

**REGULAR MEETING  
AGENDA**

**PLANNING COMMISSION  
STATE OF OHIO  
COUNTY OF CUYAHOGA**

**DATE: April 17, 2018  
TIME: 6:00 P.M.**

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**WORK SESSION – 5:30 P.M.**  
Expiring term: Dickard 9/15/18 (4 yr)

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES**
  - a. Approval of Minutes of the Regular Work Session of April 3, 2018 (roll call)
  - b. Approval of Minutes of the Regular Meeting of April 3, 2018 (roll call)
4. **NEW BUSINESS** (Swear- in applicants)  
*The Chairman shall inform those present that according to a ruling by the Law Department, anyone wishing to speak at a public hearing is to rise, raise their right hand and the following oath administered. "Do you solemnly swear or affirm that the statements you are about to make are the truth." - Please give your name and address for the record.*
  - a. Gregory Washington, 16202 Corkhill Road, Maple Heights, Ohio is proposing to open a restaurant / entertainment establishment located at 339 Columbus Road (Ref: §1935.02 / §511.06 – P.P. 811-38-002 – 003 - 004) (Tabled 4/3/18) (roll call)
  - b. Reverend Neal W. May, 1109 Riverview Drive, Macedonia, Ohio – owner Testa Enterprises, Inc., is requesting conditional use approval to use the building located at 1200 Broadway Avenue for “The Redemption Center Church” (Tabled 4/3/18) (Ref §1927.02 – P.P. 814-19-013) (roll call)
  - c. Alex Jones, 3160 Ludlow Road, Shaker Heights is requesting a conditional use approval to use the existing building located at 776 Broadway Avenue to open a Cigar Store (§1937.03) (roll call)
5. **MISCELLANEOUS**
6. **ADJOURNMENT**  
(roll call)

**PLEASE TURN OFF ALL CELL PHONES BEFORE PLANNING COMMISSION MEETING**  
**(Planning Commission Minutes and Agendas posted at [www.bedfordoh.gov](http://www.bedfordoh.gov))**

**(Please contact the Building Department at 440-735-6530 for application questions)**

Planning Commission met in a Regular Work Session at Bedford City Hall on Tuesday, April 17, 2018 at 5:30 p.m.

Present: Powers, Dzomba, Dickard, Briggs, Mallis. Absent: None.

Also Present: Commissioner Calvin Beverly. [Absent: Law Director John Montello]

Audience attendance: John P. Slagter, President and Managing Partner, Buckingham Doolittle & Burroughs, LLC, 1375 E. 9<sup>th</sup> Street, Cleveland, OH 44114

The Commission members did not have any corrections to the April 3, 2018 Work Session and the Regular minutes.

**Gregory Washington, 16202 Corkhill Road, Maple Heights, Ohio is proposing to open a restaurant / entertainment establishment located at 339 Columbus Road (Ref: §1935.02 / §511.06 – P.P. 811-38-002 – 003 - 004)**

At the April 3, 2018 meeting the Commission had concerns about the following:

1) What kind of entertainment was going to be at the establishment because of the closeness of the residential houses? 2) What kind of food was going to be served; sandwiches or meals? 3) If there was going to be alcohol served. At the April 3, 2018 Regular meeting the Commission tabled this item because they needed additional information.

Mr. Beverly passed out additional information for the Commission to review addressing their previous concerns. Mr. Mallis talked about the former business called Just Friends and how they misled the City years back. He also talked about the recent litter issues from two other bar establishments in the area. He had concerns the food would end up bar type foods, additional litter would add to the current litter issue, Marion residents might experience noise from the business and it was located near the school. The Commission would address the previous and new concerns with Mr. Washington this evening.

**Reverend Neal W. May, 1109 Riverview Drive, Macedonia, Ohio – owner is Testa Enterprises, Inc., is requesting conditional use approval to use the building located at 1200 Broadway Avenue for “The Redemption Center Church” (Ref §1927.02 – P.P. 814-19-013)**

At the April 3, 2018 meeting Mr. Beverly explained any buildings or structures occupied by or used for the meeting or congregation of churches/Sunday schools had to be a minimum of 35 feet from any public right-of-way. This specific building was 17 feet from the street. Bedford was a 5.4 mile radius and already had too many churches which were non-tax paying entities. He felt it was not the best use for the building. The church would not be paying any taxes but would still benefit from the City services that were provided. Mrs. Briggs had concerns about the following: 1) People wearing heels crossing the street, 2) Family with children crossing the street, 3) The elderly/handicap crossing the street. When the former business was at this location those traveling on Broadway Avenue were not considerate of the pedestrians crossing the street. Mr. Beverly again said if the Commission approved the applicant's request the Commission's recommendation would have to be approved by Council and then an application would have to be submitted to the Board of Zoning Appeals for a variance. At the April 3, 2018 Regular meeting the Commission tabled this item because they needed additional information.

