

PLANNING COMMISSION MINUTES OF March 13, 2019

6:00 P.M. Council Chambers
745 Center Street, Milford, OH 45150

The Planning Commission of the City of Milford met in regular session on the evening of Wednesday, March 13, 2019, at Council Chambers, 745 Center Street, Milford, OH 45150.

Roll Call:

Lois McKnight called the Planning Commission meeting to order at 6:05 p.m. Other members present at tonight's meeting are Dino Pelle, Fred Albrecht, Oliver Roe, and John Wenstrup.

Staff: Pam Holbrook, Asst. City Manager

Visitors: Dan Lynch, LMBC; Mark Bredemeier, 29 High Street; Rick Amato, 5770 Park Rd.; John Savage, 1704 Chase Ave.; Hank Roe, DER Development; Kelly & Mark Addy, 5880 Park Rd.; Katie Gokey, 4315 Wellington Dr.; Jayne Flege, 990 Wallace Ave.; Caroline Good, 16 Wooster Pike; Judy Gyarmati, 106 Main St.; Joe Brenner, LMBC; Dale Roe, DER Development; Len Harding, 222 Cleveland Ave.; Diane Sneed, 28 Wooster Pike; Darryl Donovan, 28 Wooster, Pike

Minutes Approval:

Mr. Pelle moved to approve the January 9, 2019 minutes, seconded by Mr. Albrecht. The motion carried 3-0. Mr. Roe abstained.

SITE 19-07 Dancin' On Main Certificate of Appropriateness

Ms. Holbrook read the Staff Report into the record:

Project: Dancin' On Main Painting Certificate of Appropriateness

Location: 106 Main Street

Property Owners: Steve & Linda Yokel
100 Main Street
Milford OH 45150

Applicant/Agent: Angela Peters
Dancin' On Main
106 Main Street
Milford OH 45150

Acreage: 0.103 Ac

Tax Parcel Id: 210709.016B

Zoning: B-2 OMO

Existing Use: Dance Studio

ADJACENT LAND USE and zoning

Adjacent Property is zoned B-2 OMO

Proposal

Angela Peters, Dancin' On Main, is requesting a Certificate of Appropriateness to paint the door and awning a berry color. Paint colors that are different from the original are subject to review by the Planning Commission.

ANALYSIS

Staff gave permission to Ms. Peters to paint the front area of the building a dark grey color. She is requesting permission (Certificate of Appropriateness) to change the paint color on the door and awning from blue to a berry color. I asked Ms. Peters to check with the awning manufacturer to ensure that it is appropriate to apply paint to awning. The building is in desperate need of some attention and the pop of color will be a nice addition to the building front. Staff recommends approval.

- Ms. Gyarmati: My name is Judy Gyamati. My daughter is Angela Peters, the owner of Dancing on Main. My address is 1346 Lela Lane in Milford. I've lived here for 43 years. The awning is not usable. It has to be replaced. The owners of the building don't want to do that right now so we are not going to use the awning. The scallops or valance is okay, she would like to paint that a berry color along with the two doors. Her contractor checked with the manufacturer and that scalloped area is canvas, they're going to power wash it, and then use a special paint from Sherwin Williams that matches the berry color, and everything that's currently light gray will be the dark gray color.
- Ms. McKnight: The color copy that we have of the paint chip, sometimes copiers are funny. Is that a pretty accurate representation?
- Ms. Gyarmati: Yes, the June Berry.
- Mr. Wenstrup: You're wanting to paint this door and the awning the same color.
- Ms. Gyarmati: Exactly. And everything that is light gray will be dark gray.
- Ms. McKnight: Any other questions for the applicant's mother? All right, thank you. Anyone else want to provide information regarding this request this evening?
- Mr. Roe: I certainly have no issue with it. This place is in need of a paint job and especially the primary color being that approved gray, I'm certainly fine with that. A couple of highlights of a wine color would be fine.
- Ms. McKnight: I agree. I think that'll look nice.
- Mr. Albrecht: Agreed.
- Mr. Pelle: Agreed.
- Mr. Albrecht: Appreciate someone coming and doing some TLC.
- Ms. McKnight: Anyone prepared to make a motion?
- Mr. Roe: I'll make a motion to approve the proposed painting of the doors and the scalloped part of the awning the June Berry color.
- Mr. Wenstrup: I second.

Ms. McKnight: We have a motion and a second to approve the Certificate of Appropriateness to paint the door and awning June Berry. All in favor say aye.

Group: Aye.

Ms. McKnight: Any opposed?

Ms. McKnight: Wonderful. Thank you for coming.

Mr. Roe: I'll be recusing myself on this one.

Ms. McKnight: Thank you.

SITE 19-05 Little Miami Brewing Addition and Deck

Ms. Holbrook read the Staff Report into the record:

Project: Little Miami Brewing Addition & Elevated Deck

Location: 208 Mill Street

Property Owner: Beauty Ridge LLC
750 US 50
Milford OH 45150

Acreage: 1.2399Acres

Tax Parcel Id: 210708.001P

Zoning: B-2, Downtown Mixed Use; OMO, Old Mill Overlay District

Existing Use: Microbrewery

ADJACENT LAND USE AND ZONING

North: B-2 OMO, Downtown Milford

South: Little Miami River

East: B-2 OMO, Vacant & Office Building

West: Little Miami River

PROPOSAL

Dan Lynch, Little Miami Brewing Company, is proposing to construct a 1,120 square foot addition with a 1,760 square foot deck on top of the addition. The addition will replace the temporary tent. The front façade will have a brick finish that matches the existing building. The building includes roll up windows and a garage door.

The first-floor addition seats 66 people and the deck will seat approximately 75 people. The applicant proposes to use Edison light bulbs to provide deck lighting. Two staircases will provide access to the deck.

ANALYSIS

The applicant received approval from Planning Commission in January 2019 to construct an elevated deck over the existing patio with the following conditions:

1. City approval is contingent on review and approval by the City Engineer and any other applicable local, state, and federal agencies.
2. No amplified or acoustic sound to be permitted on either floor of the new area, and if amplified sound is played within the existing structure then all doors must be closed.
3. Provide additional landscaping to soften the industrial look of the steel structure.
4. Return to Planning Commission with details on noise suppression blankets and sound management as well as a rendering of the Eisenglass style curtains.

In response to noise complaints from neighbors, the applicant has decided to construct the addition so that they may continue to provide music to their customers. Staff would recommend that all windows and doors remain closed whenever any sound amplification is being used. (This would include music acts and game nights)

STAFF RECOMMENDATION

Staff recommends approval with the following conditions:

1. City approval is contingent on review and approval by the City Engineer and any other applicable local, state, and federal agencies.
2. Provide additional landscaping to soften the industrial look of the steel staircase.
3. Sound amplification permitted inside the building only.
4. All windows and doors to remain closed whenever any sound amplification is being used inside the building.

Mr. Brenner: Thanks Mayor and Planning Commission for hearing us. Thanks, citizens. Joe Brenner. 5636 Oak Vista Drive, 45227. We were here two months ago when our outdoor structure got approved. But after listening to the feedback from the citizens and some of the neighbors, we decided to go back to the drawing board.

Mr. Lynch: And what we came up with was an addition to our existing building, matching the existing brick, windows, and doors. We heard the citizens issues loud and clear. We have been monitoring decibel levels in our tap room and have been managing that issue much better than we used to. What we came up with is a more solid outdoor edition, with heavy-duty material such as brick, concrete, and steel. And the feedback of our new design by the community has been very favorable.

Mr. Brenner: We think the new structure actually blends in with the current building. And it is more visually appealing for the downtown area.

Ms. McKnight: Mr. Lynch can we get your name and address.

Mr. Lynch: Dan Lynch, 3411 Woodlake Court, Loveland.

Ms. McKnight: Questions at this time for the applicant?

Mr. Wenstrup: I have a question. Since the open addition was called into question in our last meeting, and you talked about putting up panels for sound. Have you done some deep thinking about that and how do you think this configuration addresses that?

Mr. Lynch: It addresses all the issues because the music is going to be inside of the same kind of building that we have now. We've had acoustical and small music acts in

our tap room. We think with the ability to open and close windows during certain hours where we wouldn't want sound to travel would enable us to really manage sound pretty well.

Mr. Brenner: We've been managing the sound with a reader in our tap room. We've kept a sharp eye on that to try to keep it at a level and we've had music acts turn down the volume when necessary.

Mr. Wenstrup: Thank you.

Ms. McKnight: You've got seating on the decking area where you're not proposing any acts, just a wonderful view of the river and then seating below.

Mr. Albrecht: Is there anything in the conditions that the staff is recommending that you cannot comply with or do not want to comply with?

Mr. Lynch: We've thought a lot about this and we would like to take issue with one of the requirements that was listed, that all the windows and doors be closed anytime there is music. We feel this requirement is singling us out where there's many other restaurants such as Quaker Steak & Lube, who has music every Thursday night, Texas Roadhouse, Chappy's downtown has live music and is open till 2:00 AM. In addition, there are several outdoor summer festivals like Frontier Days, Reggae on the River, a series of street closures with outdoor music that Milford sponsors. These are all great and help bring the downtown alive with people. We're requesting to be treated like any other business and event. We're not asking for any special privileges, but we're asking that the requirement to have the windows closed and open have certain timeframes on it.

Mr. Lynch: For example, if it's 4:00 PM on a Saturday and we have a musical act on the patio, it doesn't seem reasonable for us to have to close our windows and doors during the summer. It's open air ... it extends out to our patio. So, we're kindly requesting that an ordinance be passed that simply states that no amplified music can be allowed with windows and doors open past, let's say 10:30 PM Sunday through Thursday and not past 11:30 PM on a Friday and Saturday. We're not asking for midnight. We're not asking for late hours, but asking us to never have those windows and doors open during times that there's music seems to us to be a little bit different than the way other businesses in the area are treated.

Mr. Brenner: The open air feel of the whole brewery is what we wanted to establish.

Mr. Lynch: And we could close those windows at 10, 10:30 or 11:30 and not have an issue.

Ms. McKnight: We'll certainly take that under advisement.

Mr. Pelle: Seems like a reasonable request.

Mr. Wenstrup: Yes, it does.

Ms. McKnight: Any additional questions for the applicant before we hear from the audience?

Mr. Albrecht: So you're still committed to not having amplification on the upper deck?

Mr. Lynch: Yes, sir.

Mr. Albrecht: As far as the lighting goes, are we good on illumination?

Ms. Holbrook: We didn't ask for a photometric plan for this type of lighting. It's pretty low intensity. Certainly, you could ask for that, but I don't think it would be necessary.

Mr. Albrecht: Just wanted to verify.

Mr. Lynch: There are 2-watt Edison bulbs that can be dimmed really low. We like the lighting to be really low.

Mr. Brenner: The later it gets, the more we turn them down.

Mr. Wenstrup: You've got two stairwells with people enjoying adult beverages on the deck, will those be lit in some way that'll make it safe?

Mr. Lynch: Yes. There will lighting along the left side?

Mr. Bredemeier: That'll be required by the fire department.

Ms. McKnight: Anything else, right now? All right, thank you gentlemen.

Ms. McKnight: We would like to hear from those of you in the audience that have questions or comments regarding the application. If you'd just come forward, state your name and address for the record please and address any questions to Planning Commission and we'll have the applicant up to answer them.

Mr. Amato: Good evening. Rick Amato, Park Road. I came a month-and-a-half ago and proposed that the City put together a sound ordinance because of the noise we're getting from the brewery. The brewery looks nice. Granted the brick is nicer than what we see today with the temporary structure, but as soon as you open the windows and doors we're going to be right back to where we were last summer, where we were most of the winter. Loud noise till 10:30 at night. I'm right across the river and the sound goes right to my backyard, right to my house. In the earlier part of the winter, my windows were vibrating, my walls were vibrating from the noise coming across. If anybody wants to hear it come over sometime when they're playing full bore. That's just not within Milford's vision. I agree with what they're saying in the sense you want an afternoon, a Saturday afternoon, play it loud with the windows open. It's hot. I could go for that. But these 10:30, 10:00 evenings, five days a week, it's not right.

Mr. Amato: Businesses have a right to have a business, but neighbors and residents have a right to have some peace and quiet. And the fact that the sound is going right across the river to the rest of us. And I know on Mill Street and around that area and back to the new apartments ... this isn't what we should be, what we expected, right?

Mr. Amato: So my question to the Planning Commission would be, do we really want to go till 10:30 at night? Can we go daylight hours or something like that and have a compromise? I'm willing to compromise, but this late at night is ridiculous. Thank you.

Mr. Wenstrup: Mr. Amato?

Mr. Amato: Yes?

Mr. Wenstrup: I have a question, sir. Are you telling me that you represent all these people on Mill Street and the apartments or this is your point of view?

Mr. Amato: This is my point of view, 5770 Park Road right across the river.

Mr. Wenstrup: Okay. And that's a private residence, right?

Mr. Amato: Yes sir.

Mr. Wenstrup: Thank you.

Ms. Good: Hello. Apologies, I have a bit of a cold tonight so hopefully I can be understood. My name is Caroline Good. I own 16 Wooster Pike, which is right literally across the river from the brewery. And, I concur with what Rick Amato was saying. I know there has been concerns about the windows being closed and I get that they want to have the open-air feel, but it will defeat the purpose of having any kind of sound dampening. You're wanting to keep the sound within the space and you open up the windows and you open up the garage door, it's going to spill right out. And they're saying with the regards to the festivals, that's one thing. We all expect it and it's alright, but this is something that would be happening five days a week consistently.

Ms. Good: And it is kind of hard for people living around that area to be able to put up with that. And so that is concerning to being able to keep that sound contained. And we've been out there and we're not hearing any loud noise when MJs was up there or 20 Brixx. We're not hearing those noises, I don't know about the other bar that's across from the grocery store. I don't know if there's been any complaints about that. But people do have a right, and I think we're just going to end up having the same kind of problems with sound if those doors are allowed to remain open whenever they have music.

Ms. Good: I'm even concerned about crowd noise levels on the top patio. I know that they've said that they're not going to have any amplification on that top patio, although I've heard kind of mixed information with regards to that. So, I am hoping that is not going to be on the table because they said at the original meeting, we're only going to have acoustic and now we're having these loud amplified bands. So, I'm just wanting to make sure that there is not going to be any amplified music on the patio. And again, I strongly put that the doors and the windows are closed whenever there's any bands because it's just going to spill out. With regards to the lighting, too, I know that I have spoken to you about when cars are parking and the light spills over, they need to have more shrubbery because the headlights from cars spill right over into our backyard. It's blinding.

Ms. Good: And again, the crowd levels on the top patio, having some kind of noise dampener on the outside too, that keeps that to a low roar that will muffle that. Again, I vote to keep the doors and windows closed. I'm also concerned in terms of the windows, what kind of windows are they putting in? Are they putting in special windows that have soundproofing? Thank you.

Mr. Krehnbrink: My name is Robert Krehnbrink, I Live at 9705 Shawnee Run Road just directly across the river and have the property that's about 1,700 feet from the corner down to Shawnee Run Road. My concern in talking with the city is that ... I'm very happy that the brewery is doing well and wish you the greatest form of luck. But there is no mechanism in place right now should there be any issues with sound. There's nothing that we can do post your granting the ordinance that allows us to check the sound if the sound is to be too loud. The only ordinance in the City of Milford is for too loud of music outside of a car. There is no ordinance for specific music from any building, business. I would also agree with the people asking for this.

Mr. Krehnbrink: So we do have about 18 days a year where there are festivals, the VFW who have significantly large groups and loud music and those are okay. Those are mostly charity events and for the city and 18 days is okay for us. It's the question of a potential of six months of loud noise with no ability to adapt. What I mean by that is if the noise is too loud and is problematic, what can be done? If you grant it and you grant that the windows can be open, what can be done? If we can try it with the windows open and if there is an issue with the noise and there's some process that allows us to say, "hey, please close the windows. It's too loud" or it's a timing issue. I would like you guys to take that in consideration.

Mr. Savage: Hi, I'm John Savage. I live at 1704 Chase Avenue in the City of Cincinnati, but I own property on Park Road that surrounds Rick Amato's house at 5770 Park Road. I agree with what they were saying. A couple things I would like to add, which windows are going to be open and doors? Is it all of them or are they proposing some of them? Some are more critical from my perspective than others. Everybody has a different perspective here, but that is an important issue. Also, weren't they putting air conditioning into the new structure, into the patio if it's called that. And if there's air conditioning, doesn't that provide some benefit to keep the place cool? Maybe there's no air conditioning. I didn't look that closely at the plan. So those are my two points. Those need to be considered. Thank you.

Ms. Addy: Hi. Kelly Addy, 5880 Park Road. And we also own property in Milford. I think we're back to where we were, square one again. We believe that no musical acts should be allowed on the upper deck or on the outside in the new addition. No musical acts either acoustical or amplified should be allowed to play if the doors and windows of the entire building, not just the new addition are open, period. What they're trying to do here is to create a concert venue that serves beer, not a brewery that has music. At the beginning when they came, they told you it would only be acoustical music and that it would be very infrequent. And now what they want to do is have bands, which they did have this fall, literally Tuesday through Sunday. If it wasn't a band, it was open mic night. If it wasn't open mic night, it was games, trivia games. Every night we heard something.

Ms. Addy: They were put under conditions since the last meeting. We have had an incident since then, we contacted Pam and the City, there actually were acts in the tent when they were told not to have acts in the tent. So already they didn't listen to the conditions. So that's my fear, that if you allow the windows and doors to remain open, they will have a lot of noise happening.

Ms. Addy: In the mixed-use residential business OMO, Old Milford Overlay district, this board itself passed the code which granted the conditional use of a microbrewery. So, it's a conditional use just to have the microbrewery to begin with. But put conditions on that use under 1195.14.u.a. all structures must be 50 feet from any lot line that abuts a residential use, which I'm not sure we have that here. B, hours of operation of the brewery are 7:00 AM to 7:00 PM non-brewing activities and here's the big one, with no external impact, may be conducted outside of these hours.

Ms. Addy: Noise and disturbing the quiet enjoyment around the brewery is definitely an external impact. The other thing which I don't agree with is where it is situated. You are surrounded by residential. You're surrounded by Terrace Park, you're surrounded by Indian Hill, you're surrounded by Milford residents. So, there are a lot of people impacted by this. Whereas if you're downtown on the street and there are buildings on both sides that are commercial and the music is playing against those buildings, you don't hear that kind of a sound.

Ms. Addy: Down by the river, especially since they've cleared all the trees off, all the vegetation, the music just flies. I've talked to several people, people in Terrace Park, people in Indian Hill that hear it. It is impacting a lot of people. All I'm asking you to do is to agree to what you agreed to at the beginning. It's a microbrewery. We're glad it's there. Okay, we're happy it's there. We want it to succeed. We love the new structure, it's beautiful. But the bottom line is if you want to be a concert venue, you should have your windows and doors closed. You have air conditioning. Therefore, when you have concerts and that's what this is, it's a concert, then you should keep it closed and not impact everybody around you. Thank you.

Mr. Donovan: Hi Darryl Donovan at 28 Wooster Pike. First off, I congratulate you guys on a successful business. I really do. But on the downside, I have to agree with the people that live as close as I do myself, which is directly across from your back door. In the original meeting when I know Caroline and myself both were okay when they said, "we might have acoustic guitar". That was all they said. And you all agreed with that and we agreed with it and wished them success. But I do agree with the fact that it has become more of a big band sound. We shouldn't have to sit on our back decks and listen to someone else's music. And I'm sure all of you have had a time where you've been in your house and that car pulls up in front of it and you hear the thumping and the windows shaking.

Mr. Donovan: I live right across the river from you guys. If this was in your backyard, I guarantee you would be here against this. I'm not trying to ruin your business. I really want you to be successful, but not at my cost, not at their cost. I will tell you right now to open those windows would be the biggest mistake we could do to downtown Milford.

Mr. Donovan: We need to have an ordinance if we don't already have one, there needs to be repercussions if there are calls repeatedly, and I don't mean once every six months, I mean as Kelly Addy said it became a venue Tuesday through Sundays from 12:00 PM till 12 midnight and I'm sorry, but I do want successful businesses here. What I don't want is to be impacted by their success and I think the biggest thing if you don't have it, we do need a noise ordinance. There does need to be that so that when people call you and complain, something can be

done. And if you want to have people there, then maybe you need to go there and sit outside or as they said come to their house and sit in their backyards or sit in their living rooms.

Mr. Donovan: But if you don't live by it and you're not affected, I can understand where you're sitting there and saying, "we don't care." And I'm not saying that's your attitude, what I'm saying is it's not affecting you people. It's affecting the rest of us. And I just think it's time for the ordinance. I think we need to have fines. And again, I'm not trying to do this to bring it on a personal level. I'm trying to do this because some of us just want some peace. We already drive down the streets with cars thumping next to us. We don't need to sit in our houses and have the same thing. So, guys, I'm sorry, but I agree with pretty much everyone here about the windows. And again, I will say if it was next door to you or in your backyard, you would be agreeing with me.

Mr. Donovan: I ran bars for 15 years and I can tell you I went to these meetings for those bars. I had one that I worked at, they closed because of the same situation. We want to get along. We want to see a successful business but what we don't want is to have our lives impacted by it. Period.

Mr. Wenstrup: Mr. Donovan?

Mr. Donovan: Yes?

Mr. Wenstrup: You say you're right across the river?

Mr. Donovan: Directly.

Mr. Wenstrup: Do your windows and doors shake?

Mr. Donovan: Yes. Got to remember the river is my buffer. That's it. It comes directly across to my house and her house. Okay. So, we thought we were the only two being affected by this. I'm glad that other people, as far away as they have come to talk about this, are here. And again, I want successful businesses. I don't know what's happened with the distillery here. I'd like to see that go. But at the same time, if they got a place across the street from them that have bands on their deck or they're open windows when they're playing, do you think there's going to be a conflict? I do. And I guarantee you guys will complain, and I understand being a business owner. I do. I like successful businesses in Milford, but we're neighbors. We need to get along, and the only way to do that is to listen to each other, and that's all we're asking. And if you don't believe it, just come to the houses and listen for yourself. That's all I can say.

Mr. Wenstrup: Have you done anything to lessen the impact of the noise at your location?

Mr. Donovan: Well in the summer I keep my windows closed. I can't open my windows on a nice spring day or a nice fall day. Not if I'm trying to sleep and if they want to play 'til 10:30, I'm sorry, I'm getting older. Sometimes I'm not up at 10:30. But my point is, you all are here to make a decision for us. To make a good decision for us and also help them succeed, but not at our cost. Please.

Mr. Addy: Good evening. I'm Mark Addy, I live at 5880 Park Road, and we're residents, my wife and I of Indian Hill. Mr. Roe asked me if I had the right to vote here, I don't. But I do own four acres in Milford, and we are definitely being impacted by what is happening at Little Miami. I share with the comments many people have said. We applaud the business, we want it expand, they've done a great job with what they've done. What they've proposed, beautiful, no issues there. We promote business, we want jobs, we're for that. What we shouldn't have to do, is deal with the impact on us. When you ask a question, "What have we done to reduce our noise?", that's not our responsibility. It's their responsibility to contain that within their own building. That's not our responsibility. We shouldn't have to sit outside on our deck, or our back patio by our pool, and listen to our windows shake. We shouldn't have to worry about calling the police or rangers about something that's impacting us. That's not our responsibility. We shouldn't do that.

Mr. Addy: I find it ironic to sit here and talk about a paint color that you're going to put on a building, and you're not willing to regulate an ongoing concert, just ramming music five nights a week in your downtown. I'm also very concerned, no pun intended, but when you open a window crack, what's coming out of here. When we started this process there was going to be steps taken that there'd be no amplification of music. There were going to be acoustical bats put in place. There were restrictions put in place from the last hearing we had. Those weren't followed. And so again after they were caught, it came back they stopped, great. What's going to happen when you build this without any regulations or way to enforce it, we're going to be right back to where we are. You heard today what they're talking about, and that is opening doors and windows, and you know as well as I do, it's going to be every summer every fall. It's going to start in the afternoon, it's going to crank 'til 10 or 10:30, and you're going to be right back to where you are now. Because the noise is going to be released throughout, we all know that, and we're not taking the steps we need to address it. I agree, there needs to be a noise ordinance put in place or you're going to continue to be back here monitoring this time and time again.

Mr. Addy: If you look at other jurisdictions, what they've imposed, they've actually put police restrictions on it to monitor it. So, you don't have to do this on a regular basis like we're doing now. I would just ask that you take consideration because you see here and hear from a few people, there are many people that are impacted by this in a very negative way. Thank you.

Mr. Albrecht: Can I just make a couple of clarifications? I have to separate what's fact from what's fiction. First of all, Pam, when the Planning Commission approved the original building, were there any restrictions with respect to amplification of music, or any kind of music restrictions at all?

Ms. Holbrook: When they originally came for approval, they mentioned that they might have some acoustical acts but it was a brewery, and not a concert venue.

Mr. Albrecht: But no restrictions like this were written into the approval?

Ms. Holbrook: For the original, no, because it was just a brewery.

Mr. Albrecht: That's why I was asking. First of all, so there were really no restrictions. Secondly, because I've received emails and I've also heard it here again tonight,

and I'm just trying to correct the record. It seems that there's a misconception that the last "hearing" put restrictions on their current existing building, and that's not the case. They came to us as a Planning Commission for an addition. We all gave them feedback, including the people in this room, and said we really don't like the fact that you're going to put another tent, a temporary tent, and they heard the feedback. And so, they withdrew that application, which goes along with all those restrictions that if they're going to put up that tent, those restrictions would apply but they are not. So, this is a brand-new hearing today, and they're asking for a new addition. I just want to make sure that those things were clarified because there's a big difference, and I'm just trying to separate fact from fiction. At this point that's all I have.

Mr. Wenstrup: And, Fred am I correct that, also we said until we figure out what we're doing with your building and the owners of the property said they would go back, the owners of the business said they'd go back and try to address the concerns of their neighbors. We see that tonight in this design and their suggestions. We said between now and then, no music with the doors open, I think is what we said. And they said we can do that 'til we get back to you. And this is something we're all working on, and there's a little heated animosity that permeates the discussion. I will tell you that having had the opportunity to look at these plans, having had the opportunity to talk to the owner, I think they're making sincere and genuine efforts to address this. I think to assume that those sincere and genuine efforts will fail and you'll have noise again is somewhat unfair.

Mr. Wenstrup: They have gone to great lengths to address other residents' concerns for noise. Other than come back and say, "We don't like the noise", the residents at the other property are just stirring the pot. Let's let them try - yes ma'am - Let them try to address it and take them at their word until they prove that their words not good. A solid structure with solid windows. If you believe the windows are closed, the music can be fine, I think that's a step in the right direction. And not an inexpensive brush off. So, if we can work on this together, I think we can get a solution. But if we stonewall the development of our downtown, that hurts a lot more people than the people in this room and the people you refer to. So, my comment is, please understand that I think you're seeing some genuine respect for neighbors from these people. And also, that we've done a lot more than approve paint colors, sir. We have looked into the noise ordinance. I've dug into a noise ordinance, I've shared them with other members of the committee. It's a difficult thing to regulate. So, it's not that we haven't heard you it's just that trying to do this in the best possible way isn't done perfectly anywhere. That's all I have to say.

Mr. Albrecht: And I can address the noise ordinance and the status thereof if you want me to.

Ms. McKnight: Please do.

Mr. Albrecht: Because really, we're debating a noise ordinance at a Planning Commission meeting, we don't even have that authority to create ordinances. So, you're at the wrong place. Come to the council meetings.

Mr. Albrecht: Mr. Doss and his staff are very carefully reviewing other ordinances in other cities, and they range from the one that was mentioned in Mariemont, that had police watching the noise to Loveland who has simply a decibel level. If you read

them, you'll find that they're all over the map. Other cities and villages who have tried to address the same situation. This is a business district, that's going to continue to be developed. So, we have to, as Council and staff, make sure that the ordinances that come through make sense and are broad enough, to cover a Chappy's who's been doing this for years. I hear it at my house, much later than these guys. I'm not a complainer, so I don't complain about it. I just turn my music up inside so I hear what I hear but I'm not stopping their music. Every time they're playing, I know Chappy's is playing. I know that Quaker Steak is playing every Wednesday's.

Mr. Albrecht: So, I think it would be unfair of Planning Commission to impose any kind of restrictions in here that don't adhere to the regular City ordinance, so my suggestion to be fair to you all who have come here and expressed a concern. There's no teeth in this piece of paper that would, say shut down the brewery or fine them or anything else. That has to be done through ordinance in City Council. All right? I'm pushing for that, we're all working on that. We hear you, but that doesn't happen overnight, and it shouldn't happen overnight. So, my only suggestion would be, just simply revise number two, to simply say that they will adhere to any City ordinance with respect to sound, because that's going to cover everyone's interest in this room once that ordinance is in place. And for us to set restrictions that we don't have any clue whether those restrictions are going to be in accordance with the law that goes into effect would be moot, right? So that's just my suggestion. It's a compromise to try and make people more comfortable and somewhere along the line there'll be teeth to this, and yet we're allowing a business to operate and conduct their business. How long is it going to be before you're operational with the addition?

Mr. Roe: Hank Roe, Beauty Ridge 750 US 50. We're talking about starting this in mid-August, after the summer rush is over, kids are back to school and that lull in the fall, and have this project finished sometime around Thanksgiving.

Mr. Albrecht: So, there's time that's going to go by that should give Council a chance to address the ordinance for the addition, because right now, anything that goes in here doesn't affect their existing building. This isn't an ordinance, I mean that's what you have to understand. This is not the law any more than when I get complaints, constant complaints, from the apartments, the Miami condos and all of them, about the shooting at Indian Hill. Anybody here ever hear the shooting going on at Indian Hill? Have you complained to them too?

Speaker 4: It's not - it doesn't bother me.

Mr. Albrecht: It's a different noise, that's the point. [crosstalk 00:49:46]

Mr. Donovan: It's not constant.

Mr. Albrecht: That's fine. I guess it was a rhetorical question. Okay, I'm just throwing it out there as a discussion so that you can understand the debate and the question that's going on, and will go on at council, for the very same problem that noise is noise. You live near a business you can expect that. There's going to be noise downtown, and there's not going to be no music. So, this is food for thought. As we have to debate right now, is this appropriate, is this addition appropriate? And what restrictions are appropriate.

Ms. McKnight: Before we get into our debate, I want to make sure we've heard from everyone who wanted to speak in the audience as well as give the applicant a chance to respond.

Mr. Addy: Mark Addy back up, I just had one question for the Mayor that I'm unclear about. So why were we even discussing amplification of music at prior hearings, if that's not something you're even taking into consideration?

Mr. Albrecht: That was the last hearing and it had to do with a building that had only tent material.

Mr. Addy: But in that situation the entire thing was about amplification and steps to reduce noise, and now just because we have a solid building, you think we're not going to have the same issues?

Mr. Albrecht: I think they would be greatly diminished. I think that's what people asked in the audience last time to do.

Mr. Addy: And with doors and windows open, with that music coming out?

Mr. Albrecht: I understand your point and we're listening.

Mr. Addy: Okay. Thank you.

Mr. Wenstrup: Mr. Addy?

Mr. Addy: Yes, sir?

Mr. Wenstrup: Yes that last meeting we were talking about a different thing and the restrictions that we put on what they wanted, was addressing what you wanted. Okay? They went back and present this and we're, again, addressing what you wanted. Okay? So, again, I think they've been very genuine with all the things they've done. But we don't have a sound ordinance, we have reasonable things and I think they're trying to be reasonable.

Mr. Addy: I understand that and I do commend them on making modifications. We're acknowledging that, but you're still going to get to the basic same issue. Whether it's a tent-

Mr. Wenstrup: How do you know that?

Mr. Addy: Well, common sense. If you have a tent versus a permanent structure, you're going to have a reduction of that, but when you have windows and doors open, guess what? Sound travels like water, it's just going to travel out. You're going to have the same issue.

Mr. Wenstrup: Yeah, we live in a river valley. They, they've-

Mr. Addy: Well we pay taxes to Milford. [crosstalk 00:52:56]

Mr. Wenstrup: Excuse me, when he spoke just a minute ago, he suggested that they would stop at certain hours. I mean he's thought about that before you brought it up.

Mr. Addy: Why should I have to deal with listening to music, that impacts my home, no matter what time of day it is?

Mr. Wenstrup: Because you live close to a business district. I mean why do I have to listen to the fireworks at the Red's game when they shoot them off. It comes up that river valley.

Mr. Addy: And that's sporadic, that's not five or six days a week.

Mr. Wenstrup: I understand, I understand. But-

Mr. Addy: We've lived there for five years, your Chappy's, all your other examples, the carnivals, that's nothing, that happens periodically. [crosstalk 00:53:37]

Mr. Wenstrup: Why do you suspect that these people won't honor their agreement to try to reduce noise?

Mr. Addy: The best indicator of future behavior is what the past behavior was. Thank you.

Ms. McKnight: Everyone, I would like to get through hearing what everyone has to say, so if I could ask my fellow board members to listen to what folks have to say and we can hear from everyone in the room, and then we'll have our opportunity to have our discussion. If we have a debate with everyone that comes up, we'll be here all night.

Ms. Sneed: My name is Diane Sneed and I don't live in Milford but I am responsible for the property where Darryl Donovan resides, and I've been over their multiple times and heard the trivia in the middle of the afternoon. If I were wanting to sit out on my deck, it was not an option. But I understand that the Planning Commission is only responsible for the building, and what you can and can't do with regards to the building. I think that part of the building code is having doors that can or cannot be open, so that is part of your responsibility, whether or not you allow that or not.

Ms. Sneed: So, that does come into the sound ordinances and whether or not you allow it. I agree with the lady who spoke that if they do have any amplified sound, of any kind, I don't think anyone here would be opposed to having those doors being able to be opened and closed, as long as there's no amplified sound during the time when they are opened. And I think that would be a nice compromise, if you have a band, you may have very low-level speaker on the outside that it allows the sound to be there, but no more than what you would hear out of a car radio. Not blaring car radio, but you know where you're sitting in a car. As far as the planning is concerned, you have to decide whether or not you allow doors that open and close. So, in that respect, yes, all the sound stuff deals with all of that.

Ms. Sneed: We live across the river and he would probably not be appreciative if we sat on our porch and put a speaker blaring as loud as some of the music and sound that I have heard from that area. So that is how I feel about it and hopefully you guys come up with some good discussions on what can or cannot be. How do we go forward with the city on getting some kind of recourse that if the sound does get too loud, what we can do about that? I don't know how we go about that, so that would be something that would be nice to be able to figure out. Because I know

that they've even dealt with something like that in downtown Cincinnati. They actually had to go to a bar and tell them to turn the music down, because it was too loud for the people in the streets. They couldn't even talk in the street. And also, I wouldn't even think that the people who would go to your place would really want sound all that loud, anyway. I mean personally I don't. So that's what I had to say.

Ms. Flege: Hi I'm Jane Flege, and I live at 990 Wallace Avenue, which I think we're right across from the people on Park Avenue. When the music started impacting me, I thought I was the only one that was bothered because it kept going, and it turns out there's a whole lot of other people that have been negatively impacted by it. Where I live, I'm direct line of sight. I'm up the hill, Wallace Avenue, and right now the sun glares off of their roof, you know right there, and I can see the tent. I'd like to be able to work in my yard or sit down on my patio at 4 o'clock in the afternoon, early evening, and not have to listen to that loud music.

Ms. Flege: And sometimes when the music is really loud if I'm in my house, if the TVs on loud, I don't hear it. But if I turn the TV off maybe quietly reading a book, with the windows closed and I've got good windows, triple pane argon gas filled, I can still hear it. And then if I want to go to bed, fairly early, with the window open, I can't. I have to have the windows closed, and I have to listen to ear pods with noise canceling, you know white noise. And I just don't think, having lived in this wonderful community of Milford and this wonderful residential area, I've put up with a lot of noise from the city.

Ms. Flege: I feel like I'm just right above the city. You know work noise, construction noise, the shooting at Indian Hill range, they're all temporary. It's like a finite thing. When Milford was providing fill dirt for the Riverwalk, it was really something. These trucks, and this was at 9 o'clock at night, and they would have the trucks go in ... and you know how trucks with the "beep, beep, beep", back and forth, back and forth, I mean that just about drove me nuts. But it was temporary. With the brewery, they are an established business, and it's not temporary. It's on a constant basis.

Ms. Flege: And the one gentleman, he talked about other businesses and wanting to be treated fairly just as other businesses, and what I have to say it's a false equivalent. Don't make a false equivalent comparing yourself to Frontier Days, or the VFW. We've all come to expect it. It lasts for maybe one or two nights and then it's over. I don't know about some of the other businesses but I'm really concerned about the idea about windows ... and this gentleman said he doesn't think he should be held to different standards than the festivals.

Ms. Flege: Well, I think it's fine to have music in your establishment, but you need to keep it inside your establishment. I mean, what logic says that you just have to share it with everyone around you? And I think it's a good solution to have amplified music only inside with the doors and windows closed, because if you allow any windows to be opened, the sound will come right through. And also, the construction of these windows, I'd like to be assured that they are noise proof and there are, with our building and planning, I really think it should be for this type of establishment, it should be written or be a requirement that they consult and have noise dampening and acoustic solutions. You know, there are solutions to this. I just have to say that I haven't really been able to enjoy the peace and

comfort of my home since the start and I guess I think, why should one little business have the ability to make me not enjoy my home?

Ms. Flege: Also one other really important point, this whole thing about time, well three or four o'clock in the afternoon that's as bad as 10 o'clock at night. Any loud noise is going to impact your neighbors, unless it's contained inside your establishment. So, I think the requirement should be that the doors and windows be closed with the music inside, at all times. Thank you.

Ms. Good: I just wanted to add one thing with regards to the noise ordinance. I know that when we purchased our property which was almost a full year before the brewery came in, one of the things that we looked at because we were planning on putting a business into our location, we were looking specifically at the noise ordinance, and we remember that there was something in the ordinance of Milford pertaining to noise. And then suddenly, it's not there. So, I will try and attend some of these council meetings just to make sure because that was one of the things when we were looking and purchasing our property, that was the one specific thing that we were looking at, in terms of noise. I spoke to you about there being a sign, up on Wooster, there was a \$500 or \$250 fine for road noise, I think I took a picture of it, I don't know if I sent that to you. We understand that there's cars and motorcycles, but there had been a noise ordinance at one point, and suddenly it's gone. Anyway, I just wanted to point that out. Thank you.

Mr. Harding: Len Harding 222 Cleveland Avenue, Milford, right across from SEM where we can always tell what the population of SEM is doing because the fire trucks and the EMTs go by. The other thing is we're serenaded by the Milford gun club every weekend, and every holiday. It's not the same as Indian Hill, the gun clubs back there where the school is, which is an interesting place to put a gun club. But we listen to that all the time and we certainly do hear Wednesday nights out at Texas Roadhouse or Quaker Steak and Lube. But Milford used to have an ordinance, and it just simply said turn it all off at 11.

Mr. Harding: So, if we're going to go to a noise ordinance, there are people out there who call themselves acousticians, and you should do it right. Don't copy what Mariemont has. Don't copy what Loveland has, because among other things, they have different residents than we do. And noise is a very subjective thing because there's noise, and there's sound, and there's melodies, there's this, there's that and everything. And to be fair, as I always figure if I can make everyone in a room mad I've done a good job, but to be fair if we're going to do that we should hire an expert on acoustics. I worked with Glaserworks. I was a specifier, so I got to pick out materials and stuff like that, it was always fun. But we did a lot of work with music hall, and if there's anybody that pays attention to sound not getting out, it's Cincinnati Orchestra, you know, Symphony Orchestra. I think they keep theirs in because they're stingy, selfish, and don't want to give anything away. But a brick building is going to do a pretty good job of keeping sound in. Any solid thing like brick, concrete, things like that do a good job. The more metal you have in it the more you're going to get reverberation, and it will be an amplification sound.

Mr. Harding: On the other hand, the last time we were here talking about sound bats, they're easy enough to do. Hang them down from the ceiling, they even look decorative. You can have the orchestra or the band up on a small podium, and fill it with

sound deadening material. Down at Latitudes, they just had carpets down there. You put a band on carpeting, it'll be a lot quieter. And you can say, "Don't turn it up that loud.", I have been there and it is loud, and I think that the people talk louder so they can play over the music and then the music plays louder, so it can be heard over the talking. And if you just put a damper on all of that, it will go down.

Mr. Harding: I mean this is something that really calls for people understanding what other people need to do. I agree with you, we don't want to say "You can't do this, you can't do that, you can't do-", [crosstalk 01:07:49] Well we can't be open down there, Milford is in sort of a Renaissance right now, and that's good. It's good to have money coming in. Good to have people paying taxes. It's good to have this. It's good to have that. But if you're going to measure noise, which I don't think you guys do anyways, you're just talking about the sight, the sound, how much room it's taking up, things like that, you have safety codes. But if you're going to do that, go with actual sound.

Mr. Harding: And for the people that are complaining on the other side of the river, I understand. Water does a real good job of making sound carry. But to be fair you would have to measure the sound on the highway side, as well as on the river side, because there's sound there constantly. Highways aren't silent. There's a lot of noise coming from a highway. Measure that sound. Measure all the sound, and I guess I'll have to say this to City Council. But you can't just come in and use somebody else's ordinance and wonder why it doesn't work for you. It's a thriving little business they're finding their way, I understand that.

Mr. Harding: Some people prefer a nice strum of an acoustical guitar; some people really like the thrum of heavy rock and roll. But the trick is keeping the sound level down is an art and a science, not just a bunch of rules that they see somebody coming and they turn it down. And all of us who live in South Milford, are assaulted by noise of one sort or another made by people making money. We like to live in South Milford. You know, I am so used to the gun club that I miss it when they don't shoot. I mean that gun club is really something, and I always tell people that's a good place to put the kids cause when they misbehave you just stick them out on the river and let them take their own chances. But the trick is, get some science in this, my goodness. My goodness. That's all I'm saying. Thank you.

Mr. Krehnbrink: Yes, I would only like to say that I think that everyone's talking about a mechanism here, and I think the mechanism of what is loud and what is not loud, and we can all say what we think is loud or not loud, but there has to be some mechanism in place, so let's stop talking about us as the land owners. What is fair to these guys? So, if there is no mechanism in place for them to understand how they have to operate their business, how can you let them start up running a business now with no mechanism? You do have a mechanism on the books right now.

Mr. Krehnbrink: There is a noise ordinance in the city of Milford for music in a car that states clearly if you can hear music in a car from 100 feet from the car you have broken the ordinance. