

THE PLANNING AND ZONING COMMISSION MEETING WAS HELD AT BEACHWOOD CITY HALL ON THURSDAY, FEBRUARY 23, 2012.

ROLL CALL: PRESENT: C. Cohen, Mayor Gorden, R. Hecht
 J. Greenberg, M. Wachter
 ABSENT: B. Mann, Bryan Zabell
 ALSO PRESENT: M.A. Cannon, W. Griswold, T. Kreczko
 G. Smerigan

A motion was made by C. Cohen and seconded by M. Wachter to approve the minutes of the January 26, 2012, regular meeting.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, J. Greenberg
 R. Hecht, M. Wachter
 NAYS: None
 MOTION APPROVED – MINUTES APPROVED

A motion was made by C. Cohen and seconded by M. Wachter to approve the minutes of the January 23, 2012, special meeting.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, J. Greenberg
 R. Hecht, M. Wachter
 NAYS: None
 MOTION APPROVED – MINUTES APPROVED

COUNCIL REPORT

Mr. Wachter, Council Representative, stated that the Planning and Zoning Commission approved and recommended to Council, P&Z 2012-5, KA Architects, on behalf of Goldberg Companies, Inc., requesting preliminary approval for the fourth apartment building of the Four Seasons Development to be located on George Zeiger Drive with the following stipulations: 1) granting a variance of 40 feet to Section 1119.11(b) to permit the rear yard building setback to be 40 feet in lieu of the required 80 feet; 2) granting a variance of 27 feet to Section 1119.11(b) to permit the southern side yard building setback to be 53 feet in lieu of the required 80 feet; 3) granting a variance of 14 feet to Section 1119.11(b) to permit the separation between buildings to be 78 feet in lieu of the required 92 feet; 4) granting a variance to Section 1119.11(b) to permit open balconies to extend an additional six (6) feet into the side and rear yard setbacks; 5) granting a land banked variance of 20 parking spaces; and 6) compliance with the recommendations and comments of the Fire Department. Council approved.

P&Z 2012-6 MIRACLE MOBILE FITNESS, LLC, DBA FITNESS REVOLUTION,
IS REQUESTING PRELIMINARY AND FINAL APPROVAL FOR A
CONDITIONAL USE PERMIT TO BE LOCATED AT 23400 ME
RCANTILE, ROAD, #4/5.

Mr. Nate Miracle was present to request a conditional use permit to have a personal training business to be located at 23400 Mercantile Road. Presently the business has been established for four years and is doing very well and needs to relocate.

Mr. Griswold stated that the Building Department, Police Department and Fire Department have no comments regarding this application.

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Mr. Kreczko stated there were no engineering issues with this application.

Mr. Smerigan stated that the applicant proposed to relocate a fitness training facility to Units 4 and 5 at 23400 Mercantile Road in the U-8 Limited Storage and Manufacturing District. Such training facilities are a conditionally permitted use in the U-8 District. The proposed facility would provide personal training, semi-private training with 2- 6 persons, and group training sessions with 6 – 12 persons. Historically, the Planning and Zoning Commission has set occupancy limitations on such training facilities as a means of addressing the parking demand. The applicant has indicated that the semi-private and group training sessions would be before and after normal working hours. The number of clients, instructors, and administrators at the facility at any time does not exceed 16 persons; the parking demand would equate to that of a standard industrial use.

The Planning and Zoning Commission has final authority to approve or deny conditional use permits in U-8 Districts. Approval of this conditional use permit is recommended with the following conditions: 1) this conditional use permit is issued to Miracle Mobile Fitness, LLC, and is not transferable without the approval of the Planning and Zoning Commission, 2) maximum occupancy of the facility shall not exceed sixteen (16) persons; and 3) the applicant shall comply with the safety requirements of the Fire Department.

Chairperson Hecht asked if the regular hours of operation were 8:00 a.m. to 5 p.m., Monday thru Friday.

The applicant stated that business is open at 5:30 a.m. and will comply with the stipulations stated above.

A motion was made by C. Cohen and seconded by J. Greenberg to approve the request of Miracle Mobile Fitness, LLC, dba Fitness Revolution, for a conditional use permit to be located at 23400 Mercantile Road, #4/5 conditioned upon the following stipulations: 1) this conditional use permit is issued to Miracle Mobile Fitness, LLC, and is not transferable without the approval of the Planning and Zoning Commission, 2) maximum occupancy of the facility shall not exceed sixteen (16) persons; and 3) the applicant shall comply with the safety requirements of the Fire Department.

ROLL CALL:	AYES:	C. Cohen, Mayor Gorden, J. Greenberg R. Hecht, M. Wachter
	NAYS:	None
		MOTION APPROVED – APPROVAL GRANTED

P&Z 2012-7	HGF, REPRESENTING MONTEFIORE, IS REQUESTING PRELIMINARY AND FINAL SITE PLAN APPROVAL TO BUILD A 980 SQUARE FOOT, ONE-STORY ADDITION TO THE SOUTH WING OF MANDEL ONE LOCATED AT 27080 CEDAR ROAD.
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Mr. Jim Herman from Herman, Gibans, Fedor, representing Montefiore, along with Mr. Mark Weiss, CFO and John Scheonbeck, Facilities & Operations Manager was requesting preliminary and final approval for a small 980 square foot addition to the south wing of the Mandel One building located at

27080 Cedar Road. This facility will be for the Memory Care and Assisted Living. There will be a small fenced in courtyard to the east of the building and a walkway to the parking lot.

Mr. Griswold stated that the applicant was requesting preliminary and final approval for a small addition and site approval for a fenced in courtyard area. The Building Department, Police Department and Fire Department recommend preliminary and final approval of this small addition and courtyard.

Mr. Kreczko stated that engineering would recommend approval.

Mr. Smerigan stated that the applicant's request is for both preliminary and final site plan approval to construct a 980 square feet, one-story addition. The proposed addition would be on the southwest corner of Mandel One. The addition would include small gathering and quiet spaces and a restroom. A walkway is planned to connect the entrance to the addition to the existing parking lot. As a result of the walkway construction, one parking space would be eliminated. Along with the addition, the applicant is proposing some interior renovations that would add showers and closets in existing bedrooms. As a result of the planned renovation, the applicant indicates that there would be a reduction of two bedrooms. Since parking for this type of facility is based upon the number of beds, and given that the applicant recently received approval for a parking expansion, the site will remain in compliance with regards to parking.

A motion was made by C. Cohen and seconded by J. Greenberg to approve the request of HFG, representing Montefiore, for preliminary and final site plan approval to build a 980 square foot, one-story addition to the south wing of Mandel One located at 27080 Cedar Road, with a walkway to the parking lot and a fenced courtyard east of the building.

ROLL CALL:	AYES:	C. Cohen, Mayor Gorden, J. Greenberg R. Hecht, M. Wachter
	NAYS:	None
MOTION APPROVED – APPROVAL GRANTED		

P&Z 2012-8	ORDINANCE 2012-18, AMENDING BCO CHAPTER 1155, SPECIAL AND CONDITIONAL USES, BY ENACTING NEW SECTION 1155.05, KEEPING OF DOMESTIC FARM ANIMALS AND FOWL, AMENDING SECTION 618.19, AND REPEALING EXISTING SECTION 618.19.
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Mr. Smerigan stated that the proposed ordinance would amend Chapter 1155 Special and Conditional Uses by adding "Keeping of Domestic Farm Animals and Fowl" as a conditionally permitted use in any residentially zoned district within the City, provided that the applicant has a minimum of 1.1 acres of land. The proposed ordinance would permit property owners with more than 1.1 acres of land to keep one domestic farm animal, which is defined as a goat or sheep. The regulation does not specifically limit the number of fowl which may be kept, although there is a limitation on the size of the structure to house them.