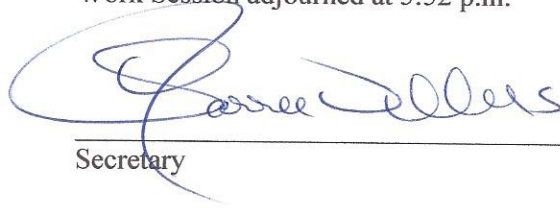
Mr. Beverly explained again if approved by the Commission and Council this applicant would have to go before the Board of Zoning for a variance. Clerk Villers added this procedure was per Codified Ordinance Chapter 1919 which stated the application needed to be submitted 30 days prior to the desired regularly scheduled BZA meeting, she had to give at least 15 day notice of the meeting in the newspaper and she had to mail notices of the meeting five (5) days before the meeting to property owners within a 350 foot radius of the property.

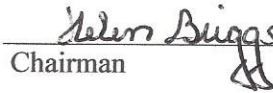
Mrs. Briggs contacted Chief Stemple and understood even with an Officer in uniform and a reflective vest it was still dangerous to cross the street. It was determined the congregation size was 100 per the application not 400 as told previously told to Mr. Mallis. Concerns were what additional services and/or classes were going to available above Church services, funerals and weddings and if there was a possibility of the room(s) being rented out.

**Alex Jones, 3160 Ludlow Road, Shaker Heights is requesting a conditional use approval to use the existing building located at 776 Broadway Avenue to open a Cigar Store (\$1937.03)**

Mr. Beverly explained he had contacted the Health Department and they had no issues with the request. He said the only thing Mr. Jones had to deal with was the change of occupancy and a vent system. Concerns of the Commission were: 1) if there was going to be sale of paraphernalia, 2) hookah pipes, 3) if it had to be ADA compliant, and 4) definitely no medical marijuana sales. The Commission would address their concerns this evening at the next meeting.

Work Session adjourned at 5:52 p.m.

  
Secretary

  
Chairman



Bedford, Ohio

April 17, 2018

Planning Commission met in Regular Session at Bedford City Hall on Tuesday, April 17, 2018 at 6:01 p.m. The roll was called. Present: Powers, Dzomba, Dickard, Briggs, Mallis. Absent: None.

Also in attendance: Building Commissioner Calvin Beverly. [Absent: Law Director John Montello]

Motion made by Dzomba seconded by Dickard to approve the minutes of the Work Session of April 3, 2018. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs. Abstain: Mallis. Nays: None. Motion carried.

Motion made by Dzomba seconded by Powers to approve the minutes of the Regular Meeting of April 3, 2018. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs. Abstain: Mallis. Nays: None. Motion carried.

*Chairperson Briggs informed those present that according to a ruling by the Law Department, anyone wishing to speak at a public hearing is to rise, raise their right hand and the following oath administered. "Do you solemnly swear or affirm that the statements you are about to make are the truth." Then give your name and address for the record.*

**Gregory Washington, 16202 Corkhill Road, Maple Heights, Ohio is proposing to open a restaurant / entertainment establishment located at 339 Columbus Road (Ref: §1935.02 / §511.06 – P.P. 811-38-002 – 003 - 004)**

Present: Gregory Washington, 16202 Corkhill Road, Maple Heights, Ohio

Motion made by Dzomba seconded by Dickard to remove this item from the table. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs, Mallis. Nays: None. Motion carried unanimously.

Mr. Washington returned this evening to answer any questions the Commission had. At the April 3, 2018 meeting Mr. Powers suggested this item be tabled until April 17, 2018 because he felt the questions that needed to be addressed were: the patio, security, liquor, entertainment and menu.

Mr. Washington, previously sworn in, stated for the record the following: Hours of Operation (negotiable), restaurant type food; not bar food, a non-smoking establishment, soft entertainment such as poetry and comedy, speakers under 85 decibels, juke box only, sound proof entry and garage doors (if necessary and seasonally the garage doors could be opened between the hours 8:00 a.m. to 5:00 p.m. and a 30 x 30 patio eating area only with no music and/or no smoking.

