

Oakwood, Ohio
May 4, 2022

The Planning Commission of the city of Oakwood met in regular session at 4:30 p.m. in the council chambers of the city of Oakwood, 30 Park Avenue, Oakwood, Ohio 45419.

The Chair, Mr. Andy Aidt, presided and the Clerk, Ms. Lori Stacel, recorded.

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

MR. ANDREW AIDT	PRESENT
MRS. HARRISON GOWDY	PRESENT
MRS. E. HEALY JACKSON	ABSENT
MR. GREG LAUTERBACH	PRESENT
MR. STEVE BYINGTON	PRESENT

Officers of the city present were the following:

Mr. Robert F. Jacques, City Attorney
Mrs. Jennifer S. Wilder, Personnel and Properties Director
Mr. Ethan M. Kroger, Code Enforcement Officer

The following in-person visitors registered:

Mrs. Beth Byington, 24 W. Schantz Avenue
Mrs. Anne Hilton, 900 Harman Avenue

The following Zoom visitors were in attendance:

Mr. Andy Meyers, Insomnia Cookies
Ms. Melissa Brotschul, Insomnia Cookies
Mr. Paul Bohaboy, 229 Volusia Avenue
Mr. David Gaulke, 1227 Oakwood Avenue
Mrs. Natalia Gaulke, 1227 Oakwood Avenue

Mr. Aidt called the meeting to order at 4:30 p.m. He shared that Mrs. Jackson was unable to attend the meeting and asked to be excused. It was then moved by Mrs. Gowdy and seconded by Mr. Byington that the absence of Mrs. Jackson be excused; the motion was approved by viva voce vote.

Mr. Aidt asked if there were any questions or concerns with the minutes from the February 2, 2022 meeting. There being none, it was moved by Mr. Aidt and seconded by Mrs. Gowdy that the minutes be approved as submitted and the reading thereof be dispensed with at this session. Upon a viva voce vote on the question of the motion, the same passed unanimously and it was so ordered.

Mr. Aidt provided an overview of the meeting agenda and reviewed the meeting procedure with all in attendance.

Mr. Jacques advised that the visitors attending via Zoom that plan to testify must have on their video and microphone.

Mr. Aidt opened the public hearing for Application #22-2, and asked city staff to provide a report.

Mr. Kroger referenced a PowerPoint presentation and presented an application that was filed by Project Manager Adam Clark on behalf of Insomnia Cookies requesting a Special Use permit for extended hours of operation at 6 Oakwood Avenue, Unit C.

Insomnia Cookies has already obtained an Occupancy Certificate to operate as a bakery at 6 Oakwood Avenue which is located in the Neighborhood Business District (NBD). The permitted operating hours in the NBD are 7:00 a.m. – 9:00 p.m., but the applicant is requesting a Special Use permit for extended hours, seeking to remain open until 2:00 a.m. daily. Insomnia Cookies has over 200 bakeries nationwide utilizing a late-night, take-out and delivery business model serving college campuses.

Mr. Aidt thanked Mr. Kroger for his presentation and asked Mr. Jacques to administer an oath to those who wish to testify.

Mr. Jacques proceeded to swear in, *en masse*, the visitors that plan to testify.

Mr. Andy Meyers, Director of Store Construction at Insomnia Cookies, shared that Insomnia Cookies is happy to be coming to the Dayton area. He explained that the company's typical business model offers in-store, pickup, and delivery options for customers day and night. He stated that the company has not had any problems with the bakeries that offer after hour services located in neighborhood areas.

Mr. Byington asked the projected volume at the bakery after 9 p.m.

Mr. Meyers said that he does not have the exact numbers and it will depend on the popularity of their particular location. Late night delivery is based on call in orders.

Mr. Kroger shared that the project manager, Adam Clark, indicated by email that the projected volume of deliveries after 9 p.m. on Sundays – Wednesdays is less than 50 orders a night, and more than 50 orders a night Thursday – Saturday.

Mr. Aidt asked how many people typically come in the bakery after 10 p.m. on the weekends.

Mr. Meyers said that it is hard to provide a specific number. There could be 40-50 walk-in visits.

Mrs. Gowdy asked if the majority of their business takes place between the hours of 11 a.m. to 9 p.m.

Mr. Meyers confirmed yes.

Mr. Lauterbach asked if any of their store locations are not open until 2 a.m.

Mr. Meyers said that they have a bakery on the campus of University of Southern California. The university has visitor restrictions after 10 p.m.

Mr. Lauterbach mentioned that he noticed that the store is currently being built. He asked if construction will continue even if this Special Use permit is not granted.

Mr. Meyer confirmed yes.

