

**PLANNING COMMISSION
JUNE 10, 2015 MEETING MINUTES**

MEMBERS PRESENT:	Craig Cobb	Vice Chair
	Len Horowitz	
	Adam Howe	
	Anthony Mattox, Jr.	
	Michael Ungar	Chair
MEMBERS ABSENT:	Jessica Cohen	
	Jeff Rink	
STAFF PRESENT:	Richard Wong	Director of Planning & Development
	Kara Hamley O'Donnell	City Planner
	Elizabeth Rothenberg	Assistant Director of Law

Mr. Ungar began with welcoming everyone to the June Planning Commission Meeting. He said the first order of business is to call the roll call.

Mr. Wong did as follows:

Mr. Cobb	Here
Mr. Horowitz	Here
Mr. Howe	Here
Mr. Mattox, Jr.	Here
Mr. Ungar	Here

Mr. Wong stated there are five present.

Mr. Ungar stated that he was told as a result of attendance issues both at this meeting and at prior meetings we can only entertain a motion to approve the minutes of the April 14th meeting. He asked then asked for a motion to approve the minutes from the April 14th meeting.

Mr. Cobb stated so moved. Mr. Horowitz seconded the motion.

All those in favor say aye.

Aye. Any oppositions, anyone abstaining, Mr. Ungar noted he is abstaining because he was absent so that carries unanimously with one abstention.

The April 2015 minutes were approved.

Project 15-17: K. Fair, dba IM92, 2579 Noble, C2 Local Retail, requests Conditional Use permit for cheer and dance studio, and meeting room and party center per Code chapters. 1111, 1115, 1131, 1151, 1153 and 1161.

Mr. Ungar asked for all of those who plan to testify in regard to this application and that includes anyone who may wish to ask any questions or make any comments pro or con on this request, please stand and be sworn in by our Assistant Law Director.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were then sworn in by Ms. Rothenberg.

Ms. Kara Hamley O'Donnell began with stating that you have the staff report for this case in your packets. She said this property at Noble Road in the Noble Monticello commercial district. It is part of a multi-tenant building as she showed on the overhead the building and across the street is the CVS store. That should help you get your bearings. Ms. Hamley O'Donnell pointed out that there is a sizeable parking lot behind the business. Ms. Hamley O'Donnell stated this building actually just went through our storefront renovation last year to do exterior renovations to the building. She stated you will evaluate this based on the Standards for Conditional Uses which are in front of you. She stated the use that is proposed is for a dance and cheer studio for 20-24 students per session. They will operate Monday through Friday from 4:45 PM and typically till 8:30 PM. On Saturdays their hours will be from 10:00 AM – 2:00 PM. On Sundays she will hold some social gatherings such as children's birthday parties, baby showers, bridal showers, dance rehearsals and seminars. She stated that they did not find any health and safety risks based on the conditions. Ms. Hamley O'Donnell stated this does meet with the standards of the zoning district and no exterior changes are planned so the appearance will remain as is. Ms. Hamley O'Donnell stated we do not anticipate that this will impact property values or neighbors' enjoyment of their property or that this proposed use will have any hardship on any adjacent uses as outlined in the General Standard for Conditional Uses, A-E. We also do not find that conditions F through K are applicable to this application. She stated as far as our Sustainability Guidelines, the use of existing buildings is one of our number one priorities,

Staff recommends that the Planning Commission approve the cheer and dance studio and meeting room/party center for no more than 50 people at 2579 Noble Road as described in the application materials with the following conditions:

1. *This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
2. *The applicant shall work with staff to resolve any complaints from neighbors;*
3. *This use shall comply with all Building and Fire Department regulations;*
4. *Between the hours of 9 p.m. and 8 a.m., workers and patrons shall not congregate in the parking lot;*
5. *Any exterior changes, including signage, shall require the approval of the Architectural Board of Review; and*
6. *All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Ms. Hamley O'Donnell stated that is all she has.

Mr. Ungar asked if there were any questions for our staff. There were none.

Mr. Ungar asked the applicant to reconfirm that she has been sworn in, and give us your name and address.

The applicant stated her name is Khadijah Fair and the address is 2579 Noble Road, Cleveland Heights, OH 44121. She stated this is empower young girls, not just in Cleveland Heights and she stated she does coach the cheerleading team at Richmond Heights High School. She stated she does small gatherings and makes it more like a family.

Mr. Ungar asked if there were any questions for the applicant.

Mr. Horowitz moved for approval of Project 15-17 with the conditions listed.

