

THE PLANNING AND ZONING COMMISSION MEETING WAS HELD AT BEACHWOOD CITY HALL ON THURSDAY, JULY 28, 2016.

ROLL CALL: PRESENT: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 ABSENT: C. Cohen, B. Mann, B. Zabell
 ALSO PRESENT: J. Ciuni, W. Griswold, H. Jones, G. Smerigan

A motion was made by R. Hecht and seconded by J. Pasch to approve the Planning and Zoning Commission minutes dated June 7, 2016, special meeting.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 ABSTAIN: None
 MOTION APPROVED – MINUTES APPROVED

COUNCIL REPORT

Mr. James Pasch, Council Representative, stated on June 20, 2016, City Council adopted P&Z 2015-09, Theodore A. Sahley, representing CBHV LLC, requesting site plan approval for revised lot split plat for air rights of Home 2 Suites parcel located at 3589 Park East Drive; P&Z 2016-7, Jeffrey A. Halpert, owner, requesting preliminary and final approval for lot split and consolidation of property located at 3150 Willow Lane; and P&Z 2016-8(A), Lene C. Hill, CT Consultants, on behalf of the Select Medical Corporation and Cleveland Clinic, requesting final site plan approval for the proposed lot split for Permanent Parcel No. 742-19-007 and the proposed lot consolidation for Permanent Parcel No. 742-19-002.

City Council did not pass legislation for P&Z 2016-13, Lindsey Mayerfeld, owner of the property located at 2428 Deborah Drive, request for a variance to Codified Ordinance Chapter 1155.05 Keeping of Domestic Farm Animals and Fowl (Section 1155.05(i) Keeping of Fowl).

Ordinance 2016-76, amending BCO Chapter 1155.05 Keeping of Domestic Animals and Fowl was referred to tonight's Planning and Zoning meeting.

City Council adopted P&Z 2016-14, motion to adopt the Beachwood Master Plan to act as the framework for the future development of the City and as a vehicle to allow the City to prioritize the action items detailed in the Plan was passed on a 5 to 1 vote. P&Z 2016-15, motion to create a Master Plan Advisory Committee was adopted unanimously.

Mayor Gordon commented he had a conversation with Andrew Brickman today and he was planning on being in front of City Council middle of next month, August 15th, and present at that time. Mayor Gordon welcomed Planning Commission to attend that meeting.

Mr. Griswold stated he spoke to Andrew Brickman as well today and he is before City Council for rezoning. If Council moves in a positive direction, he still needs to return to Planning Commission for final site plan approval.

Mr. Jacobs asked was this for both rezoning and variance.

Mr. Griswold replied yes, it is both before Council.

Ms. Hecht asked if he has resolved all issues with Cranberry Court.

Mr. Griswold replied they have been resolved and unresolved but he cannot honestly answer where Mr. Brickman will be on August 15th.

P&Z 2016-19

KEVIN HUSER, KINDERMUSIK OF CLEVELAND, INC., IS REQUESTING PRELIMINARY AND FINAL APPROVAL FOR CONDITIONAL USE PERMIT ALLOWING TENANT TO CONDUCT BUSINESS AS A PERFORMING ARTS FACILITY AT 23600 COMMERCE PARK DRIVE.

Mr. Kevin Huser, Kindermusik of Cleveland, and Mr. Ron Flauto, property owner, was present to request preliminary and final approval for conditional use permit to conduct business as a performing arts facility at 23600 Commerce Park Drive. Mr. Huser stated Kindermusik of Cleveland has been in operation over 20 years and they wish to expand operations beyond children's music classes to include curriculum for dance, theater, private music lessons. There will be some classes during the business day but the peak of classes would be after school hours and weekends.

Mr. Flauto stated this is actually the opposite hours of the current tenant, Vascular Surgery Center, on the backside of the building.

Mr. Griswold stated Police Department had no comments. Fire Department recommends a fire alarm be required due to the size and type of occupancy as early notification to the occupants of a fire or smoke situation is important for quick evacuation.

Mr. Ciuni stated there are no comments on this item.