Mr. Paul Bohaboy, 229 Volusia Avenue, testified in opposition of the application. He shared that he and his neighbors have experience with other retailers at the Routsong Retail Center. The idea of a late night bakery has created concern in the neighborhood due to noise and disruptions late at night.

Mr. Lauterbach asked the applicant how many delivery vehicles are typically in use per day.

Mr. Meyers said that it depends on the location and any conditions that may be imposed by the Planning Commission.

Mr. Kroger noted that the project manager, Adam Clark, indicated by email that there are typically no more than two vehicles used for delivery orders.

Mr. Lauterbach asked if delivery services such as DoorDash will be offered.

Mr. Meyer answered yes. He said that they will offer GrubHub and possibly DoorDash in addition to their own delivery employees.

There being no further public testimony offered, the public hearing was closed and the Planning Commission began their deliberations.

Mrs. Gowdy shared that she is not comfortable approving the extended hours. The bakery will be located in the Neighborhood Business District and being open until 2 a.m. does not fit with the overall character of the neighborhood.

Mr. Lauterbach agreed. He said that he would be willing to entertain the idea of extending the hours similar to Firehouse Subs, but 2 a.m. is too late in a residential neighborhood. He asked Mr. Meyer if a 10 p.m. closing time on Fridays and Saturdays would be workable. Mr. Meyer confirmed that 10 p.m. would work for Insomnia Cookies.

Mr. Byington agreed as well. He said that many of the activities that take place at 2 a.m. are things that neighborhoods do not condone. He said that speaking from experience living on Schantz, the potential of noise moving through the neighborhood is a concern, particularly with late night retail customers. He said that he is also open to the idea of extending the hours to 10 p.m. like Firehouse Subs.

Mr. Aidt agreed. He noted that the Planning Commission does not want encroachment into the neighborhood from the Routsong Retail Center. He agreed that the hours could be extended to 10 p.m., but he is not comfortable with a 2 a.m. closing time.

It was then moved by Mrs. Gowdy and seconded by Mr. Lauterbach that the preliminary staff findings be adopted, and Application #22-2 for a Special Use permit request involving extended operating hours be approved, with the condition that the operating hours are extended until 10 p.m. on Friday and Saturday evenings only.

SPECIAL USE STANDARDS

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

PRELIMINARY STAFF FINDINGS:

- One of the basic principles of the Comprehensive Plan is that business areas should not adversely impact adjacent neighborhoods. The burden of proof rests with the applicant that introducing expanded evening/morning operating hours will not adversely impact the adjacent residential neighborhood.

- 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:

- In this general area there are a number of businesses open past 9 p.m. such as the Brown Street restaurants located in the next block north of the Routsong Retail Center - Milano's, BW3s, The Pine Club. The Sunoco

station located immediately across the Oakwood Ave/Irving Ave intersection is open 24/7. The aforementioned businesses are located outside of Oakwood city limits and in the city of Dayton. Within the Neighborhood Business District, Firehouse Subs also located within the Routsong Retail Center is open on Friday and Saturday until 10:00 p.m. Having a business located in the Neighborhood Business District that is open until 2:00 a.m. is likely inconsistent with the residential character of the surrounding Oakwood properties.

- 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:

- Having a business located in close proximity to surrounding residential properties remain open until 2:00 a.m. could impact public health, safety, and/or general welfare of the homes in the adjacent residential area.

- 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:

- As previously mentioned, the introduction of a 2:00 a.m. closing time is likely inconsistent with the adjacent residential uses.

- 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:

- While not directly impacting the fully developed adjacent residential area, the introduction of late operating hours at this site represents a significant departure from the standard operating hours for businesses located in the Neighborhood Business District.

- 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 architecture poses no problem, but the late-night business model is likely inconsistent with the character of the adjacent residential neighborhood.

- G. That adequate utilities, access roads, off-street parking and loading facilities, drainage and/or other necessary facilities, have been or are being provided at the applicant's cost.

PRELIMINARY STAFF FINDINGS:

- The applicant has met the requirements of this standard.

- H. That adequate measures have been or will be taken at applicant's cost to provide ingress and egress so designed as to minimize traffic congestion in the public streets and avoid hazards to pedestrian traffic.

PRELIMINARY STAFF FINDINGS:

- The city is comfortable that no material changes are proposed to existing traffic patterns.

- 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:

- Although a bakery is a permitted use in the Neighborhood Business District, the proposed plan to operate until 2:00 a.m. likely changes the character of the area.

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

MR. ANDREW AIDT	YEA
MRS. HARRISON GOWDY	YEA
MR. GREG LAUTERBACH	YEA
MR. STEVE BYINGTON.....	YEA

There being four (4) YEA votes, thereon, said motion carried.

Mr. Aidt opened the public hearing for Application #22-3, and asked city staff to provide a report.

