:** The proposed curvilinear driveway occupies approximately 32% of the total square footage of the front yard.

7. At the furthest point from the edge of the street, the curvilinear driveway must be at least twice as far from the street as it is from the front door of the structure.

**Response:** At its furthest point from the edge of the private driveway, the curvilinear driveway is 46 feet from the street and 35 feet from the front door.

8. Exceptions to these guidelines may be granted from time to time because of unusual circumstances. Those circumstances, may include, but are not limited to: prohibited parking along the zoning lot, safety concerns over ingress and egress, special conditions of the property residents and topography.

Of the seven (7) Standards, this application does not meet Standards #2, #4 and #7. While staff does not have a major concern with the exceptions to Standards #2 or #7, we believe the proposed 25 foot width of the curvilinear driveway near the front door is excessive and should be reduced unless there are circumstances which require a significantly wider driveway than permitted under the Standards. Similarly, the north driveway opening also seems excessively wide.

Mr. Weiskircher referenced the ambitious landscape plan submitted from Fullmers. Mr. Shulman questioned why a 25' wide drive is needed. Mr. Rhoads explained in order to preserve as much of the natural setting as possible and given the limited buildable space, he believes the standards are for larger lot areas and added they can't pass a parked car on a 10-12' wide drive. He explained the drive includes the approach into the garage and needed parking space. Mr. Rhoads pointed out a certain amount of that area is also sidewalk to access the garage from the front door. He noted it's not massive, just a concentrated drive. Mr. Byington asked about the width of the driveway from the curb to the front door. Mr. Weiskircher believes 25'. Mr. Rhoads pointed out the 21' dimension shown on the drawing and the 3' walk. Mr. Byington asked if there will be daily parking. Mr. Rhoads explained it is for guests since there is no street parking, perhaps five cars and the area will be softened with landscaping. Mr. Shulman asked for a definition of tumbler pavers. Mr. Rhoads explained the tumbler has no square edge, is tumbled to rough it up so it looks old and they propose to use two shapes or colors. Mr. Rhoads indicated this is a difficult site given the extreme slope and the home is designed to fit on the lot for a maximum effect in a minimal area. He noted the home also fits aesthetically with the other properties and they plan to use a synthetic slate roof rather than asphalt shingles. Mr. Byington asked if they plan to use true stucco. Mr. Rhoads concurred; all are natural materials except for the roof. Mr. Byington asked where the gutter will connect. Mr. Rhoads indicated underground per city specifications and the drive will also have a drainage system. Mr. Byington asked about erosion control during construction. Mr. Rhoads plans to use silt fencing and the goal is to have minimum disturbance. He noted that retaining walls are needed due to the slope and they plan to use natural boulders to blend in. In regard to the variance standards, Mr. Rhoads believes they have met most of those.

Mr. Kendell referenced staff's concern with the drive. Mr. Weiskircher indicated the curb cuts are 18' and 17' respectively, usually a curb cut is only 15'. Mr. Rhoads indicated given the narrowness of the private road, they need the wider opening for turning purposes. Mr. Kendell believes the properties next door have a similar auto court and agrees they need the area to manipulate access to the garage. He also feels this case is very unique and that the 12' limit won't work. Mr. Weiskircher noted the added width will also serve as the sidewalk. Mr. Rhoads pointed out they are proposing less paving than either neighbor currently has. Mr. Kendell indicated their concern is that it doesn't become a parking lot and noted this isn't a dedicated street.

Mr. Kendell asked if there were other comments from the audience. Mr. Siedling, 245 Park Road, indicated he was recently made aware of the easement/access documents and since his attorneys are out of town, asked if the issue could be tabled. He expressed concern with possible damage to the private road during construction; the safety of his five children; and the large trucks that will be traveling throughout. Mr. Siedling noted that he, Dr. Burke, Dr. Sheridan and Dr. Pohl all thought the drive would be off Deep Hollow. Ms. Grandjean understood that Mr. Smith owned the property in December, 2004 when the cancellation agreement was recorded. Mr. Siedling indicated they had a contract in October and closed in February, 2005. Ms. Grandjean indicated that would be a private matter between he and Mr. Smith. She reported since it was a deed of record, in her opinion, that issue has no bearing on what is before the commission today. Mr. Siedling reiterated he doesn't have available counsel and is requesting that this be tabled for review. He is concerned with his children, had thought the drive would be off Deep Hollow, understands that Mr. McGinnis is concerned that the canopy of trees remain in place off Deep Hollow, the impact of huge trucks on the private road, and any potential damage. Ms. Grandjean referenced her phone conversation with the Schreck's attorney that if there is any damage to the road, the responsible party would take care of that. Mr. Klopsch indicated there are about six private roads in Oakwood that the city doesn't own and consequently doesn't salt, plow, nor exercise any power. He noted since it's not a public street, the city would not get involved. Mr. Siedling agrees it is a private matter and wants to see this house built, particularly since he has two lots, but again requested that this matter be tabled pending input from his counsel. Mr. Kendell indicated the commission relies on the city attorney who states it is a private matter, however, any decision the commission makes could be challenged. Ms. Grandjean indicated Oakwood was not a party to the settlement agreement.