Mr. Smerigan continued that since keeping a domestic farm animal would be a conditional use, any person wishing to do so would need to make an application for a conditional use permit to the Planning and Zoning Commission. One proposed change to the normal conditional use procedures would require that

notification be given to property owners within 500 feet of any applicant and that the Commission hold a public hearing to provide those persons so notified an opportunity to testify before the Commission with regard to the application. Implementation of this requirement, if adopted, will necessitate establishment by the Commission of some procedures and criteria for mailing of notices and for conducting the public hearing. Keeping fowl would not require a permit. The proposed regulation sets forth in Subsection 1155.05(f) a number of standards and requirements for keeping a domestic farm animal. Item (8) requires the owner to maintain liability insurance. This requirement is unusual, and he has some concerns regarding its necessity. As an example, while we require fencing of swimming pools, we do not make home owners who have pools obtain and submit evidence of liability insurance.

The Commission may wish to recommend to City Council elimination of 1155.05(f)(8) and the inclusion of some limit on the maximum number of fowl permitted to be kept, especially if there is no permit required.

Mr. Griswold stated that under Section 1155.05, a permit would only be valid for two (2) years. It was suggested that the time stipulation be eliminated completely after approval was granted.

Mr. Kreczko stated that engineering had no comment.

Mr. Greenberg asked if there was a requirement of 1.1 acres per animal so that two animals would be allowed if there were 2.2 acres of land available.

Mrs. Cannon stated that these are maximum requirements regardless of how many acres there are. One domestic animal is permitted per 1.1 acre minimum.

Mr. Wachter stated that with respect to goats, not particularly sheep, but the social nature of goats that there be allowed a quantity of two rather than one, because one may cause a lot of noise.

Mr. Smerigan stated that there was one other stipulation with regards to fowl and that was that no roosters be allowed at all.

Mrs. Cannon asked Ms. Mayerfield, who initiated this ordinance, if she had any information or knew if the fact was true that goats are better if kept in pairs.

Lindsey Mayerfield, resident of 2150 Richmond Road stated that she has never raised goats, but her intention for having a goat is for the milk. It was stated that milk is not produced unless the goat has given birth. The owner would then get rid of one of the kids. Ms. Mayerfield also stated that goats do not require a lot of space and the requirement of 1.1 acres is a sufficient area for two or more goats.

new Section 1155.05, Keeping of Domestic Farm Animals and Fowl, amending Section 618.19, and repealing existing Section 618.19 with the recommendation that the legislation that was referred to the Commission be modified to read as follows: 1) eliminate the section which requires liability insurance, 2) eliminate the limitation of a two (2) year permit after approval by the Commission; 3) permit a pair of goats to be on a 1.1 acre minimum property; and 4) amend the section regarding fowl to read that there be no roosters allowed.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, J. Greenberg
R. Hecht, M. Wachter
NAYS: None
MOTION APPROVED – RECOMMEND TO COUNCIL
Meeting March 5, 2012

P&Z 2012-9 ORDINANCE 2012- 29, AMENDING BCO CHAPTER 1141, SIGNS, BY AMENDING SECTION 1141.03, DEFINITIONS, AND SECTION 1141.09, ILLUMINATION OF SIGNS, TO PROVIDE FOR A CHANGEABLE COPY SIGN DEFINITION AND CHANGEABLE COPY SIGN REGULATIONS, AND REPEALING EXISTING SECTION 1141.03 AND EXISTING SECTION 1141.09.