Mr. Cobb seconded the motion.

All those in favor say aye.

Aye.

Any abstentions, no so it carries unanimously.

Mr. Ungar wished her good luck.

Project 15-21: D & M.A. Kerr, 2930 Coleridge (ppn 686-24-012 & 686-24-013), 'A' single-family, request lot joining per Code chapters 1111, 1115 and 1121.

Mr. Ungar stated this is a request to join lots at 2930 Coleridge. He asked that everyone that plans to testify about this please stand and be sworn in by our Assistant Law Director.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who plan to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell showed an aerial photograph of the two lots. She stated as far as they can tell there has never been a house on the lot to the left. That is the vacant lot and the applicant proposes an addition to their property for a first floor master suite with bathroom which is desirable and not very common in Cleveland Heights. She stated in order to do this that the building can only be on one parcel so they need to join the two lots together. She asked that you allow them to do that and that is her report.

Mr. Martin Johannesen came to the lectern and stated he lives at 2990 Berkshire Road, Cleveland Heights, and he had been sworn in. He stated he just wanted to add that as she had mentioned, nothing had been built on the west lot. As we can see from the old survey, about two or three feet of the house is already on the neighboring lot and about half of the garage is over there as well. He asked if there were any questions for the architect or staff.

There were none.

Mr. Ungar asked for a motion to approve Project 15-21.

Mr. Howe made the motion for approval and Mr. Mattox Jr. seconded them.

All those in favor say aye.

Aye.

Anyone opposed, there was not and no abstentions, so it carries unanimously.

Mr. Ungar congratulated the architect and the owners and wished them luck.

Project 15-18: Mamai Theatre Co., 2163 Lee, C2X Multi-Use, requests Conditional Use Permit for indoor commercial entertainment facility for live theater below Cedar Lee Theatre, per Code chapters 1111, 1115, 1131, 1151, 1153 and 1161.

Mr. Ungar stated the Mamai Theatre Company is seeking a Conditional Use Permit for a facility that house live theatre and entertainment below the Cedar Lee Theatre at 2163 Lee Road. He asked that all of those who plan to testify or ask questions about this project, please stand and be sworn in by our Asst. Law Director.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell stated that this is a theatre so it is an indoor commercial entertainment and will require a Conditional Use Permit. This project basically covers most

of the area between the larger theatres at the back of the Cedar Lee Theatre. She pointed this area out on the overhead slide. She stated it is below grade. Most people including the applicant were not aware that it was down there. If you come in by the mural, you will see this door and that leads you down below grade to what most recently has been a party center. Ms. Hamley O'Donnell stated it has been vacant for quite some time. She stated they propose to operate a ninety-nine-seat performance venue along with administrative offices, rehearsal space, and they plan to do at least three live theatrical events per season as well as an annual benefit performance. These typically will take place Thursday through Sunday. The surrounding area homes have received notices. She noted that there is plenty of parking nearby. She stated this is leased from John Forman who owns the movie theatre as well, so obviously he does not feel this will be a conflict with his business or other businesses in the area. Ms. Hamley O'Donnell stated again these are all conditionally permitted in accordance with the standards for Conditional Uses. She stated staff has found in our report that we feel this will not have a negative impact on the neighboring property. Hopefully people who come to the theatre will also patronize some of the other restaurants and retail businesses in the area. Ms. Hamley O'Donnell stated that we find it in accordance with A-D and again stated do not feel that sections E-K are applicable to this application. With the sustainable guidelines, we like to see long vacant spaces preserved and re-accommodated with some businesses. She stated we recommend approval of the Conditional Use Permit for indoor commercial entertainment for a live theatre, including administrative offices, rehearsal space and a performance venue at this address with the following conditions:

- 1. Any exterior changes require the approval of the Architectural Board of Review;*
- 2. The applicant shall seek separate Planning Commission approval if the theater's operators plan to install a marquee;*
- 3. Applicant shall adhere to all applicable Building Code regulations;*
- 4. This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;*
- 5. The applicant shall work with staff to resolve any complaints from neighbors; and*
- 6. All required construction and installation of the use shall be completed within 24 months of Planning Commission approval.*

Mr. Horowitz asked if ADA plays into this and has this been addressed.

Ms. Hamley O'Donnell answered that they have been working with an architect and our Building Department so they are aware of accessibility and egress issues. Those are not really the Planning Department's issue.

Mr. Ungar stated we will now hear from the applicant.