Mr. Shulman reviewed the lots owned by Mr. Siedling. Mr. Klopsch reminded the commission they approved the preliminary plat in November. Mr. Shulman asked if those two lots will access off Deep Hollow. Mr. Siedling indicated one off Deep Hollow, the other off Park. Mr. Shulman indicated another argument is that the referenced Smith agreement could be null and void which means this application before the city would need to be amended. Mr. Siedling indicated he has no problem with the setback request for this beautiful home, but again expressed his surprise that the drive is not from Deep Hollow. He indicated if Mr. Rhoads and the owner agree to repair the drive if damage occurs that would help but again reiterated he was unaware of the Smith documents. Mr. Siedling indicated they welcome the neighbors but he and Dr. Sheridan are concerned about any damage to the road. Mr. Byington indicated the commission is only reviewing the front yard variance and special use for the drive and believes they should take action today on the application.

Mr. Leland, 1 Talbott Court, wondered since this private road services three homes, how can the city regulate and address condition of the road. He also believed this proposed home would be accessed off Deep Hollow. Mr. Klopsch indicated he would be inclined to require that the private road be upgraded during the process of this project; however, the city has no power to make the abutting property owners bring the road up to city standards. He indicated the city has the right to oversee a new home and that it fits within city guidelines. Mr. Shulman expressed concern with any potential lawsuit in case the commission's decision might be harmful given the Smith/Zorniger Agreement and if access is required off Deep Hollow. Mr. Siedling concurred and requested more time to have his counsel involved, doesn't plan any litigation, and was shocked when Mr. Weiskircher forwarded the papers. Ms. Grandjean explained any property purchaser should have knowledge of anything recorded at the auditor's office. Mr. Rhoads indicated there should have been a title report done at the time Mr. Siedling purchased the property. Mr. Siedling reiterated his request for more time, noted he has no plans to proceed with any litigation, just wants to make sure the road is not damaged, was surprised at the documents and all of the neighbors thought this lot would be accessed off Deep Hollow. Ms. Grandjean indicated it is up to the commission and perhaps they should check with the owner. Mr. Rhoads asked that they proceed with the issues before them and added they have no permit; this is only the first step in the process.

Mr. Koehler, 331 Fairforest, wondered what happens when part of Park Road is shut down to become a "running track". Mr. Klopsch indicated there is no drive planned of that portion of Park that will be closed. Mr. Koehler questioned restrictions on parking large motor vehicles. Mr. Weiskircher indicated

the city has regulations in that regard. Mr. Kendell asked if there were any other comments from the audience. There were none.

Mr. Kendell asked the commission how they want to proceed. Mr. McGinnis had no problem proceeding since the city attorney advises the issue is a private matter between property owners. Mr. Aidt also suggested they proceed and if they find out the documents aren't valid, and then the applicant will have to access from Deep Hollow. Mr. Byington agreed to proceed. Mr. Shulman indicated he would prefer to table. Mr. McGinnis commented it's a wonderful house and asked how the trench drain will impact the preservation area. Mr. Weaver explained the design is not totally complete but the drain follows the natural contour, the exact size is still being reviewed and will not encroach upon the preservation easement. Mr. McGinnis believes the city can be flexible on the regulations relating to the variance and special use requests; however, he would like to see the owner enlarge the 70' green space vegetation area to maintain the "wooded" feel of the lot. Mr. Rhoads indicated the goal is to maintain as many trees as possible and ultimately that area will probably be doubled in size given the rear yard. Mr. McGinnis indicated that wouldn't stop any future owner from removing trees. Mrs. Schreck indicated they have no intention to remove trees and she plans to be there a long time. Mr. Aidt wondered how far back the house will sit from the preservation area. Mr. Weiskircher pointed out there is approximately 100' from the rear of the house to the easement. Mr. Rhoads noted on this two acre lot, there is only a small percentage of house.

