

use. He stated the first order of business is if all those who plan to testify about this matter that means in favor or against it and or even if you wish to ask questions about this, please stand and be sworn in by our Law Director.

Mr. Wong and the others in the audience who planned to testify were sworn in.

Mr. Ungar stated that we will begin with hearing from our Planning Director, Mr. Wong.

Mr. Wong thanked Mr. Chair. Mr. Wong began with showing a slide of the applicant's property at Mayfield and Lee Road. He showed a slide that showed the zoning districts we are dealing with, in particular C-2 retail and the Heights Rockefeller Building. He stated that you may recall that in 2011, our Planning Commission first approved Animal Zen which opened later in 2011. He stated you did find at that time, pet training similar to an animal clinic or an animal grooming.

Mr. Wong stated that Ms. Brockway's success has led to this request for expansion. He stated he would leave the details of here expansion to the applicant and you also have the description in the package you were given. He stated that Animal Zen was unaware of the requirement for another Planning Commission Conditional Use Permit for the expansion so she did proceed unaware. Once she learned of the need to see you, she held back on her advertising the proposed expansion of that activity. As you saw in the packet, the floor plan and detailed description of the various activities was provided. He stated the applicant's goal is expand their services without affecting neighboring businesses or residents. Mr. Wong stated that the standards A through J are satisfied. Mr. Wong stated standard A requires you look at the zoning districts objectives and that is why he brought up the local C-2 retail talks about stores, neighborhood establishments located side-by-side to create and encourage pedestrian activity. So, moving on to Standard B, it is the concept of public health and safety and comfort being protected. Mr. Wong stated that he had evidence from late 2011 until now that they are complaint free. In addition he stated that notices were sent to the abutting properties. Mr. Wong stated there are masonry walls in between the tenants in this building and, as he stated, they have been complaint free since opening. In addition to these preliminary standards that are general and applicable to all conditional uses, there is a separate section (bb) with 8 additional standards for animal daycare. He said one of the prerequisites is to have a floor plan and then a demonstration by the applicant that they satisfy these 8 extra standards for an animal daycare. Mr. Wong stated to summarize (bb)'s standards they include bullet points which he did not read out loud. He stated basically it comes down to the applicant which is the crucial variable in this. It's not the number of conditions you add to the Conditional Use Permit. It is the applicant's excellent record to date and the expectations she will continue to be an excellent tenant and neighbor that will drive this approval by the Planning Commission.

Mr. Wong stated that staff recommendation number one is like before to find pet training similar to an animal clinic or an animal grooming. He said if you get past that, then staff recommendation number two is to approve Animal Zen's dog and cat grooming, animal training, and animal day care as described in their application materials in accordance with 1153.05(n) which is the grooming training part and 1153.05(bb) which is the daycare with the six additional conditions as follows:

1. *The dogs on site shall be licensed and all animals shall be controlled in a reasonable manner at all times in accordance with Cleveland Heights Ordinance 505.07, "Animals Not Under Control;"*
2. *That the use shall not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for nearby businesses;*
3. *The use shall have adequate soundproofing and odor controls to ensure than any noises and odors associated with the facility's operation are not detectible on neighboring properties;*

4. *All waste shall be disposed of with adequate frequency and in such a sanitary manner as to avoid odors, vermin or other nuisance conditions or the spread of disease;*
5. *Facilities shall be subject to inspection by the Zoning Administrator, the Building Commissioner, or their designated agent(s) upon request during business hours; and*
6. *The applicant shall work with staff to resolve any complaints from neighbors.*

Mr. Ungar asked if there were any questions for Mr. Wong.

Mr. Ungar had one question which was on the 1st condition that the dogs have to be licensed. He as a dog owner is not aware that he has ever been asked if we had a dog license. Mr. Ungar wanted to be sure that we are not imposing something on an operator here in Cleveland Heights that would not be applicable on an operator in South Euclid. He is concerned that the owner would have to police the owner before they can be cared for. He wants to make sure there is equal treatment and if we have done this for Dogtopia and some of the other places we have approved.

Ms. Rothenberg stated the applicant stated it was not required the last time and it does not seem to be required under the supplemental regulations. She then found it was Number 5 and is states that all dogs on the premises must be licensed, so it is already in our code.

Ms. Cohen asked about the hours being 7:30 AM – 8:00 PM is that the same hours as it was operated at before?

Mr. Ungar asked the applicant to return to the lectern and confirm that she has been sworn in.

She stated her name is Adrienne Brockway and her address is 12992 Cedar Road, Cleveland Heights, OH. She stated the hours of operation currently are 8:30 AM – 5:30 PM Tuesday through Friday. She stated Monday they are open till 7 PM and Saturday they are open from 9 AM to 1 PM. She said they do private consultations at other times and meet with people. She stated in the application she wanted to give the maximum outside of what we might want as there have been occasions when they want earlier drop offs so that is why there the 7:30 AM came from, and does not actually expect regularly to have staff in the store at that time.