Mr. Smerigan stated that this proposed amendment to Chapter 1141 Signs, would define and establish standards for changeable copy signs. It creates a series of stipulations that would control the nature of the message. First, each message or copy shall remain fixed for at least thirty (30) seconds and messages shall not flash or emit intermittent light during that time. The purpose is so that it is not a distraction for drivers. Secondly, changes to the message must be accomplished in not more than every three (3) seconds. Thirdly, each such sign must be capable of regulating the digital display intensity and the light intensity level of the display and must automatically adjust to natural ambient light conditions. Some general requirements for changeable copy signs are: 1) no such sign shall be of such intensity as to create a distraction or nuisance for motorists, 2) displays shall not emulate traffic control devices, 3) signs shall contain a default design that will freeze the sign in one position or cause it to go dark if a malfunction occurs; 3) the entire message shall change at once, without scrolling, animation, flashing, blinking or other movement or noise, and 4) the changeable copy portion of any free-standing monument or pole sign shall not exceed eighty percent (80%) of the total area of the sign.

Mr. Smerigan stated that while the current sign regulations permit property owners in non-residential district to have electronic message or digital display signs, there are no standards or regulations for their operation. These amendments would establish criteria for the operation of such signs in order to insure that they do not become distractions for motorists or adversely impact neighboring property owners.

Mr. Griswold stated that himself, Mrs. Cannon and Mr. Smerigan have reviewed this amendment and would recommend the Planning and Zoning Commission approve and recommend to Council.

Mr. Kreczko stated he had no comment.

Mr. Greenberg questioned Mr. Smerigan regarding if there was a measure of intensity.

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Mr. Smerigan stated that there is a measure that is acceptable in the industry that was developed as a result of some research by the lighting institute. It is .3 foot candles based on the size of the sign, measured at a certain distances from the sign. It is not a one to one relationship. For instance, for a forty (40) square foot sign you would be measuring that .3 foot candle distance from between the ambient

light and the sign and the distance of something like 70 or 80 feet. A 100 foot sign is at 100 feet but for a 300 foot sign it is 141 feet.

A motion was made by C. Cohen and seconded by J. Greenberg to approve and recommend to Council Ordinance 2012-29, amending BCO Chapter 1141, Signs, by amending Section 1141.03, Definitions, and Section 1141.09, Illumination of Signs, to provide for a changeable copy sign definition and changeable copy sign regulations, and repealing existing Section 1141.03 and existing Section 1141.09.

ROLL CALL: AYES: C. Cohen, Mayor Gorden, J. Greenberg
R. Hecht, M. Wachter
NAYS: None
MOTION APPROVED—RECOMMEND TO COUNCIL

Chairperson Hecht stated that Dollar Bank has given permission to the City of Beachwood to use their sign.

P&Z 2012-10 DINA HALPERN, OWNER OF THE PROPERTY LOCATED AT 2456 BRENTWOOD ROAD, IS REQUESTING PRELIMINARY AND FINAL APPROVAL FOR A LOT SPLIT & CONSOLIDATION FOR A PROPOSED ADDITION.

A letter was received from the architect requesting this application be put the March meeting of the Planning and Zoning Commission.

A motion was made by J. Greenberg and seconded by C. Cohen to remove P&Z 2012-4 from the pending list for further action.

P&Z 2012-4 BERNIS, OCKNER & GREENBERGER, LLC, REPRESENTING
SABLE REAL ESTATE LLC, REQUESTING A CONDITIONAL USE
PERMIT AND AN EXCEPTION TO SECTION 1129.11, TO PERMIT
A DAILY AND OVERNIGHT PET CARE FACILITY TO BE L
OCATED 23370 MERCANTILE ROAD. (Placed on pending 1/26/2012)

ROLL CALL: AYES: C. Cohen, Mayor Gorden, J. Greenberg
R. Hecht, M. Wachter
NAYS: None
MOTION APPROVED – REMOVED FROM PENDING

Chairperson Hecht stated that Mr. Smerigan, City Planner, put together some stipulations and requirements for the Pet Care Facility proposed to be located at 23370 Mercantile Road.

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Mr. Sheldon Berns representing Sable Realty stated he and the applicant have had an opportunity to review the supplemental report that Mr. Smerigan put together. These guidelines and regulations are very acceptable to USA Pet Facility owner.