A woman approached the lectern and stated she is Ms. Clemens co-worker and artistic director, Christine McBurney and that the address of the Theatre Company and administrative offices is 1719 Wood Road in Cleveland Heights. She stated she has been sworn in. Ms. McBurney stated that regarding the ADA, that is something that the architect brought up and we wanted to know what has been grandfathered in first and probably is not for this venue tonight. She stated she did have some observations from the architect with her this evening and he stated he found nothing that looked awful or un-doable.

Mr. Ungar replied that will suffice.

Ms. McBurney thanked him.

Mr. Ungar asked if there were any questions of the applicant.

There were none.

Mr. Ungar then asked for a motion with respect the Project 15-18.

Mr. Horowitz made the motion for approval of Project 15-18 with six staff conditions.
Mr. Mattox, Jr. seconded the motion.

All those in favor say aye.

Aye.

Any opposed, there were none.

Any abstentions, no, so that carries unanimously.

Mr. Ungar stated that he is in the unanimous majority and wishes you the best with your business venture and we are glad you chose Cleveland Heights and hope to take in a show.

Project 15-19: M. Reilly, 3484 Blanche, 'A' single-fam, requests Conditional Use Permit for chicken coop and run per Code chapters 1111, 1115, 1121, 1151 and 1153.

Mr. Ungar stated Project 15-19 is a request for a Conditional Use Permit to operate a chicken coop and run in accordance with our code and this will happen at 3484 Blanche Road. He asked that all those who planned to testify about this please stand and be sworn in.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell began with saying this home is located in a single-family district, although it is immediately adjacent to a C-2 local retail district. She showed on an overhead slide the property of the proposed location of the chicken coop. She pointed out the building in the back which is Reilly Painting and their parking lot. This is also owned by Mr. Reilly, of Reilly Painting and Contracting. The applicant proposes a chicken coop and run as shown in the drawing. It meets all the requirements of the code. Since there are only a handful of people here tonight, she went through the standards for chickens.

1. A maximum of 4 chickens that can be kept on the property.
2. There will be no commercial activity that will result from keeping the chickens on the property
3. Roosters are not permitted
4. Chicken coops and runs must meet the following standards:

- A. They are allowed in the rear yard only and adequate safe guards are required to protect the chickens from animals to prevent unauthorized access to the chickens by general members of the public such as rear yard fencing and gating.
- B. They must be located 10 feet from any principal building and 10 feet from any adjacent lot.
- C. The facility must be kept in good repair and in clean and sanitary condition and free of vermin and obnoxious smells and substances. The facility will not create a nuisance or disturb neighbors due to noise, odor, damage or threats to public health
- D. The chicken coop and run must be designed to ensure the health and wellbeing of the animal and that it is not endangered by the manner of keeping or confinement.
- E. The chicken coop must be adequately lighted and ventilated.
- F. No storage of chicken manure is permitted within 20 feet of the property line.

Ms. Hamley O'Donnell stated those are the conditions that have to do with the chicken coop and the chickens themselves. Also the chickens must be kept in coops from dusk to dawn. Also slaughtering of the chickens is prohibited.

Ms. Hamley O'Donnell showed some slides on the overhead of the rear yard and where the coop will be located which is next to the garage. She pointed out that you can see the parking lot for Reilly Painting which is looking towards Taylor Road. She showed a drawing of what the coop and run will look like. She stated, regarding the rules for all Conditional Uses, the most important for a chicken coop, when you typically review them points B, C, and D which have to do with public health and safety, welfare, comfort and general appearance of the neighborhood. Point D is that it will not be injurious to the use and enjoyment of other properties in the immediate vicinity. She stated that when they drafted this portion of the Code, they anticipated that coops would be operated as accessory uses on residential properties by the people who lived at the property which would be owner-occupants or tenants with the owner's permission. The eggs harvested would be used for the personal use of the occupant of that residential property. In this case, the coop is on property not occupied by the applicant, though his business is immediately adjacent to the residential property. She stated that Mr. Reilly is who applied for the permit and he will be responsible for the chickens and their effect on neighboring property owners, though he will not be residing at the site. Staff has concerns about this unconventional arrangement and has asked the applicant and/or the applicant's representative who is here this evening to address these concerns. The questions we have are:

1. How will Mr. Reilly oversee the safety and security of the chickens if he does not live on the site?
2. How will Mr. Reilly make sure the chickens do not cause the neighbors problems if he does not live there?
3. Who will neighbors contact if there is a problem with the chickens during non-business hours when Mr. Reilly is not next door at work?
4. Can we be assured that Mr. Reilly will put the chickens in the coop every night if he does not live on the property? What happens if he forgets?
5. What will happen if overnight there are issues with the chickens getting loose or being attacked?