Mr. Kendell asked that the variance issue for the front yard setback be reviewed. At this public hearing evidence was presented by the applicant to meet the requirements of ordinance 1006.7, 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: Because of the steep topography, pushing the home back 10 feet in order to meet the 70 foot setback requirement will add significantly to the cost of the site work and will also require removal of additional mature trees.  
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: Due to the topography and related elevation issues with the sewer lateral, the conditions in this application are unique to the property.  
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: The primary purpose of the variance is to reduce development costs rather than to make more money out of the property.  
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: The alleged difficulty in developing the site has not been created by the property owner.  
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: Although the property can yield a reasonable return with a 70 foot setback line, developing the site becomes much more expensive and additional mature trees will have to be removed.  
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: Although the properties at 245 and 255 Park Road have 76' setbacks, the proposed 60' setback does not appear to be detrimental to either of the adjacent properties.

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: The owners are proposing to build an attractive home that appears to be in keeping with the character of the area, and there is no reason to believe that granting the variance will create an adverse aesthetic appearance or diminish or impair 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: As already mentioned, the steep topography of the lot, the depth of the sewer lateral and related site development costs are driving the variance request.

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: While typically reluctant to recommend front yard variances, in this case, it does not appear that the proposed variance request will have an adverse impact on the adjoining properties. Moreover, there are added site development issues and costs and additional mature tree removal necessary to meet the 70 foot setback requirement.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Aidt that whereas 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; and based on the foregoing, the Planning Commission finds that the variance standards set forth in Oakwood Ordinance Section 1006.7 are each met; and wherefore, the Planning commission approves a portion of application #06-1, the request from Dr. Stephen and Lisa Schreck to vary the front yard setback for the construction of a new home at 249 Park Road and known as lot #3934 Deep Hollow Woods based on plans and information previously submitted and in compliance with all applicable city rules and regulations. Upon

a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Kendell asked that the special use be reviewed. At this public hearing evidence was presented by the applicant to meet the requirements of ordinance 1004.6, and based upon the information presented to it the Planning Commission hereby makes the following findings of fact which have been met.

**SPECIAL USE STANDARDS**

- A. The proposed use at the specified location is consistent with the Comprehensive Plan.  
PRELIMINARY STAFF FINDINGS: The Comprehensive Plan recommends that improvements in residential areas be compatible with the scale and character of the surrounding neighborhood. Properties on both sides of the proposed home have curvilinear driveways/auto courts.  
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 curvilinear driveway is in keeping with the architecture of the proposed home and 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: Since the two adjoining properties already have curvilinear driveways, there is no reason to believe that the proposed curvilinear driveway will be detrimental to the public health, safety, morals, 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: For the reason mentioned above, there is no reason to believe that construction of the proposed curvilinear driveway will be injurious to the reasonable use and enjoyment of the properties in the area or substantially 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: There is no information available to suggest that the proposed curvilinear driveway will adversely affect the use and 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 proposed curvilinear driveway is consistent with the architecture of the proposed home and is in keeping with existing driveway conditions in the immediate area, and therefore should not cause a depreciation of property values in the neighborhood.  
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.  
PLANNING COMMISSION PRELIMINARY STAFF FINDINGS: All costs related to construction of the curvilinear driveway will be assumed by the applicant.

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: Ingress and egress will be provided from the existing private driveway that also serves the former Smith and Zorniger properties.

PLANNING COMMISSION FINDINGS: Sustained.

- I. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulation may, in each instance, be modified by Council pursuant to the recommendations of the Planning Commission.

PRELIMINARY STAFF FINDINGS: Except for the special use request, the proposed driveway conforms in all other respects to the applicable zoning regulations.

PLANNING COMMISSION FINDINGS: Sustained.