Mr. Smerigan stated this request is for approval of a Conditional Use Permit for a performing arts school to be located in a multi-tenant building in the U-8 Industrial and Mixed-Use District. The Planning and Zoning Commission previously reviewed an application for a dialysis center in this same space. The applicant is proposing to occupy 7,263 square feet of the 12,000 square feet building. The remaining area is occupied by a vascular surgery center.

Schools and training facilities are conditionally permitted uses in the U-8 Industrial and Mixed-Use District. Based upon the Code required parking for the two uses, the subject site would need a total of 68 parking spaces. There are currently 67 parking spaces on the subject site. The subject site was previously granted a four (4) space parking variance to accommodate potential occupancy by a second medical office use. Based on that approval, no variance is required for the one (1) parking space. The building plans indicate six (6) small private classrooms for one-on-one instructions, two (2) group music rooms capable of handling about 15 students each, and one larger dance room.

Conversations with the applicants indicate that the heavy volume times will be weekends. They intend to have approximately five (5) instructors initially, with that number growing potentially to about 16. The applicants are willing to limit recitals and special events to evenings and weekends. The doctors currently use about 18 parking spaces, which would leave about 49 available for the performing arts school. Even assuming that all six (6) private studios were in use and there were two (2) group sessions going on at the same time, the total parking demand would be about 46 spaces.

Since no variances are required, the Planning and Zoning Commission has final authority to approve or deny the Conditional Use Permit.

It is recommended that the Planning and Zoning Commission grant approval of the Conditional Use Permit for a performing arts school to be operated at 23600 Commerce Park Drive subject to the following conditions:

1. This Conditional Use Permit for a performing arts school is granted to Kindermusik of Cleveland, Inc. and is not transferable without the approval of the Planning and Zoning Commission.
2. The total floor area occupied by Kindermusik of Cleveland, Inc. shall not exceed 7,263 square feet without the approval of the Planning and Zoning Commission.

3. The total number of students occupying the school space shall not exceed 44 at any time between the hours of 7:30 AM and 5:00 PM Monday through Friday.
4. Recitals and special events shall only be scheduled in the evenings and on weekends.

Chairman Jacobs asked if a condition related to the Fire Department recommendation was needed.

Mr. Smerigan replied yes, we could add that as a fifth condition.

Ms. Hecht asked where the current location is and what the typical length of a class is.

Mr. Huser stated they are currently run out of church rooms those being located in Shaker, Pepper Pike, Kirtland, Bainbridge. The classes average 45 minutes in length and run on the hour if they can schedule them like that.

Mayor Gorden thanked them for selecting Beachwood to grow their business. The City is very involved in theater, arts and performances and is glad to have them in our community.

Mr. Pasch stated he has heard great things about Kindermusik and welcomed them to Beachwood.

A motion was made by R. Hecht and seconded by J. Pasch to approve Kevin Huser, Kindermusik of Cleveland, Inc., request for preliminary and final approval for conditional use permit to conduct business as a performing arts facility at 23600 Commerce Park Drive with the following stipulations: 1) This Conditional Use Permit for a performing arts school is granted to Kindermusik of Cleveland, Inc. and is not transferable without the approval of the Planning and Zoning Commission; 2) The total floor area occupied by Kindermusik of Cleveland, Inc. shall not exceed 7,263 square feet without the approval of the Planning and Zoning Commission; 3) The total number of students occupying the school space shall not exceed 44 at any time between the hours of 7:30 AM and 5:00 PM Monday through Friday; 4) Recitals and special events shall only be scheduled in the evenings and on weekends; and 5) Subject to the comments of the Fire Department.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MOTION APPROVED

P&Z 2016-20

MARK A. HENNING, ARCHITECT, REPRESENTING JUMP START! GYMNASTICS, INC., IS REQUESTING PRELIMINARY AND FINAL APPROVAL FOR AN UPDATE AND REVISION TO THE CONDITIONAL USE PERMIT AND REQUESTING PRELIMINARY AND FINAL SITE PLAN APPROVAL FOR PARKING LOT EXPANSION AT 23700 MERCANTILE ROAD.