Ms. Cohen stated back to her question to the Planning Commission, regarding the Rockefeller space, which there is no longer a restaurant now. Is that space set for only restaurants in the future? Ms. Cohen's concern is if she is expanding her evening hours, even though there have not been complaints until now and the excellent way she is running her business. Ms. Cohen's concern is if the expansion here to interfere with a restaurant success upstairs, if there is any difficulty there.

Ms. Rothenberg asked if she meant regarding the parking.

Ms. Cohen replied, "No, more the noise and flow of customers and she did not know if it would be a disturbance or not". Are we only expecting a restaurant to move in that space above or is that available for other businesses so it would not even be relevant.

Mr. Wong answered that because the previous owner, the owner of Rockefeller's put so much capital into the space it is likely to be reused as a restaurant, but that does not preclude an office or a bank for example.

Ms. Brockway asked to speak to that also. She stated that the way we have divided up the space, is that the space that had been Rockefeller's Restaurant is over the space we would be using as our training and enrichment facility, which means it is not part of the Live and Learn Daycare. The noise factor actually is not part of that as in the training facility we are

not expecting dogs to be out there barking and doing things; they are really focused and attentive to their owners. She stated we have tried to set the space so that wherever there are other businesses that might be impacted, that is where we don't have noise.

Ms. Cohen thanked Ms. Brockway and stated she is thrilled there is a business in that area and that you are expanding, so that is important.

Mr. Ungar asked if there were any more questions of Ms. Brockway or Mr. Wong.

Mr. Ungar asked for a motion to find that dog training is similar to an animal grooming and or clinic?

Ms. Cohen made the motion and Mr. Cobb seconded the motion.

All those in favor say aye.

Aye.

Mr. Ungar stated that carries unanimously.

Mr. Ungar stated the second motion is for approve the Conditional Use Permit that will allow the expansion of this business to add a 15-pet animal daycare.

Mr. Horowitz stated he moves that we approve the expansion with the 7 listed conditions recommended by staff.

Mr. Wong stated to the Chair that he neglected to say that Condition 7 which gives the applicant 18 months was not necessary since they had already proceeded with the improvements so a deadline was not necessary and Condition 1 only reading "dogs." The other Conditions 2 through 6 are fine with dropping Condition 7.

Mr. Ungar asked if there was a second to that.

Mr. Mattox seconded that.

All those in favor say aye.

Aye.

Anyone opposed.

There was none so that carries unanimously as well.

Mr. Ungar wished them well and good luck to you.

Project 15-22: K.D. Kirkland, Jr., dba IXL Childcare & Learning Center, 3150

Mayfield, C3 Gen. Commercial, requests cond. use permit for 165-child day care operating 6:30 am – 11:30 pm M-F, 7:30 am – 4:30 pm Sat., per Code ch. 1111, 1115, 1131, 1151, 1153 & 1161.

Mr. Ungar began with saying this is a request for a 165-child daycare facility at 3150 Mayfield Road. He asked that all those who wish to testify about this, please stand and be sworn in by our Assistant Law Director.

Mr. Wong and others in the audience who plan to testify were sworn in.

Mr. Wong thanked Mr. Chair. Mr. Wong said we are still at Mayfield and Lee Road but east of Lee on the South side of Mayfield Road. He showed that it is in a C-3 general commercial district on an overhead slide. Mr. Wong pointed out the pattern and that it was pretty straight forward. He stated it is commercial on the arterials and residential two-family and single-family homes on the side streets much like the rest of the city. Mr. Wong put the applicant's site plan on the overhead along with photographs of the surrounding area. He stated in the general standards we talk about the fit of the property and we did make some minor comments about the landscaping and the maintenance. Mr. Wong showed the parking lot with a very straight forward layout with a play area in the back. He said that the standards A through J apply in this case again. He stated that A focuses on the district in which the property is located which is C-3 general commercial. A C-3 area is for higher intensity commercial uses along a major street. He stated standard B is highlighted for the public safety and comfort in regards to the site plan and layout. Mr. Wong felt it is pretty straight forward; it's been a day care use for some time now. There is plenty of parking and the sidewalk separates pedestrians from vehicles. The play area is far away from the road and vehicles. These are 3 attributes to a day care use. Mr. Wong stated Standard C talks about the appearance and that's where we do a visual inspection of the property and make suggestions if there is room for improvement. He said there are 3 points to make that are in the Staff Report: Replace dead shrubs, remove the two posts up front and the banner which is not permitted and add parking lot screening. By this I mean landscaping the area and this is required now. It might not have been in the 70's when Sawyer Business College went in. Mr. Wong said Standard D talks about its surroundings and the effect of this use on the surroundings. He pointed out there is a good-sized masonry wall in back with a lot of landscaping between the single-family homes on Whitethorn and this property. He stated as he said before, with Animal Zen, we have not had any complaints either which is partly attributable to the site layout. Mr. Wong stated that notices were sent out to abutting properties. He stated there is more than adequate parking, 32 spaces provided, 1 per employee and the applicant proposes 10 staff at any one time, plus 2 at a minimum drop-off spaces. Mr. Wong said the recommendation is to approve the 165-child daycare center as described in the application materials with **8 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;
6. Signage shall be installed to designate a minimum of two parking spaces as reserved for pick-up/drop-off only;
7. Applicant shall submit landscaping plan for Planning Director approval. It shall include removal of dead shrubs, parking lot landscape screening, dumpster screening, and removal of the two blue posts in front of the building;
8. All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.