6. Is the tenant aware of and supportive of the proposal?

The Planning Commission should evaluate the proposal for a chicken coop and run for no more than four hens and its compliance with the above Standards for Conditional Uses. If the Commission chooses to approve the permit, Ms. Hamley O'Donnell noted the conditions from her staff report that typically apply to these permits. Ms. Kara Hamley O'Donnell stated that is all she has for her report.

Mr. Ungar asked if there were questions of staff.

Mr. Cobb asked, "There is no recommendation?"

Ms. Hamley O'Donnell replied, "There is no recommendation."

Mr. Ungar stated, "That is a red flag".

Ms. Hamley O'Donnell stated that they had a lot of questions that they felt needed to be answered and obviously there are some neighbors also who have some questions as well.

Mr. Ungar stated he has a couple of questions for staff. Mr. Ungar began saying that he does not remember honestly when and why we adopted the green zoning code leading to the chicken coop phenomenon in our city. He stated he has a concern and would like to get their reaction to it. This has nothing to do with Mr. Reilly or his commitment to tending to his chicken coop. Mr. Ungar stated is a bit of a slippery slope and it will remind us of the duck situation. Mr. Ungar stated if we allow this situation and even if the owner of the property but not the occupant of the property were to convince us that he will take very good care of the hens, what would prevent another resident in Cleveland Heights who had no interest in actually having and taking care of chickens on their property from simply leasing their property to someone who would then be a non-occupant, who tends to the chicken coop. He said if we say yes to something like this, non-occupants running chicken coops, again, setting aside whether they do a great job or not, let's assume a great job, how do we not set the stage for that potential slippery slope down the road?

Ms. Rothenberg replied that she is assuming that Mr. Ungar wants the Law Department to weigh into this. She stated that we talked a lot about whether your decision tonight would be a binding precedent, one way or the other. Ms. Rothenberg said, in fact, they had the conversation about the ducks as well, internally, and the truth is because it is a Conditional Use Permit, you do have the discretion to look at each case individually and treat it differently. She did not feel you would be setting any particular precedent by this case; but of course that does not mean at some point there is not some sort of natural tendency to get in the mind set of thinking that this is a general rule or a general exception.

Mr. Ungar stated his concern is we are a body this evening with a judge here with us; you would like to think there would be some consistency on how we would look at these projects going forward.

Ms. Rothenberg stated that the standard of review is if there was a decision that would be appealed, it would be to determine whether your decision is arbitrary or capricious and if there is consistency to the way you are deciding cases.

Mr. Ungar asked if there was anything in our history, like with Council for example, that gets us here. He stated it would not surprise him that one of things that we were mindful and hopeful of in passing this ordinance is that it would have on site supervision, for lack of a better term, by people. When this is happening where the operators of the chicken coops are also living, they are going to be there and better able to police the chicken. Whereas the occupant who has no interest in the chicken coop, probably is less concerned about some of the issues that we care about, like the neighbors. Ms. Rothenberg's response was that Mr. Wong should answer this, but she wanted to interject something before he speaks. She thinks it is fair to consider his answer as a form of legislative intent, as he was so involved in the drafting process and was there for the Council discussions as well.

Mr. Ungar stated for those in the audience who don't know it, Mr. Wong is our highly accomplished Planning Director for the City of Cleveland Heights.

Mr. Wong began with a disclaimer, he does not love chickens but he was involved in the legislation that allowed chickens and we did not anticipate a non-owner of someone off the premises having a chicken coop, thus that is why there is a mixed review with no recommendation. He said the planner in him says the Conditional Use is focused on what planners call externalities, what you do on your property that affects your neighbors. He said if, in your judgement, the chicken coop will not affect the neighbors, as the neighbors are not forced to listen, smell, or experience chickens whatsoever, they should not be forced to. Then the planner in me says that would be grounds in favor of the applicant's proposal. Mr. Wong stated it is a loop hole that we did not anticipate and it may be brought up again at Council in the future.

Ms. Rothenberg asked Mr. Wong if he thought that anyone on the legislation intended for it to apply to non-occupants. He answered no; there was never a doubt in our minds that it was intended for someone who was living on the premises, buying chickens, taking care of them, just like you take care of any pet. You would not leave your pet permanently on another person's property--that would be very strange. Mr. Wong stated we did not anticipate this.