Mr. Griswold stated that there were no comments.

Mr. Kreczko asked if the outside exercise area for the animals was landscape or hardscape and how often was the area cleared of waste? The cleaning off of the area should be directed to the sanitary sewer system.

Mr. Berns asked the applicant to answer.

Mr. Dan Kurzinowski, owner of USA Pet Facility, stated that part is concrete and the rest is artificial grass.

Mr. Smerigan stated that Section 1129.02 authorizes the Planning and Zoning Commission and City Council, if so desired, to attach such conditions, stipulations, or requirements to the approval of such similar and harmonious uses as deemed necessary to insure their compatibility, mitigate potential impacts, and otherwise carry out the intent of the code. These are generic conditions and may be applied anywhere in the district. The Planning and Zoning Commission's action must be a recommendation to City Council.

Mr. Wachter stated that he is not persuaded that this is appropriate for a conditional use. The requirements are similar, harmonious and compatible are conjunctive with regard to something similar in the district. This use isn't similar to anything else in the City. Mr. Wachter said he doesn't see this as a place for a conditional use. It may end up being a very nice addition to the area. The City is still in the planning stages of the Commerce Park area, it is too early to allow this type of use. This is the back edge of Commerce Park, but it is the front door of our connection into Chagrin Highlands. Mr. Wachter stated again that he isn't persuaded that this is a similar, compatible, and harmonious use.

Mr. Cohen asked if any of the land was restricted or undevelopable behind the proposed pet facility.

Mrs. Cannon, Law Director, stated that there are wetlands in a portion of Chagrin Highlands, but there is some land that is developable.

Mr. Smerigan stated that the City of Cleveland also owns land that is undeveloped in that area.

Mr. Greenberg asked about stipulation #10. Only pets that are lodged for overnight stays will be permitted to have any grooming completed. Last month there was discussion regarding pet grooming.

Mr. Smerigan stated that this was to limit the use to the pets that are being lodged overnight or for an extended period of time. It was to discourage people from dropping pets off just to be groomed. This would not be permitted.

Mr. Kurzinowski stated that this was not a pet grooming facility. If the animals are lodged there overnight and for an extended period of time, they will be taken care of properly.

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Chairperson Hecht stated that the Commission had received several letters stating that a Pet Care Facility would be gladly welcomed in the City.

A motion was made by C. Cohen and seconded by J. Greenberg to approve and recommend that Council make a determination under Section 1159.01 that the proposed use, a daily and overnight pet care facility, is "a similar, harmonious, and compatible use; to the listed permitted uses in the District, that it would not adversely affect other properties, and that it is consistent with the spirit and intent of both the U-8 District and the Zoning Code for P&Z 2012-4, Berns, Ockner, & Greenberger, LLC, representing

from all lodging units, interior as well as exterior, shall be directed to the sanitary sewer system and not the storm sewer system; 3) an outdoor exercise and relief area shall be provided which shall contain a minimum of 1200 square feet and shall be enclosed with an opaque fence eight (8) feet in height; 4) no animals shall be permitted outdoors between the hours of 10:00 PM and 6:00 AM; 5) wastes shall be controlled and collected on site and shall be properly removed at least two (2) times per week; 6) there shall be no noise from animals measurable beyond the property boundary lines; 7) there shall be a minimum of two (2) employees on site at all times; 8) parking spaces shall be provided at the rate of five (5) spaces plus one (1) space for each ten (10) lodging units at maximum capacity; 9) the maximum number of daily or day care animals shall not exceed fifty percent (50%) of the approved number of lodging units; 10) there shall be no grooming other than of pets which are being lodged for overnight stays; 11) there shall be no retail sales of pet supplies or products; and 12) there shall be no pet training classes conducted on the premises.

A motion was made by C. Cohen and seconded by M. Wachter to adjourn. All in favor.

Karen Navolanic, Clerk of Council