Mr. Horowitz asked that usually when we have daycare applications in the past, there is a lot of attention paid to traffic flow on the pickup and drop off. He questioned with 165 kids there will only be 2 spaces for pick up and drop off. It did not sound like a match to him.

He asked Mr. Wong to address that please.

Mr. Wong replied if you feel this is insufficient you can ask for more as a condition. He stated frankly he is not worried about it, because if they are young kids the parents will park there and they will find a spot. This is a very straightforward parking lot. There is no mystery where you park and the pedestrians are nicely separated because of the sidewalk in front of the parking spaces so there is a clearly defined pedestrian way once you get out of your car. Mr. Wong stated if you wanted to require more than 2 that would be fine but it satisfies the code. Mr. Wong said it was a good point and you could require the employees for example to park on the West side of the lot so they would have to cross the 22 foot aisle of the driveway and then have the entire half of the lot for drop off.

Mr. Wong also stated that in their experience, and they are not experts at it, but it never happened where all the cars come into the parking area at the same time. He stated it is logistically almost impossible for them all to arrive at the same time.

Ms. Cohen stated that she would argue as a mother, and have done a lot of drop-offs and pick-ups, that at this daycare center the hours are so expansive, it is not a school or pre-school where you have one drop-off or one pick-up. She wanted to say that she does like the idea of asking staff to park on the far side as she likes to park on the side of the building with her kids.

Mr. Mattox, Jr. asked if there has been any discussion at all on the possible use of the larger parking lot from the New Spirit Revival Center on the other side of that building. He wondered if there were traffic issues or about any discussions that might have been.

Mr. Wong answered that the discussion never happened but the lot is generally available.

Mr. Ungar asked if there is a resource that we can refer the applicant to so they can figure out with their assistance if there should be any traffic flow issues and how to address them.

Mr. Wong replied "sure."

Mr. Wong also stated that this could take the form of a condition that you ask the applicant to submit a drop-off and pick-up plan which is the primary concern not the parking itself.

Mr. Ungar stated let's just call it a drop-off and pick-up plan with police department approval and the police department will weigh in.

Mr. Wong replied "yes".

Ms. Cohen asked "how do we add in another condition that parking for staff should be on the far side".

Mr. Ungar answered we would state there are two additional conditions, one is that parking by staff be on the far side and second condition would be that the applicant work with the police department to come up with an appropriate drop-off and pick-up plan from a safety standpoint.

Ms. Rothenberg stated she has no concerns but she wanted to be clear on No. 7, there was an addition that the dead shrubs be removed so should the move also reflect the slide presentation and not just the written report.

Mr. Horowitz asked what was not in there.

Ms. Rothenberg answered "what is not in there is the removal of the dead shrubs and Lenny is going to make the motion".

Mr. Ungar asked if there were any other questions of staff before we ask the applicant to take the microphone.

There was none so we will now hear from the applicant.

A woman came to the lectern and stated her name is Angela Kirkland and she resides at 361 Knollwood Trail which is in Richmond Heights. She thanked Mr. Wong for the presentation and for the questions and concerns. She stated she is pleased to be here this evening and hopes to seek your approval for the building.

Mr. Ungar asked if Ms. Kirkland was good with the conditions that we just went over including the couple of new ones.

Ms. Kirkland replied that the only one condition is the resource referral that she was not sure how that worked and what needs to be done. She said she knows that for the past sixteen years, this particular site has been used for a child daycare and there have not been any issues in the past. Ms. Kirkland stated she understands the safety of young children. She did ask what type of resource is available so that they can do it.

Mr. Ungar stated he would take a stab at it and if need be staff will correct.

Mr. Ungar stated that she should call the Planning Department and they will put you in touch with the right people in the Police Department and they will help you come up with what we need.

Ms. Kirkland asked if this is just a conversation in terms of how to make sure the children are safe.

Mr. Ungar replied it may be an e-mail or two, but it will not be particularly difficult and it will be totally safety oriented. He stated it also goes with one of your submissions that the safety of the children is paramount. Mr. Ungar stated it will not be painful.

Mr. Wong added that we will walk you through it and it's not involved or arduous, it's pretty straight forward. He said it probably amounts to a couple conversations and then an agreement that you put in writing to the Police Chief and he will sign off on it.