Mr. Cobb asked what the situation is if there is a two-family house, not owner occupied and one of the tenants wants to have a chicken coop, what's the process for that.

Ms. Hamley O'Donnell answered that we did exactly the same thing when we had that duck situation. She stated it was a two-family home with a renter and we had the approval of the owner of the property, and we did notify the person who lived in the other half of the house that this was being proposed.

Mr. Ungar stated but the duck/chicken coop operator was on site.

Ms. Hamley O'Donnell replied yes, he lived there.

Mr. Cobb then asked why, in this case, is the chicken owner is not the applicant?

Ms. Hamley O'Donnell replied the chicken owner is the applicant and owns the house.

Mr. Ungar stated he is renting the house to someone else.

Mr. Cobb asked if the tenant is going to raise the chickens.

Ms. Hamley O'Donnell answered, no; the person who owns the property and leases the house has his business right next door.

Mr. Cobb then reiterated then the absent property owner is going to raise the chickens.

Ms. Hamley O'Donnell answered, "Yes."

Mr. Ungar stated that is fine, he just wanted to get staff's filter on this.

Mr. Ungar stated we will now hear from the applicant's representative.

The applicant representative stated her name is Antylette Vaughn and she has been sworn in. She stated her address is 3484 Blanche Avenue. She affirmed that she had been sworn in. She began with saying this is not your normal chicken coop, the only reason why we are putting it at Blanche Avenue is because the owner, Mr. Reilly, lives in Forest Hills, as you know, they are not allowed there. She stated the chickens will be cared for by Mr. Reilly who lives in Forest Hills. His son lives one minute away from this home and it is walking distance so if anything was to happen he could also assist. She stated she does have a letter from the tenant that if anything happens, they will notify Mr. Reilly, Brook Reilly (Mr. Reilly's son), or if any of the neighbors have any issues as far as the chicken coop. She said they can call the office and Mr. Reilly checks the voicemail daily. Ms. Vaughn stated there will be more eyes on this chicken coop than any other in Cleveland Heights. She said during business hours, they have a whole team and everyone is on board at the office to assist in taking care of this chicken coop. She added that actually where the chicken coop is going to be, next to the garage, it is also fenced in so the hens can't get far with the gate there.

Ms. Rothenberg stated she heard a reference to a letter and she did not think it had been entered into the record. She asked if Ms. Vaughn had it with her. Ms. Vaughn answered, yes, she did and it was entered in as part of the record. The letter was then circulated among the members of the Planning Commission.

Mr. Ungar asked if Ms. Vaughn had anything else she wanted to add.

Ms. Vaughn replied, "No."

Mr. Ungar asked her to stay by the lectern in case there were more questions.

Mr. Mattox, Jr. asked if the tenant has made any commitment to do anything, other than to make a phone call if something were to happen.

Ms. Vaughn said in the evening before he leaves the office, the owner will lock up the chicken coop and also Brook Reilly (Mr. Reilly's son) will check on the chickens around 10 or 11 PM.

Mr. Wong had a clarification to make, he said the applicant stated that the tenants are aware and in support of the proposal but the signed tenant letter says we are the tenants of 3484 Blanche Avenue and agree to notify Mike and Brooke Reilly if anything happens to the chickens or if any animal gets inside the coop. It does not say they are in support.

Ms. Vaughn stated they are just going to notify us in the evening when we are not there but as far as taking care of the hens, we are all responsible for that. She stated we (staff of Reilly painting) will be doing our share.

Mr. Ungar asked if Mr. Reilly leases this property to the tenant and she answered yes.

Mr. Ungar asked what gives him the right to re-enter the property to re-service the chicken coop.

Ms. Vaughn answered this home is for short-term rentals and before they came in, they were told they will have full access to the backyard and the garage so they know that they don't have access. We let them know if we need to use the garage with a courtesy call. The gate is behind the area where they are.

Mr. Ungar stated that leads to a follow-up question, if this is short-term rental, how you know the next tenant is going to be as on-board as these tenants are.

Ms. Vaughn replied most of the short-term rentals are for one year.

Mr. Ungar said that helps.

Mr. Mattox, Jr. asked how do you access that fence, is there more than one entrance or can you access from the parking lot?

Ms. Vaughn asked to show them on the overhead slide. She pointed to the area and where there is a gate and if the chickens were to get loose they can't get into the parking lot or into the backyard. So they are still fenced in. Ms. Vaughn added that you can't see this on the slide, but it is actually enclosed also.