Mr. Washington said his oldest daughter had a Cleveland State University 4 year degree in Business and directed the Willow Point kitchen in Macedonia while attending college, his other daughter had a 4 year Accounting degree who previously worked at Willow Point and his son had a two year degree from Cleveland State in Technology. He added this would be a family owned restaurant just like the child care they owned across the street. Plans were to renovate the interior and nicely planned landscaping. Mr. Mallis asked what his plans were for litter control. There were two bars in the area that had to hire personnel to pick up litter every morning. Mr. Washington said he was retired from Lincoln Electric and would be the responsible party to pick up the litter daily. Mr. Mallis asked if he had a marketing plan so the business was successful. The previous establishment [Just Friends] started out to be a restaurant and without an efficient marketing plan they ended up being a bar. Another concern was it was close to the High School. Mr. Washington said their vision was to welcome the neighbors, serve free coffee to seniors and offer a kids menu along with the elegance of the place and felt very confident the neighbors would like the place. Mrs. Briggs felt the hours were late for restaurant hours. Mr. Washington said the later hours were for those who stayed after eating to enjoy the poetry and comedy but the hours were negotiable. Mr. Powers asked what the bar hours were. Mr. Washington replied, 1:00 p.m. to closing



time. After discussion it was determined the entire property was considered a non-smoking establishment; visitors were not allowed to smoke on the patio or in the parking lot. The parking lot currently had two pole lights that would be revitalized for security reasons plus the Illuminating Company offered a rate for an addition of a light if necessary.

Sarah Gnoddie, 331 Marion Avenue, lived on the street nearest the proposed establishment. She felt the neighbors abutting the property should be aware of this request. She asked what the ratio was for seating and parking and if there was adequate parking. She doubted if the former Bedford Coin and Jewelry business owners allowed parking in their lot because the parking could overflow onto residential streets. She was not opposed to a new restaurant but questioned if this was the best location. She was pleased to hear there was not going to be noise/music outside after 7:00 p.m. and a non-smoking establishment because of second hand smoke. Mr. Washington replied the occupancy was 52 people and the building came with two parking lots; one at 4,400 sq. ft. and 2,000 sq. ft. The former Bedford Coin and Jewelry's parking lot was behind their building. He did not foresee anyone parking on the street because the building came with both parking lots. He said the building was small and had limited seating so the parking should be adequate. Ms. Gnoddie said she frequented Just Friends and felt the kitchen was not adequate for his proposal and was not safe which could have been the fault of those who were cooking at Just Friends. She was pleased someone was interested in the property, she would like to see an establishment of this caliber in Bedford but she had her reservations. She hoped if approved by Council that Mr. Washington would fulfill his previous statements/promises. Mr. Washington explained there was a grease hood already on the premise with a 15 gallon grease fire extinguisher attached and he assured Ms. Gnoddie he would keep his word.

Motion made by Mallis seconded by Dickard to approve the application of Gregory Washington, 16202 Corkhill Road, Maple Heights, Ohio who is proposing to open a restaurant / entertainment establishment located at 339 Columbus Road subject to Building Department approval and compliance with all city codes and ordinances. The roll was called. Vote – Yeas: Dickard. Nays: Powers, Dzomba, Briggs, Mallis. Motion failed. Mrs. Briggs stated her no vote was based on the noise level that could possibly disturb the neighbors. Mr. Washington stated again the hours of operation were negotiable.

Chairman Briggs stated this item would be considered for final approval by Council on May 7, 2018 at 8:00 p.m. Mr. Washington would be present and willing to negotiate with Council the hours of operation. Any additional information would be presented to Clerk Villers one week prior to the Council meeting for their packet.

**Reverend Neal W. May, 1109 Riverview Drive, Macedonia, Ohio – owner is Testa Enterprises, Inc., is requesting conditional use approval to use the building located at 1200 Broadway Avenue for “The Redemption Center Church” (Ref §1927.02 – P.P. 814-19-013)**

Present: Reverend Neal W. May, 1109 Riverview Drive, Macedonia, Ohio, Paul Testa, President of Testa Enterprises, 2335 Second Street, Cuyahoga Falls and John P. Slagter, President and Managing Partner, Buckingham Doolittle & Burroughs, LLC, 1375 E. 9<sup>th</sup> Street, Cleveland, OH 44114.

Motion made by Dzomba seconded by Mallis to remove this item from the table. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs, Mallis. Nays: None. Motion carried unanimously.

Attorney John P. Slagter, previously sworn in, was present on behalf of property owner Testa Companies. He explained the property owner/Testa Companies had been in the process of marketing the property and the adjacent parking lot property. He explained at the City's request part of the condition for approval of the overall project were certain restrictions placed on the parking lot area which included deed restrictions and if the building was to be leased/sold that the adjacent parking lot stayed with the building. Testa Company found during the marketing process a perfect user. Previously the property had been owned by



a religious organization for years. The project was somewhat unique because it was not a brand new building, a new development or a new use. Activities that have occurred on the site were consistent with the current proposal. The current request was less intensive than the former business that had been occupying the building since the 1960's in terms of the utilization or the parking lot or otherwise. He had an opportunity to review the minutes and understood there were some concerns of this being a religious organization not having tax revenue and pedestrians crossing the street. He said when dealing with religious organizations like this the Commission/City needed to be aware that there were protections built in the Federal Law. He explained RLUIPA defined as: *The Religious Land Use and Institutionalized Persons Act, Pub.L. 106-274, codified as 42 U.S.C. § 2000cc et seq., is a United States federal law that prohibits the imposition of burdens on the ability of prisoners to worship as they please and gives churches and other religious institutions a way to avoid zoning law restrictions on their property use. It also defines the term "religious exercise" to include "any exercise of religion, whether or not compelled by, or central to, a system of religious belief."* RLUIPA was enacted by the United States Congress in 2000 to correct the problems of the Religious Freedom Restoration Act of 1993. The act was passed in both the House of Representatives and the Senate by unanimous consent in voice votes, meaning that no objection was raised to its passage, so no written vote was taken. The S. 2869 legislation was enacted into law by the 42nd President of the United States Bill Clinton on September 22, 2000. The failure to do so can create real issues for the City. He explained in the minutes there was discussion of concerns of people walking across the street in high heel shoes. He stated the fact of the matter was people had been doing that for years and the fact that this organization was tax exempt were not a legitimate basis for denial. It was the request of the Commission to table the issue at last meeting and the applicant was present in good faith to address any legitimate zoning issues that would prohibit any recommendation from this Commission. He said they expected this to be approved by the Commission and recommended to Council. In their opinion, there was no legitimate basis not to approve it based on its past use and it's a current existing building. He was here to address the issues the Commission may have and thanked them for their consideration.

Mr. Mallis asked Mr. Slagter what year was the last time the building was used by a religious organization. Mr. Slagter thought in 2016. Mr. Mallis clarified it was not used for religious reasons; it was a catering business owned by a religious organization. The building was used approximately 20 - 30 years ago for religious reasons. Mr. Slagter stated for the record that it was not unusual for a religious organization to lease out and have assembly halls or such items and that was something to be considered. His understanding was the building had been leased out to a catering business and many organizations including the City itself who held activities there which were very consistent and probably more intensive than what was being proposed by the applicant. He said the point was when dealing with a religious organization under the equal protection clause of the United States Constitution was enforced under RLUIPA and the City needed to be careful treating religious organizations different either directly through the zoning or an application of conditional uses or otherwise. He explained he was involved in the first lawsuit filed in Ohio against the City of Fairlawn from the Universalist Church when they were going through an expansion. He said in fairness if there were legitimate issues that differ to support denial he was willing to address them and if there were not then they expected a recommendation from the Commission.

Chairman Briggs stated the "high heel" comment was hers for safety reasons and had nothing to do with the business being tax exempt. She contacted the Police Department and was told they had Officers in uniform wearing reflective vests holding a flash light and motorists zipped by which was dangerous. She explained traffic coming up the hill that reduced from two lanes into one in a curve diminished the line of sight for the driver. She had safety concerns in this area and an Officer being present didn't reduce safety issues. Attorney John P. Slagter stated they were willing to hire/place a guard at this location and felt this issue should be addressed further. He knew the building had been used as a catering/party facility since the 1960's and the City must have been aware of same concern stated by Mrs. Briggs and at no time did the City prohibit the activity from continuing. He was now suspect as to why this was such a significant



issue for an organization that actually has less risk because the former business served alcohol at some of the functions. He said the applicant also had discussions with the City Safety Officials. The applicant was more than willing to accommodate and provide reasonable safety measures.