Ms. Kirkland replied, "Excellent, thank you."

Mr. Ungar asked if she was good with the conditions.

Ms. Kirkland replied yes, and that they had already considered making sure the staff parked on the West side to keep them separate, and they thought that two drop-off and pick-up spots spaces may not be adequate so we may add more.

Ms. Cohen had one more question for Mr. Wong. She asked if this site has been vacant and for how long?

Mr. Wong said he was not sure.

Ms. Kirkland added that there was a business site there in April of this year and the former childcare owner was in business with 75 children, is her understanding.

Ms. Rothenberg swore Mr. Kirkland as he asked to speak.

The man stated he is Ken Kirkland and that he is the person who is purchasing this building for his wife, he is the loving husband. He wanted to give us some background information about his wife. He stated that his wife is actually a teacher at Monticello school for the past twenty years and she is very familiar with kids. We decided to branch off to something different. He stated he also is an educator, he said he is a adjutant faculty member at

Cuyahoga Community College and that he is also working on his doctorate degree and hopefully that should be done in the next 5 or 10 years. He stated they have a strong interest in providing a quality daycare center. He said this is not a money venture; this is something we would like to do and do it very well. He stated when they open he would like all of you to come and bring someone with you, preferably a kid..... But thank you very much for your time.

Mr. Ungar replied, "Thank you Mr. Kirkland."

Mr. Ungar asked for a motion in regard to Project 15-22.

Mr. Horowitz made the motion to move for approval of 15-22 with the 10 conditions, with the 8 that are already stated and Number 7 adding the words removal of dead shrubs so it will include parking lot landscape etc. He stated a new number 9 that the staff will park only on the west side of the parking lot and number 10 that the applicant will work with the Cleveland Heights Police Department on a safe drop off and pick up plan.

Ms. Cohen seconded the motion.

All those in favor say aye.

Aye.

Any opposed, there were none so it carries unanimously.

Mr. Ungar congratulated Mr. & Mrs. Kirkland and good luck with your business.

Mr. Ungar began with saying it would not be a Planning Commission Meeting if we didn't have a chicken coop on the agenda so our next up is Project 15- 19, a Conditional Use Permit is being sought for a chicken coop and run at a property located at 3484 Blanche. He stated that hopefully Mr. Wong, I do not have to remind you that we are pretty darn familiar with the standard for chicken coops these days. He said he did not know what number we are up to but even our new members are pretty darn familiar right now.

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

Mr. Ungar stated that anyone who plans to testify about his project to stand and be sworn in by our Asst. Law Director.

Mr. Wong and others in the audience who plan to testify were then sworn in by our Assistant Law Director, Ms. Rothenberg.

Mr. Wong began with saying that he resolved not to talk about ducks tonight so he said he is not going to re-present the presentation.

Ms. Rothenberg interrupted stating that though he is not re-presenting it, we are going to have everyone get to vote on it. She continued saying that if you happen to not be at the last meeting and you had any questions that you want to be filled in that were not already filled in by the application themselves, please don't hesitate to ask. We want everyone to vote even though we did part of this last month we are sort of starting over today. She said to Mr. Wong, you can still do what you were going to do.

Mr. Wong asked the question if anyone wanted him to go through the slides.

Ms. Cohen spoke stated that she had read through the minutes.

Mr. Wong stated he will not go through the slides and will just report.

Mr. Ungar interjected that he does not remember who was here or wasn't here, so a very quick summary of what happened. He asked who wasn't here last month.

Mr. Wong stated Ms. Cohen was not here and... [Mr. Rink was also not present]. Mr. Ungar interrupted saying that he still thinks for her benefit we ought to just give a quick synopsis of what the sticking point was from the staff perspective.

Mr. Wong stated so, for Ms. Cohen's edification, and Mr. Rink was also absent last month. He stated that typically chicken coops are approved without a lot of fan-fare or fuss but in this case the fundamental question revolved the applicant not living at the property as you probably surmised from the minutes. He continued saying that if the person doesn't live there, can the Planning Commission approve the Conditional Use Permit. He stated he thought it was Mr. Cobb last month and then Mr. Ungar raised the question, "Was that on the minds of the City Council when this ordinance was approved in 2012?"

Mr. Ungar interjected, "Do you follow what he is talking about, sort of absentee ownership?"

Mr. Wong continued saying it was the fundamental question on at least two of the members minds, what was Council thinking or did they anticipate this variable and so we polled all of Council, although admittedly, some of them were not on Council in 2012. But those that were said this was not, and staff admits, we never considered when we were writing this the possibility that someone would not live there, yet have a chicken coop.

Ms. Rothenberg asked if they said anything other than that, or how they felt about it.

Mr. Ungar interjected that he'd like some legislative guidance.

Mr. Wong answered they did not offer specific guidance to the Staff of the Planning Commission, they just were crystal clear that this was not something they had anticipated or put into the legislation to accommodate.

Mr. Ungar stated that another thing he can say as Chair, and those that were here, can correct me if I am wrong, my sense was that there was a little bit of uneasiness and un-readiness given that Mr. Reilly, himself, was not present, there was representative instead here to speak for him but obviously he is here this evening. Mr. Ungar stated we specifically asked that he be here.

Mr. Ungar asked if staff has any views as to the issue of an absentee owner.

Mr. Wong stated you really have to focus on the Standards [for Conditional Uses], the slides that I showed; they are not any different on this one. He said the Standard A-J must be fulfilled and then the chicken coop standards must be fulfilled. Mr. Wong stated if the applicant fulfilled those, then there is a--I don't want to call it a loop hole--but there is not a prohibition of someone not living there. Mr. Wong continued saying you have to use your own judgment and not substitute some clause that Council intended because they did not put a clause in there, but they never anticipated this.

Ms. Rothenberg asked Mr. Wong if they indicated if they supported this or didn't support or were they neutral.

Mr. Wong replied, "No, they did not offer staff recommendations and there was not a full body discussion about the concept of advancing this on the way, for example, the next Zoning Amendment series of changes, I don't know where it would go.

Mr. Ungar said ok.

Ms. Cohen asked Mr. Wong if she was correct from reading the minutes, even if we were to approve this, that would not necessarily create a situation where all subsequent non-owner occupied properties--what I understand is that this a case by case basis, so we are not setting any precedent here.

Ms. Rothenberg replied that she is going to answer this since this is a legal question and that your understanding is correct. She continued saying that all Conditional Use Permits are case-by-case so you are not setting any precedent. If your opinion was to be reviewed, or your decision was to be approved by a reviewing court, they would be trying to figure out whether you were acting in a way that was reasonable or arbitrary and so, of course, consistency will always put you in a position that you can't be concerned about looking or appearing arbitrary but you are definitely not setting a precedent, per se. There is nothing binding about tonight's decision except for this particular application.

Ms. Cohen thanked Ms. Rothenberg for the explanation.

Mr. Ungar asked if there were any more questions for staff before we hear from Mr. Reilly.

Mr. Mattox Jr. stated he had one question, " Just so I am clear, if I own five houses in Cleveland Heights I would have to come back for each of those or as an owner I could still only have a limited amount of chickens no matter how many properties I own?"

Mr. Ungar replied that is a really good question.

Ms. Rothenberg replied that he had stumped her and she needed a minute to check it out. She asked Mr. Wong what part of the code are we in.

Mr. Wong replied 1153.

Ms. Rothenberg replied it is four chickens per property and she thinks that is the answer, so you would not be limited as an owner of multiple houses.

Ms. Cohen asked about how it usually comes with staff recommendations to approve, so Mr. Wong are saying that there is no staff recommendation to approve or are you just giving us the conditions if we were to choose to approve this, these would be the conditions that you suggest?

Mr. Wong replied that the staff recommendation stands that we have no recommendation. He stated the report just listed the standards that you should follow.

Ms. Cohen thanked him.

Mr. Ungar added that normally staff does make a recommendation in chicken coop situations.

Mr. Wong stated, "Every other case, yes".

Mr. Ungar stated, "Right, I was understating it."

Mr. Ungar stated that invariably that staff makes a recommendation, are we to infer that a pause on the part of staff as a result of the non-recommendation or is it just because it is a funky one-of-a-kind situation that nobody has encountered before and, indeed, no one envisioned this when the ordinance passed.

Mr. Wong stated there were a couple of problems and one was the lack of communication between staff and Mr. Reilly, we couldn't assure that he would be here or represent his case, we did not know the details of his ability or interest in chicken keeping. He continued with saying that we were strictly held to contact with the representative last month, so it was a very peculiar way to develop or demonstrate satisfaction of Standards for Conditional Uses A-J.

Ms. Rothenberg stated that she would like to add something, having been a member of many conversations about this application. She stated some of you have been on the Board for many, many years and the current City Manager is still relatively new and something that we have a lot of internal discussions about is making sure that we don't ever step on your jurisdictions, so I think this is a case where it would have seemed a recommendation one way or the other would have been inappropriate. I think there was some fear that would be almost replacing your judgment and it felt important to us that you decide because it really could go either way. I think people almost felt that they were having a personal reaction to the question and that did not seem appropriate, so that is part of the reason why it ended up there was no recommendation, at least that was from her experience.

Mr. Ungar replied, "I don't think we will be bashful about making a decision, I could be wrong but we'll see."

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

There were none.

Mr. Ungar asked Mr. Reilly to come on up and please confirm on the record you are sworn in and your address.