Mr. Ungar asked just to be clear, Mr. Reilly is your employer, and you work on site at the facility there.

Ms. Vaughn replied, "Yes."

Mr. Ungar asked if anyone else wished to be heard with respect to this proposal, to please come up to the lectern.

A woman came to the lectern and stated she was Esther Muken and that she lives at 3492 Blanche Avenue which is two houses from the house they are talking about. She affirmed that had been sworn in. She stated she has a lot of concerns in that fact that they do not have a fence. She stated she knows the owner of the next house and that property on does not have a fence. Her concern is that her young son usually plays outside and if rodents are going to come because they smell the chickens, she did not know how that all works. To her it seems more prone to bring more animals into that area. Ms. Muken asked Ms. Hamley O'Donnell to show the slide again of the garage. She asked if the area by the door is locked, and if raccoons and deer are able to get in there? She feels this is going to increase the rodents we already have and is concerned about the diseases they will bring. She asked also about the noise factor since the chickens will be in a non-rural area.

Mr. Ungar stated he would ask staff about this but he could generally preview for you that we have not had any issues so far and we have approved a lot of chicken coops. He stated there have been the same concerns that you have expressed tonight raised before but it has not materialized into major problems with disease or noise. He said it may be because you can only have hens and not roosters. He asked our staff to correct him or supplement what he just stated.

Ms. Hamley O'Donnell stated this is our 42nd chicken coop application in the last three years. She stated she has been on site with the County Health Department to be sure and basically they have told her there are no issues as long as the person is operating in such a way that they don't leave food out. An example is if you leave a large bowl of dog food outside, raccoons are going to come because there is food there. Just like if you throw scraps in your back yard, the animals will come. The issue is if the person cleans up after the chickens. The coops she has gone on site with the Health Department have not found that to be an issue.

Ms. Muken asked if there are periodic check-ups to see if all is being taken care of properly so there are not issues with smell and anything else.

Ms. Ungar answered the way it works, that these are Conditional Use Permits, so if there is a problem, the Conditional Use states it cannot be a nuisance to the neighbors. If it becomes a problem, you report it to the City and they will try to address it first, if they can't correct it to mutual satisfaction of the neighbors, they can come to us for a revocation of the permit.

Mr. Wong stated that there were a few cases where neighbors had appeared and voiced their concerns and then were advised by the Chair that their recourse if there was a problem would be to give staff a call and we would jump on it. To those applicants credit, we have not had that kind of issue where someone would claim they were going to smell them and they would attract rats and raccoons which was the common theme of their concerns.

A woman came to the lectern and stated her name is Jacqueline Stern and that she lives at 3485 Blanche so she is right across the street. She affirmed that she had been sworn in. She stated her neighbor, Esther, really addressed most of our mutual concerns but she was also interested in what the complaint process might be. She stated she was concerned about noise as she did not want to be woken up at 5:00 AM and she did not know if hens do that. She stated her family has lived on this property since 1951 and never in their dreams did they think they would be dealing with chicken coops, but so be it. She felt as long as there is enforcement; they feel a lot better about this already. She stated this all is very enlightening and it changes the whole picture.

Ms. Hamley O'Donnell stated she would give her a business card to call if there is an issue.

Ms. Stern thanked her very much.

A gentleman came to the lectern and stated his name is Michael Davis and he has been sworn in. He stated his address is 1904 Powell Avenue. He stated he lives on Powell and he is at the back of Reilly's building and we have three big lots. Mr. Ungar asked him to show on the map on the overhead where he is located. Ms. Hamley O'Donnell showed him where he is located on the map. He stated he was trying to find out the details since his neighbor was against it. He asked is it safe, and are they going to fence the area in?

Ms. Hamley O'Donnell showed where it will be located and it is required by our code to be fenced in and cooped for the safety of the animals.

Mr. Davis stated he did not know if his neighbor misunderstood, but if you talked to her then you know. Mr. Davis said then really, we would not be close to see or hear anything. I just wanted to see what was going on.

Mr. Ungar thanked Mr. Davis.

Mr. Ungar asked if anyone else wished to be heard about this matter.