Mr. Kroger referenced a PowerPoint presentation and presented an application filed by Miami Valley Demolition and Excavation, on behalf of David and Natalia Gaulke, for approval of a landscape, screening and stormwater runoff plan for the anticipated demolition of 1227 Oakwood Avenue.

Mr. and Mrs. Gaulke recently purchased the single-family residence at 1227 Oakwood Avenue for the purpose of demolishing the existing home and constructing a new home on the lot. The Gaulkes previously submitted a request to consolidate two lots into one at this location in anticipation of this project. The request was unanimously approved in October of 2021.

Landscape, screening and drainage plans are not required for all tear-down/rebuild projects. However, they are required by ordinance if new construction is planned to occur more than 60 days after demolition of the existing structure. That is the case here, so the Planning Commission must approve landscape, screening and stormwater runoff plans before a demolition permit can be issued. The applicants have proposed a simple plan to restore the finished grade, remove all paved surfaces, and sod/re-seed.

Approval of a landscape, screening and stormwater runoff plan are subject the following standards:

- 1) The plan must describe plantings and/or other screening of such a nature so as to make the appearance of the premises consistent with the appearance of adjacent residential properties and to screen those properties from any negative visual impact of such items as traffic, noise, parking, light spillage, or pedestrian traffic.

PRELIMINARY STAFF FINDINGS: This is a heavily wooded lot and Mr. and Mrs. Gaulke intend to keep as many of the existing trees and foliage as possible. All hardscape

material will be removed and the area graded, seeded and covered with straw. Post demolition runoff will be less since all existing impervious surface will be removed as part of the demolition work.

- 2) The plan must include such evergreen and or/deciduous plantings as will be necessary to protect abutting properties from any significant reduction of value that would otherwise result from the structure being demolished or removed.

PRELIMINARY STAFF FINDINGS: The applicant intends to maintain as many of the existing trees as possible. Since the applicant intends to build a new home on the site, there are no new trees included in the landscape plan.

- 3) The plans must include such structures, walls, evergreen and/or deciduous plantings as will be necessary to protect the occupants of abutting properties from any significant injury to the use and enjoyment of those properties that would otherwise result from the structure being demolished or removed.

PRELIMINARY STAFF FINDINGS: Except for seeding the areas disturbed during demolition, it is staff's opinion that no other plantings or structures are necessary in order to protect abutting property owners from the effects of demolishing the existing home.

- 4) All such plans shall include removal of all accessory structures and impervious surface if the principal structure is to be removed.

PRELIMINARY STAFF FINDINGS: Besides demolition of the existing single-family residence including the garage, any remaining impervious surface, including the driveway, sidewalks, patio, etc., will also be removed.

- 5) The plan must describe how storm water runoff will be addressed.

PRELIMINARY STAFF FINDINGS: All disturbed areas will be graded and seeded to ensure post- demolition runoff does not exceed pre-demolition runoff.

- 6) The plan must contain language obligating the permit holder to completed the work within the 60-day timeframe required by the ordinance. Further, the plan must be accompanied by a valid recordable easement, signed by the property owner, granting the city the right to enter upon the property to implement or complete the plan, if the permit holder fails to do so in a timely manner. A bond or letter of credit must be submitted at the time of the permit issuance in an amount that would reimburse the city if it becomes necessary for the city to implement the plan so as to bring the lot into compliance with the approve plan.

PRELIMINARY STAFF FINDINGS: The utilities have already been disconnected from the home and all supporting documents (performance bond, recordable easement) have been received by the city. If the Planning Commission approves the landscape plan, the applicant intends to proceed with demolition immediately. Weather permitting, demolition and restoration of the site will be completed on or before the end of May.

Mr. Kroger shared that the Applicant plans to preserve as much vegetation as possible. The work will simply involve removing the driveway, patio and hardscape surfaces. All of the utilities are disconnected. The work should only take a maximum of 1-2 days, including restoration of the site.

There being no public testimony offered, the public hearing was closed.

The Planning Commission did not have any further questions for city staff or the applicant.

It was then moved by Mrs. Gowdy and seconded by Mr. Lauterbach that the preliminary staff findings be adopted, and Application #22-3 for a landscape, screening and stormwater runoff plan for the anticipated demolition of 1227 Oakwood Avenue, be approved.

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

MR. ANDREW AIDT	YEA
MRS. HARRISON GOWDY	YEA
MR. GREG LAUTERBACH	YEA
MR. STEVE BYINGTON.....	YEA

There being four (4) YEA votes, thereon, said motion carried.

There being no further business, the Planning Commission adjourned. The public meeting concluded at 5:01 p.m.


CHAIR

ATTEST:


CLERK