Mr. Reilly stated that he lives at 1423 Blackmore Road in Forest Hills and Richard and I go way back. He stated Richard was part of our development of the building at 1899 S. Taylor which is at the corner of Blanche and Taylor Road. He stated he did not anticipate that this would be so controversial so I would like to thank the Commission at Zagara's when I go in, in the *Sun Press*. He stated his wife was asking if he was going to wear a chicken suit to this hearing. He stated he wanted to give a little background as Richard knows our place pretty well and most of the housing inspectors, some police men know our building pretty well. He stated that they own the property next to 1899 and we have been pushing outward a little bit, in fact we in conversation with some people behind us on Powell Road which is like a virtual farm. He stated we have our house on Blanche where we had envisioned having a chicken coop, it has a garden, and we have basil. He stated he loves to cook, we have a kitchen in our building, we have workout space, our business has been growing so I thought it would nice to have some eggs for breakfast, a lot of the people who work in the building like to have their breakfast there. He said his assistant, Antoinette who came before, she was not anticipating this, and he was not anticipating this. He stated he thought it was kind of a pro forma kind of thing. He said he has other properties he can put this on but this actually is almost a second home to me, my office and there are people there seven days a week, literally, plus we have tenants there. He said there are actually more eyes on this chicken coop than your standard owner-occupied person who goes off to work or who may be gone for a couple of weeks on vacation, so I don't know what more I can say. We are not interested in causing any problems for Cleveland Heights. He has had some fresh eggs from a friend of his and once you have had fresh eggs, you are hooked. He said he invites any questions.

Mr. Ungar thanked him and for being here this evening.

Mr. Ungar asked if there were any questions for Mr. Reilly.

Mr. Reilly did add they will have a state-of-the-art chicken coop with cameras. We will be following the letter of the law as Richard specifies.

Mr. Maddox, Jr. wanted to add his assistant did an exceptional job and she was on the hot seat.

Mr. Reilly replied he told her she did not have to come tonight and not to worry about it; I am going to take the bullets.

Mr. Ungar asked if anyone else wanted to speak.

A woman stood and was asked to give her name and confirm that she has been sworn in.

The woman stated her name is Doreen Celick and her address is 1898 Powell and I guess I have been sworn in. She stated she couldn't come to the meeting last week so I kind of heard from my neighbor what was said and then I read the paper so when I was going to come last week I did have a few statements that bothered me about the idea of a chicken coop. She stated she did not know if these questions were answered last week or not but one is that I worry about if that he had that put up, would it be periodically inspected, does someone come out every so often to make sure. She thought she would see more of what his plans are, the way it will be laid out.

Mr. Ungar asked her to wait just one minute.

Mr. Wong said we can go through it for her.

Mr. Wong pointed out for her on the overheard slide that the red star indicated the first house on Blanche that Mr. Reilly owns where the coop would be.

Mr. Wong confirmed she is on Powell, 1898, do you know if you are the first house after the corner or the second.

Mr. Reilly spoke up and came to the lectern area and pointed out a vacant house that he has been trying to get to sell, he pointed out her house and a very high traffic area for people coming in to get building supplies and other stuff. He pointed out the landscaping and the garden is right here, he said this will all be gated off. She will not even know it is there.

Ms. Celick stated you have some land back here.

Mr. Reilly answered no we don't have any land, we just help out.

Ms. Celick asked, "You don't own any of that?"

Mr. Reilly stated they have a picnic table back there.

Ms. Celick showed her yard.

Mr. Reilly stated you are pretty far away from us.

Ms. Rothenberg asked if she wanted to also see the coop, too, and then stated, "Why don't we just show you the rest of the slides since this is what you missed last month, that way you can know what everyone else knows that is in the room."

Mr. Wong stated that there are more specifics about the coop on a diagram (he put a slide up) stating it is 10 feet off of the parking lot and the property line and from the Reilly Painting and Contracting building. He pointed out the house on Blanche.

Ms. Rothenberg stated she can move away from the podium because we want to show you the slides and then you can come back.

Ms. Celick stated that the corner of that back wall is almost to the back of her property. She stated she was concerned because last year she had a rat problem in her house, she did not know how it got in; they think it came in through the sewer. She stated she is concerned that chickens are going to bring other animals if they are left outside even if they

are fenced in, it's just a concern and I understand you have renters that would take care of the animals.

Mr. Reilly said he will be taking care of them.

Ms. Celick asked you would go over every day and feed them?

Ms. Rothenberg interrupted stating that everything actually is being recorded so Mr. Reilly when you speak you are not getting recorded so if you could just direct your questions to Mr. Ungar and then he will ask the question back to Mr. Reilly.

Ms. Celick responded saying that she does hear you very well, I'm sorry.

Ms. Rothenberg stated again that you are going to ask your questions to Mr. Ungar.

Mr. Ungar stated that he is taking notes so he knows the first question while we interrupted it to show you a few pictures here, the first question has to do with inspections, the second question has to do with vermin and we will talk about that in a moment, just keeping going.

Ms. Rothenberg stated that another question she asked is "Are the tenants going to take care of the chickens."