Therefore, it was moved by Mr. Shulman and seconded by Mr. Byington that whereas the Planning Commission has heard and considered the evidence presented by the applicant and other interested parties, and has heard and reviewed the staff's preliminary findings, the Commission concurs with the staff's findings; and based on the foregoing, the Planning Commission finds that the special use standards set forth in Oakwood Ordinance Section 1004.6 are met with the exception of curvilinear drive standards #2, #4 and #7; and wherefore, the Planning Commission approves a portion of application #06-1, the request from Dr. Stephen and Lisa Schreck for a special use to install a curvilinear driveway for the construction of a new home at 249 Park Road and known as lot #3934 Deep Hollow Woods, based on plans and information previously submitted and in compliance with all applicable city rules and regulations. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

Mr. Shulman suggested that after Mr. Siedling's legal counsel has been involved, they inform the city of the outcome.

Mr. Klopsch indicated they have the final plat recommendation for the Runnymede Hills Subdivision. Mr. Weaver explained Mr. Robinson is also in attendance to wrap up this process. He indicated all infrastructure requirements have been completed and accepted. The street was shortened to 600' and 24' in width, rather than 27'. Since the street is a dead end cul-de-sac, the sidewalk regulations were waived. He indicated LJB has approved the plans, the subdivider provided the required letter of credit and the final plan was reviewed by the city manager. Mr. Weaver indicated everything has been completed and there are no outstanding issues. Mr. Klopsch noted all has been completed with the Runnymede Hills Subdivision and the one-year warranty extends until the fall of 2006. He added one of the four lots is already under construction and another lot will be under contract within a week. Mr. Weaver extended thanks to Mr. Robinson for the excellent project. Mr. Kendell asked about the water issues which occurred early last summer. Mr. Weaver responded there have been no problems since June. Mr. Weaver explained that silt fencing and grass was installed to help the problem. Mr. Kendell asked if the catch basins have been reviewed. Mr. Weaver responded yes. Mr. Shulman asked about the other lot that is being purchased. Mr. Robinson indicated they close next week; however, the owner doesn't plan to build for over a year on Lot #1, to the left of the cul-de-sac. Mr. McGinnis commended Mr. Robinson on contacting neighbors about possible purchase of the available buffer area in order to preserve the character. Mr. Robinson agreed it's a good street and thanked city staff. Mr. Kendell asked if all the Schuster estate housing corrections have been completed. Mr. Bunting indicated there are a few still in progress but the majority are completed.

Mr. Klopsch reported on the upcoming Park Road changes and referenced a sketch of the area, noting the area outlined in green is the planned cul-de-sac. At the January 23<sup>rd</sup> meeting, council will consider a resolution authorizing conversion to a dead end street and maintaining the right-of-way (shown in purple). He indicated the asphalt will be maintained for a walking path from Hills & Dales to Ridgeway. The idea of closing this area to vehicular traffic is a result of a study undertaken by LJB and the safety of this vehicular roadway. The study included three options; to do what is being proposed, bring the road up to

standards for a two-directional street, or convert to a one-way street. The study included cost estimates and two-years ago it was approximately \$250,000 to bring the road up to standards. In reviewing this with council, Mr. Klopsch is recommending the street be closed to vehicular traffic. He reviewed the traffic count which is low. He also received no objection from any of the abutting owners, however, earlier in the day; he met with a citizen who hates to see it closed. Mr. Klopsch indicated there will be some opposition but believes this is a good move for the city, particularly as it relates to safety concerns. Mr. Shulman asked if there have been safety issues. Mr. Klopsch noted fortunately only minor safety matters. He added that several years ago the former owner of 245 Park Road asked the city about right-of-way and liability issues and the city was given an easement. Mr. Klopsch pointed out the area outlined in purple, going south toward Oak Knoll and into Hills & Dales will be retained for access to PawPaw and as a walking path. Mr. McGinnis noted emergency vehicle access will still be available. Mr. Klopsch concurred.

Mr. Klopsch referenced an article in the Oakwood Register about land being sold and concern with some of the inaccurate information. He submitted an article to the Commission which he plans to have in next week's paper that presents the facts of the last four major land use decisions. He recently met with Lance Winkler about green space and Mr. Winkler was so shocked about new development but was told the VanderHoeven Subdivision was completed about ten years ago. Mr. McGinnis is pleased the city has been proactive and there is a nice balance between improvements and retaining the character. Discussion ensued in regard to the February meeting date. It was agreed that if there are any updates to present, the February meeting will be moved from the 1st to the 8<sup>th</sup>.

There being no further business to come before this session of the planning commission, it was moved by Mr. Shulman and seconded by Mr. Kendell 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 6:20 p.m.

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CHAIR

ATTEST:

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CLERK