Mr. Mark A. Henning, Architect, and Maureen Eppich, owner of Jump Start! Gymnastics, Inc., was present to request preliminary and final approval for an update and revision to the conditional use permit and request for preliminary and final site plan approval for parking lot expansion at 23700 Mercantile Road.

Mr. Griswold stated Fire, Police and Building Department have no concerns or comments.

Mr. Ciuni stated there are no Engineering issues with the plans and recommends approval conditional on the contractor submitting shop drawings for the proposed mini-retaining wall.

Mr. Smerigan stated this request is for approval of revisions to a previously approved Conditional Use Permit and for preliminary and final site plan approval to expand the existing parking lot. The applicant is located in the rear portion of the building on the subject site. The building is shared with National Biological Corp., which occupies the front portion of the building.

A Conditional Use Permit was originally granted to this applicant to operate a gymnastics school in the U-8 Industrial and Mixed-Use District in 2004, at which time the business was known as Tiny Twisters. In 2006, the applicant requested and received approval for a name change to Jump Start Gymnastics, Inc. and an increase in space from 4,800 square feet to 7,200 square feet. In 2006 the number of students was limited to a maximum of 32 between the hours of 8:00 AM and 5:30 PM Monday through Friday and the floor area was capped at 7,200 square feet. The operation has been very successful and the applicant is now seeking to increase the permitted floor area to 14,000 square feet and the maximum number of students to 60 between the hours of 8:00 AM and 4:30 PM. The change in number of students reflects the increase in floor area and the change in time coordinates with the normal business hours for the building's other occupant.

The subject site currently has a total of 76 parking spaces. At the time the last building expansion was constructed in 1996, that parking count complied with the Code. In 1998 the parking requirement in the U-8 District was changed, and the site no longer complies, but has a legal nonconforming status with regard to parking. The applicant proposes to expand the parking lot to add 15 parking spaces bringing the total on the site to 91 spaces. The Code required parking for the gymnastics school use is 15 spaces. If the 14,000 square feet to be occupied by the applicant were occupied by an industrial use, the required parking would be 35 spaces. In summary, this proposal will substantially improve the nonconforming parking situation on the subject site. The proposed use requires less parking per square foot of building area than other permitted uses in the district, and the applicant proposes to increase the total amount of parking available on the subject site. Since the applicant is proposing to decrease the amount of the current nonconformity, no variance is required.

The Planning and Zoning Commission has final authority to grant both the modifications to the Conditional Use Permit and the preliminary and final site plan approval.

It is recommended that the Planning and Zoning Commission approve modification of the existing Conditional Use Permit for Jump Start Gymnastics to operate at 23700 Mercantile Road with the following conditions:

1. This permit is granted to Jump Start Gymnastics, Inc. and is not transferable without the approval of the Planning and Zoning Commission.
2. The total floor area occupied by Jump Start Gymnastics, Inc. shall not exceed 14,000 square feet without the approval of the Planning and Zoning Commission.
3. The total number of students occupying the school space shall not exceed 60 at any time between the hours of 8:00 AM and 4:30 PM Monday through Friday.

It is recommended that the Planning and Zoning Commission grant both preliminary and final site plan approval for the 15 space expansion of the existing parking lot.

Chairman Jacobs asked for clarification on stipulation number three.

Discussion ensued.

Chairman Jacobs stated a correction should be made to state "at any one time" rather than "at any time".

Ms. Hecht asked how many students they have in total and what ages.

Ms. Eppich stated this year they have approximately 650 students and expect to grow by at least 100 students. Students range from toddlers to 18 years of age. She stated she has great staff and great families.

Mayor Gorden stated it is really nice how you grew your business and should be very proud.

Ms. Eppich thanked the Planning Commission.

A motion was made by R. Hecht and seconded by J. Pasch to approve Mark A. Henning, Architect, representing Jump Start! Gymnastics, Inc., request for preliminary and final approval for an update and revision to the conditional use permit and request for preliminary and final site plan approval for parking lot expansion at 23700 Mercantile Road with the following stipulations: 1) This permit is granted to Jump Start Gymnastics, Inc. and is not transferable without the approval of the Planning and Zoning Commission; 2) The total floor area occupied by Jump Start Gymnastics, Inc. shall not exceed 14,000 square feet without the approval of the Planning and Zoning Commission; 3) The total number of students occupying the school space shall not exceed 60 at any one time between the hours of 8:00 AM and 4:30 PM Monday through Friday; and 4) subject to the comments of the City Engineer.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MOTION APPROVED

Chairman Jacobs welcomed Councilman Jacobs to the meeting.

P&Z 2016-18 MAJOR HARRISON, BRILLIANT ELECTRIC SIGN COMPANY, ON
 BEHALF OF JACOBS REAL ESTATE LLC, IS REQUESTING
 PRELIMINARY AND FINAL SITE PLAN APPROVAL FOR
 INSTALLATION OF A GROUND SIGN REPLACEMENT AT TWO
 CHAGRIN HIGHLANDS, 3000 AUBURN DRIVE.

Mr. Major Harrison, Brilliant Electric Sign Company, on behalf of Jacobs Real Estate LLC, was present to request preliminary and final site plan approval for installation of a ground sign replacement at Two Chagrin Highlands located at 3000 Auburn Drive.

Mr. Griswold stated Building, Police and Fire Department have no concerns.

Mr. Ciuni stated there are no Engineering comments.

Mr. Smerigan stated this request is for approval of a freestanding sign to replace the existing sign at the main entrance to the building on the subject site. The subject property is located in the U-10 Planned Mixed-Use Development District. The Planning and Zoning Commission has the authority and sole discretion to approve signs in the U-10 Planned Mixed-Use Development District as it determines to be reasonable and appropriate. The Commission previously established sign criteria for the Chagrin Highlands PUD.

The applicant is requesting a sign that is 42 square feet in area and 7.33 feet in total height. Signs in other office districts are limited to 40 square feet and 8 feet in height, so the size of proposed sign is generally in character with freestanding signs in the City. The proposed sign is single faced and non-illuminated. It is to be located adjacent to the main walkway at the entrance to the building, in the same location as the existing sign. The proposed sign is aluminum and would have a black background. It will be virtually impossible to read this sign from off of the subject site. He believes it is appropriate signage for the site and recommends approval.

A motion was made by R. Hecht and seconded by J. Pasch to approve Major Harrison, Brilliant Electric Sign Company, on behalf of Jacobs Real Estate LLC, request for preliminary and final site plan approval for installation of a ground sign replacement at Two Chagrin Highlands, 3000 Auburn Drive.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MOTION APPROVED

P&Z 2016-17

AN ORDINANCE 2016-76, AMENDING BCO CHAPTER 1155.05 KEEPING OF DOMESTIC FARM ANIMALS AND FOWL.

Mr. Smerigan stated there was a proposal to amend the current Chapter that deals with domestic farm animals and keeping of fowl. As the Commission recalls, there was a proposal to change some of the setbacks and area requirements. After internal discussions and listening to discussions at City Council, he has suggested in his staff report rather than to amend that Chapter, it is time to look into a different approach. There does not seem to be a majority on Council that feels it is appropriate for farm animals within the City of Beachwood. With the type of City we are and size of lots, he can understand it is a difficult situation. There seems to be some support of keeping of chickens, less support of other types of birds.

Mr. Smerigan stated we have made keeping of chickens a bigger deal than major developments that occur in the community and have far more range in impact than they do. He is suggesting making the keeping of chickens an accessory use in the residential district, particularly in the A-1 Area District, which is the larger, minimal lot size district with 18,000 square feet plus. The A-2 Area District is the smaller area where the lots are much tinier and tighter. Then establish some standards in terms of setbacks, number of chickens, fact they have to be in the coop etc. and allow someone to get a permit from the Building Department as they do for any other accessory use. This is a slightly different approach and would eliminate farm animals which he believes is the direction Council is headed anyway, but Mr. Pasch could correct him if that is not the case.