Ms. Celick stated that she does not have anything else to say except I really don't like the idea of chickens, even if it's just a few, and they are out in the summer in a fenced in yard, they are kind of a dirty animal with their droppings and they will bring flies and different things, other animals, actually if I were to buy property in that area and I don't know if I would like the idea of a chicken coop being right around the corner. She continued saying Mr. Reilly were you aware that they sent me a letter asking to use part of my backyard for an urban garden, a letter came from his company to me about a month ago asking to use part of my back yard, cut I guess, I don't know how you do it, a urban garden so I can get to know my neighbors and we could plant a garden.

Mr. Ungar answered that we do not know anything about that and that is not in front of us this evening, the chicken coop is.

Ms. Celick responded that she is getting a little bit flustered here and I am not really happy about the chicken coop idea, do you make a decision tonight?

Mr. Ungar answered that is up to the Planning Commission as to whether or not we make a decision tonight, obviously we did not make decision last month and we deferred it for a month so that Mr. Reilly could come in and address some of the concerns, so let me address a couple of your questions.

Mr. Ungar said the request for an inspection: the city does not routinely inspect the chicken coops. The way it works, however, this is a Conditional Use Permit such that if you or other neighbors have concerns about the chicken coop, the City will take steps in response to those concerns to go out and inspect to ensure that it is in compliance with the Conditional Use Permit. That is the way it typically works.

Ms. Rothenberg offered that there is a history with one coop where they called the County Health Department because the City does not have a health department anymore and that Health Department person declared that everything was fine and clean and the person complaining was causing the rat problem.

Ms. Celick stated when she had the rat problem, the health guy came out later but in the meantime I had to have an exterminator come, I had the expense of the traps and stuff like that. She said she did not know where it came from but anything to me that will bring in a rat again, that's a bother.

Mr. Ungar stated to that point, the other thing he wanted to mention in response to your concern about vermin which is certainly understandable, the ordinance that we are talking about has the following built right into it: "The facility must be kept in good repair and maintained in a clean and sanitary condition and free of vermin, obnoxious smells and substances."

Mr. Ungar stated that is right in the document.

Ms. Celick stated she is speaking from experience, she lived on a farm a long time ago and they had chickens, lots of them. I know he does not want that many and you are only allowed so many.

Mr. Ungar stated that our Assistant Law Director points out that there was one situation that brought some inspections by and large and our staff can give you the stats and it will largely allay your concerns, that this Chicken Coop Program, for lack of a better term, has gone down smooth as a vanilla milk shake in Cleveland Heights, it's been very well received and there have been very few complaints.

Mr. Ungar stated that there were plenty of neighbors like you.

Ms. Celick continued saying that her neighbor told her that he saw the article from the paper.

Mr. Ungar stated what he heard from Mr. Reilly is that this is going to get a lot of oversight not only by the tenants that live there, but also by him and other people who are on the premise of his business and they are right there.

Ms. Celick said "I know, I live just around the corner."

Mr. Ungar stated again if he does not live up to that obligation and the chicken coop is not kept in good repair, you'll let our staff know and we'll take action.

Ms. Celick replied, "We'll see what happens." She thanked them.

Mr. Ungar asked if anyone has any questions.

Ms. Celick stopped Ms. Conklin asking will they make a decision tonight.

Ms. Conklin replied if you want to stay, they are going to do it right now. Ms. Celick decided to have a seat and wait for the decision after the voting.

Mr. Ungar asked if anyone else wished to say anything, ask any questions with respect to this project.

Mr. Cobb stated he was the one who wanted you to hear about what the plan was, how often you would be at the property, how diligent you were and how sincere you were. Mr. Cobb said he answered the questions he had about your proposal.

Mr. Reilly came back to the lectern and said that we saw a lot of the land behind us and we had talked about doing, we have this abandoned property, next to Ms. Celick's property. He stated he was not trying to take over their land, we had all this grass land, we are building gardens, we got the rototiller and we are going to be planting and does everyone want to go in on this, sort of like what they had on Coventry which I think is a super cool area. He stated they were trying to make a little urban farm out of Reilly Paint's building.

Ms. Cohen stated that she did not know if this was addressed at last month's meeting, but are there other chicken coops on Powell or that area?

Mr. Wong stated that he did not have that map with him tonight. He tried to locate the file that lists the chicken coop locations.

Mr. Ungar stated he did not think there were enough gigs of memory to handle all the chicken coops.

Mr. Wong stated that he did not know if he could find it easily. He was able to locate it and it was viewed on the overhead. He said it looks like there in one a bit away but we do not have spacing requirements either. He said two chicken coops could be next door to each other.

Ms. Cohen was thinking that if there were chickens there already and there are no complaints, similar to the other two applicants, you can derive that it is relatively harmless.

Mr. Wong said that what they have found is that even when residents raise questions or concerns like Ms. Celick, they don't call us back with vindication saying, "Yes, I knew it and now the raccoons are there, the rats are there." They don't call us back even though they took the time to visit the meeting, say their peace so we can only conclude that those problems had not manifested themselves.

Mr. Ungar asked if someone would like to make a motion in respect to Project 15-19.

Mr. Mattox made the motion for approval for a Conditional Use Permit for a chicken coop and run for 3484 Blanche with the additional conditions 1-6 set forth on page 2 of the Staff Report.

Is there a second?

Mr. Cobb seconded the motion.

All those in favor say aye.

Aye.

Any opposed, none.

Any abstentions, none.

It carries unanimously and he thanked Mr. Reilly for being here and good luck to you.

NEW BUSINESS

Mr. Ungar asked if there were any updates that staff wishes to share with us at this point and or new business.

Mr. Wong stated City Council did appoint the 11 member Master Plan Steering Committee including you Mr. Ungar. Mr. Wong said that we appreciate your ability to be able to serve on this. Mr. Wong said we will be starting the work on this soon. He did say there an item for new business that he wanted to go over with you involving a house on Coleridge, three houses from the libraries activity center, Dobama Theatre, so you picture the side streets, Coleridge and Corydon Road. This person is not the first house, not the second but the third house they e-mailed us with a complaint about the air conditioner on the activities center and the noise at night. He said they want it to be turned off at night. Mr. Wong said they have not investigated it yet but our plan of action, unless you have other ideas, was to ask the six neighbors in that rectangle directly west of the activity center to see if the other five fell as impacted and as put upon by the noise.

Mr. Horowitz stated he guessed it would depend on whether they have air conditioning or not and if the windows are kept open or closed at night.

Mr. Wong replied that this party is saying that you can hear it right through the walls and the structure of his home so I don't think he has the windows open but I don't know for sure.

Mr. Ungar asked if we have a decibel meter.

Mr. Wong answered that we do but that is the fallacy that if you use a the decibel meter we would not take action on a person, it's an annoying, probably low frequency hum that goes right through most things that aren't brick, this person has a frame house but we are not re-supposing that there is, the general standard is that we like to apply is not a decibel rating but it's a person of normal sensitivity, would they be unable to enjoy their single family property because of that particular air conditioner being on at night.

Mr. Ungar asked if we knew how many ton unit that we are talking about.

Mr. Wong answered "he is guessing but because it is a relatively new complaint, it might be because of the Heights Innovation Center, the H kick that was just put into place last year.

Mr. Ungar asked because he was just trying to get a sense of how much bigger the unit would be vs. a unit that is in a home with central air.

Mr. Wong stated the irony of a house window air conditioners can be much more annoying, loud or bothersome than a large unit, the horsepower does change the way it sounds. Mr. Wong said what we will look into, unless you have other suggestions for Staff, is to see if there is a more wide spread complaint or if this does bother more than just the one person on the street before taking it to a higher level and requiring enforcement or Planning Commission action.

Ms. Rothenberg stated that just so the new people know, the library is a Conditional Use permitted, of course, as is true with any Conditional Uses that you are not going to disturb your neighbors, so sort of the question is, if there is one neighbor who is complaining.

Mr. Wong admits that he is sheltered by the other two houses, but it is.

Ms. Rothenberg said just so there is clarity, if none of the other neighbors are having issues, are you comfortable with not hearing this before you?

Mr. Ungar stated he wants to add his two cents that he would prefer that someone from staff go and listen with their own ears and tell us what they think, Richard, Kara or somebody.

Ms. Rothenberg said if they find it is not a problem then you are fine with it being resolved.

Mr. Ungar said that in fairness, he would need to hear from the complainant and it would be up to them as to whether they push it.

Ms. Rothenberg said they received conflicting advice from the Law Director, so again, we are not trying to set your agenda for you, we could show you the written complaints along with the staff observations and go from there or we can have the staff observe and then call the complainant and see if they want to bring it to the next level.

Mr. Horowitz said he definitely would agree with Mike that, some direct observation might be useful.

Mr. Ungar added and some dialogue from the complainant, some screening or something like that short of coming in for revocation of the Conditional Use Permit, but at the end of the day, they have that right.

Ms. Rothenberg stated it is a tricky question in a way, because it is just one person, is that enough to trigger that. She said there is no direct answer in our code but we feel that it definitely shouldn't have just been dealt with internally. Mr. Horowitz stated that when we put up the fire station on Cedar Road, at the top of the hill there was somebody right next door that complains a lot about the air conditioning unit there, why he remember this 30 years later I don't know. Mr. Horowitz felt it was worth taking a look at and seeing what we are going to do.

Ms. Rothenberg stated then it will be old business next month.

Mr. Ungar asked if there is anything else.

Mr. Wong replied no that was all he has.

Mr. Ungar asked if the members of the Planning Commission had anything else and if not we are adjourned.

Mr. Ungar thanked everyone and the meeting was adjourned at 8:30 PM.

Michael Ungar, Chair

Richard Wong, Secretary

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