Pastor May, previously sworn in, stated he met with Sergeant Paul Kellerman and Chief Stemple who expressed caution and offered to help in the matter. The Police Department recommended an increase in signage which lead him to call Service Director Clint Bellar who expressed the same thing was to increase signage. He said the current caution light above Broadway Avenue was owned by the owner of the building/Testa Companies, a solar lite sign could be installed at the expense of the applicant and a pedestrian symbol type sign was recommended by the Police and Service Departments that would be effective and really, really help the cause. He also requested quotes from Signal Service located in Warrensville Heights who handles business for the City. He stressed safety was a high concern; however, the traffic on Sunday morning was the lowest traffic volume of the whole week plus he was willing to place a crossing guard at the crosswalk.

Chairman Briggs explained cars that passed another car in the curb lane were approaching the crosswalk at the same time. Reverend May understood from Mr. Bellar and Signal Service cone shaped delineators could be placed at the location. Chairman Briggs noted there was also increased truck traffic on Broadway Avenue. Reverend May felt Sunday mornings would have lessor truck traffic. Mr. Slagter reiterated the City required the deed restriction on the parking lot [Ordinance No. 9442-16] knowing those utilizing the parking lot would be crossing the street to enter the building. He understood the concerns but this was a use that had existed for a significant period of time which came with restrictions from the City to maintain the building and utilize as a parking lot. The applicant was willing to work with the City's Safety Departments to provide crossing guards, striping and anything within reason. The Commission's concerns to not recommend or deny was inappropriate. He said the Commission was being heard loud and clear but under the circumstances and especially when the building had been used in the same fashion plus fundamental property rights were an issue.

Mr. Mallis asked what other services would be held at the building. Reverend May replied, church, funerals and weddings and mid-week bible study. The mid-week bible study was a smaller group and could use the south end parking lot; not the parking lot across the street.

Motion made by Dzomba seconded by Powers to approve the application of Reverend Neal W. May, 1109 Riverview Drive, Macedonia, Ohio – owner Testa Enterprises, Inc., who is requesting conditional use approval to use the building located at 1200 Broadway Avenue for “The Redemption Center Church” subject to Building Department approval and compliance with all city codes and ordinances.

Mr. Powers was in approval since the safety issue(s) had been resolved by the applicant.

The roll was called. Vote – Yeas: Powers, Dzomba, Dickard. Nays: Briggs, Mallis. Motion carried

Chairman Briggs told the applicant the Commission's recommendation would be considered for final approval by Council on May 7, 2018 at 8:00 p.m.

**Alex Jones, 3160 Ludlow Road, Shaker Heights is requesting a conditional use approval to use the existing building located at 776 Broadway Avenue to open a Cigar Store (§1937.03)**

Present: Alex Jones, 3160 Ludlow Road, Shaker Heights, Ohio. Phillip Bridgeman, business partner, 2980 South Moreland Avenue, Cleveland, Ohio.

Mr. Jones, previously sworn in, explained the store would be for cigar sales and a small area for customers who would like to stay and enjoy smoking their cigar. Mr. Mallis asked if his intent was to sell

other types of smoking paraphernalia. Mr. Jones replied, No, cigars only and he would not even sell cigarettes.

Mr. Bridgeman, previously sworn in, stated the only thing they intended to sell was tobacco pipes and cigar cutters. Mr. Powers commented, "Nothing like a head shop or rolling papers?" Mr. Jones and Mr. Bridgeman both replied, no.

Mr. Bridgeman stated he owned a cigar store called Shaker Cigar on Lee Road in Shaker Heights and Ringwood Luxury Cigar on 200<sup>th</sup> Street in Euclid. The Bedford location would be utilized for sales of premium tobacco; however, occasionally there was a customer who wanted to stay and smoke their cigar. He added by law cigar businesses were allowed to permit a customer to do so and he already knew he had to install proper ventilation for inside smoking.

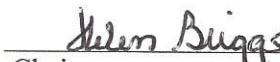
Motion made by Mallis seconded by Dickard to approve the application requesting a conditional use approval based on no sales of paraphernalia, medical marijuana and/or a hookah lounge at the existing building located at 776 Broadway Avenue to open a Cigar Store subject to Building Department approval and compliance with all city codes and ordinances. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs, Mallis. Nays: None. Motion carried unanimously.

#### ADJOURNMENT

There being no further business to come before the Board, it was moved by Dzomba seconded by Dickard to adjourn. The roll was called. Vote – Yeas: Powers, Dzomba, Dickard, Briggs, Mallis. Nays: None. Motion carried unanimously.

Meeting adjourned at 6:49 P.M.

  
Secretary

  
Chairman