Mr. Smerigan stated it would simplify the whole thing and give people the right to keep chickens as an accessory use, in the larger area district and eliminate the whole hearing process. If someone does not follow the rules then the permit can be revoked and they would then have to come in front of Planning Commission at that point to make an appeal of the administrative action. He thinks that system is more consistent with the way we treat things in our Code so he has proposed that as an alternative to simply modifying that legislation.

Mr. Pasch stated from internal discussions, some members of Council did not like the broadness of the original statute on how fowl could include geese, turkeys, ducks etc. and the lots are not big enough for a farm community. The Ordinance is written with only a few lots within the entire City that it would be allowed. The new avenue provides a compromise for the people who live in the half of the town on the larger lots to own a few chickens as long as those chickens are in a chicken coop and cancels out all the other periphery issues. He cannot speak for Council as to whether or not it will pass or fail but he will recommend to his colleagues it is an up or down vote and move on from this topic. Based on conversations, this is the way to deal with it. Ordinance 1155.05, as written or even amended, would not pass by Council. This could be a compromise between people who would like to own chickens and City, and people who live on smaller lots not having neighbors with chickens right next to you. It represents what could be the best of both worlds in this situation. This is something he would support in front of Council. His other recommendation to Council is whether or not this is passed that Section 1155.05 should be struck from the Code. In order to bring some type of definitive direction that should happen at the next Council meeting in August.

Ms. Hecht stated she is much more comfortable with the fact they will issue permits but asked where they came up with the number of four (4) chickens as opposed to two (2) chickens in a four feet by four feet coop.

Mr. Smerigan stated there was a discussion about the maximum number and the number four (4) was arrived at on the basis it is the most you could fit in a coop that size.

Ms. Hecht stated she would feel more comfortable limiting it to two (2) chickens.

Mr. Smerigan replied he has no objection to that.

Mayor Gorden asked for clarity, is it possible there could be modifications to this if it is recommended or suggested as opposed to an up or down vote stated by Mr. Pasch.

Mr. Pasch corrected his earlier comment and stated Council can always choose to make amendments on the floor.

Mr. Smerigan stated the Planning Commission will need to make a recommendation back to Council to not adopt Ordinance 2016-76 and make a second recommendation to pursue this other legislation. This will need to be done in two (2) different motions.

Ms. Lindsey Mayerfeld, owner of 2428 Deborah Drive, commented as she is probably the only person here that has owned chickens, she agrees with Ms. Hecht that the number should be two (2) rather than four (4) chickens for that size coop.

Discussion ensued regarding the motions.

A motion was made by R. Hecht and seconded by J. Pasch to approve P&Z 2016-17, An Ordinance 2016-76, amending BCO Chapter 1155.05 Keeping of Domestic Farm Animals and Fowl, recommending to Council to consider amending by substitution Ms. Mayerfeld's proposal by substituting Chapter 1113.11 Chickens & delete Chapter 1105.05 Keeping of Domestic Farm Animals & Fowl; and recommending to Council to amend the Ordinance to state no more than two (2) chickens as opposed to four (4) chickens.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MOTION APPROVED - RECOMMENDATION TO
 COUNCIL – Monday, September 6, 2016 at 7:00 P.M.

Mr. Griswold advised Chairman Jacobs the Commission could remove P&Z 2015-38 from pending on the agenda.

A motion was made by R. Hecht and seconded by J. Pasch to remove P&Z 2015-38, Rick Doody, Coastal Taco, LLC, request for preliminary and final site plan approval for proposed restaurant to be located at 2101 Richmond Road, La Place Shopping Center.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MOTION APPROVED

A motion was made by R. Hecht and seconded by J. Pasch to adjourn the meeting.

ROLL CALL: AYES: Mayor Gorden, R. Hecht, O. Jacobs, J. Pasch
 NAYS: None
 MEETING ADJOURNED

Orry Jacobs, Chairman

Veronica Gentner, Secretary

Whitney Crook, Assistant Clerk of Council