Mr. Horowitz wanted to make a comment on his personal experience with chicken coops. He stated he has a daughter in Berkeley, California, where they seem to have a more relaxed approach to this. There they do not have to be kept in coops so she has three chickens, all different varieties. He stated his 1½ year old grandson tries to hug them and it has not been a problem. Mr. Horowitz said his other daughter is in Davidson, North Carolina, near Charlotte, have a next door neighbor that has chickens with no fence. He

said they stay close by the house with no problems. Mr. Horowitz stated he has never smelled anything when he goes to visit them. Mr. Horowitz stated how we have gone in the last 40 years from a "shechita" on Coventry and Euclid Heights and no chicken coops to this. He added that you need to know that most of the people on this commission were involved in the code changes a few years back to legalize chicken coops. We were all concerned at the time and held our breath during the first ten or twenty of these cases.

Mr. Ungar asked if someone wanted to make a motion with respect to this project and just so you know, I am going to open this up to some discussion before we actually vote on it.

Does someone want to make a motion on Project 15-19?

Mr. Horowitz made the motion for approval but asked first if Mr. Reilly would share his home or cell phone number with them. He was not sure if it was appropriate to put that in as a condition. Mr. Horowitz felt that calling the business did not entirely cover it.

Ms. Rothenberg stated you can add any condition that you want to.

Mr. Horowitz then stated he would like to add Condition 7 be that Michael Reilly be required to provide an after-hours home or cell phone to staff so he can be reached in an emergency.

Mr. Horowitz asked that 15-19 be approved with the seven conditions.

Mr. Ungar stated that has been moved, is there a second.

Mr. Maddox, Jr. seconded it.

Mr. Ungar asked is there any discussion.

Mr. Ungar stated he will start the discussion and vote no for reasons that have nothing to do with Mr. Reilly or concerns about his ability to maintain or manage this chicken coop. It is more about staff and city council that can go back and amend and clarify. It is pretty clear to him, based on recall that this is about owner-occupied situations, not just because of semantics. He stated owner-occupied means that the owner is right there on site in the event there should be an escape and or any other issues he is not thinking of right now. So he stated, owner occupied meant something to him. He stated if city council says, "No this is fine, we have no problem with renters or an off-site own-operator of the chicken coop," he will be ok with that and will readily vote in favor of this, if that is the clarification that we get from our City Council. Mr. Ungar stated, right now, he is not comfortable with doing that so he is voting no.

Mr. Cobb stated he would like to hear from Mr. Reilly given your concerns. He stated he has a problem voting favorably without him being here to address us. Mr. Cobb felt he possibly could provide some assurances in person.

Mr. Ungar stated we are not a policy making body, we derive our authority from the City Council. If they say they are good with this, from a policy perspective, I want to know. Mr. Ungar said, just to elaborate, he does not need a formal vote from City Council. He thinks that the Law Director and the Planning Director can key it up for them if they say no; we are fine with this from a policy perspective. Mr. Ungar said his problem with this is much more procedural than substantive. He stated it does not have to be a big formal vote with the reading etc.; he is just looking to take their temperature.

Mr. Horowitz asked if it would make sense to continue this for a month rather than voting on it.

Ms. Rothenberg stated if you did not get the votes tonight, it would be off the agenda and they would have to reapply. If you want to make sure it is heard again, it would be appropriate to make a motion to rescind your motion and then make a motion to continue, so we need two motions.

Mr. Horowitz stated he would like to move to withdraw my motion and Mr. Maddox, Jr. withdrew his second.

Mr. Ungar asked if anyone was opposed to that.

No one was.

Mr. Ungar then he thought that next is for Ms. Vaughn to make sure that you could have Mr. Reilly here at the next meeting or whatever meeting where we have the input from our City Council.

Ms. Vaughn answered, "Yes, I think we can."

Mr. Ungar stated to Ms. Vaughn that I assume you agree that it is preferable to have this matter continued vs. voted down where you can see it is heading.

Mr. Ungar stated he is not allowed to advise her, but he has put the cards all out on the table. He asked is that what she would like to do.

Ms. Vaughn replied, "Yes."

Mr. Ungar then stated he would entertain a motion to continue rather than to vote on Project 15-19 until the next practicable date based on the input from our staff which will be shared with you and Mr. Reilly.

Mr. Ungar stated and you do think Mr. Reilly will be able to arrange it so he can be here per Mr. Cobb's concerns.

Ms. Vaughn replied, "Yes, I think so."

Mr. Horowitz stated so moved.

Ms. Hamley O'Donnell asked if she could make a suggestion that we add to continue this up to 60 days. That way if for some reason, with the next meeting being on July 8th, if there was a conflict with the holiday.

Ms. Rothenberg stated, "Let's do ninety days, it's summer, and everyone takes time off."

Mr. Horowitz amended his motion to continue for ninety days.

Mr. Cobb seconded the motion.

All those in favor say aye.

Aye.

Any opposed.

Any abstentions. No. So that carries unanimously.

Mr. Ungar stated this project will be continued and his guess is we will have the pleasure of seeing you again.

Ms. Rothenberg asked Mr. Ungar for some clarification before we move onto the next and last project.

Ms. Rothenberg asked, when you say "owner occupied," do you mean the owner of the coop would be occupying the house, you are not against a renter, is that correct?

Mr. Ungar replied the owner of the coop will have to occupy the premises where the coop is located.

Project 15-20: CH-UH City School District, 2843 Washington, 'A' single-fam, requests cond. use permit to adaptively reuse 3 offices at former Coventry School for 3 workers who will provide family mental health services per Code ch. 1111, 1115, 1121, 1151, 1153 & 1161.

Mr. Ungar started with asking that all of those who plan to testify about this extremely non-controversial please stand and be sworn in by our Law Director.

Mr. Wong, Ms. Hamley O'Donnell and others in the audience who planned to testify were sworn in by Ms. Rothenberg.

Ms. Hamley O'Donnell stated this should be super quick because the only people here are from the Board of Education. She stated the Planning Commission has the authority to approve adaptive reuse of a non-residential building in a residential district, in effect, all

churches, schools, and synagogues and we can repopulate them with things that are not schools, churches, synagogues or single-family homes. Ms. Hamley O'Donnell showed a slide that showed the area of Coventry.

Mr. Ungar added for the new folks the fact that we have done a bunch of these at Coventry School.

Ms. Hamley O'Donnell pointed out in the middle where the counseling offices will be and what we are talking about this evening. There are three small offices that would be used for three counselors that the district would have for a new program which is outlined in your materials. This program would be for people within the district and all the schools. She stated that we believe it fits with the sustainability guidelines and with the Standards for Conditional Uses. She said she did have a few calls from neighbors and talked to them and shared the staff report with them. Since they did not show up, all may be fine. She stated the sustainability guidelines, obviously adaptive reuse of buildings is positive and then staff recommends that you approve the three offices for the three workers who will provide family mental health services according to these four conditions:

- 1. Applicant shall return to the Planning Commission for approval of any significant alteration or expansion of their operations;*
- 2. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for adjacent residential properties;*
- 3. The applicant shall work with staff to resolve any complaints from neighbors and residents; and*
- 4. All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.*

Ms. Hamley O'Donnell stated that was all she had. She did say that Mr. Petkac as well as Mr. Johnson are here this evening. Mr. Johnson has dealt with some of the programming aspects of this project if you have any questions for either of them.

Mr. Ungar asked if there were any questions of the staff.

There were none.

Mr. George Petkac came to the lectern and stated he is from the Board of Education and he stated he has been sworn in.

Mr. Petkac stated that the staff does such a phenomenal job of covering everything, unless you have some specific questions of me, since we have been through this before, Mr. Jeffrey Johnston is here in case you have some questions about the program.

Ms. Hamley O'Donnell wanted to state that there is a part in her staff report that she did ask the district to explain how they kept sounds to a minimum. She stated they are an open classroom building and there are many uses that sort of flow from one to the other. She did speak with three tenants of the building and all of them said they are working most things out pretty well among themselves with scheduling and things like that. Ms. Hamley O'Donnell stated she had received a call from one of the tenants of the school that is downstairs who was concerned about sound and noise.

Mr. Johnston explained that the actual activities will take place inside the offices that are closed. He stated that in Urban Oak they are mainly concerned about what goes on above

them. He pointed out on the overhead map where they were and it is currently vacant above them.

Mr. Ungar asked if there were any questions.

There were none.

Mr. Ungar asked if someone wanted to make a motion with respect to Project 15-20.

Mr. Howe made the motion to approve Project 15-20 with the staff recommendations.

Mr. Mattox, Jr. seconded the motion.

Mr. Ungar stated it has been moved and seconded.

All those in favor say Aye.

Aye.

Anyone opposed.

There was none.

Any abstentions.

There was none.

Mr. Ungar stated that carries unanimously as well and thanked him for being here.

Mr. Ungar asked for any updates or any new business.

Mr. Wong stated there was one update that we hope by the next Planning Commission Meeting to have a Steering Committee for the Master Plan formed by City Council and we can get rolling on the master plan.

Mr. Ungar replied "great".

Mr. Ungar adjourned the meeting at 8:30 PM.

Michael Ungar, Chair

Richard Wong, Secretary

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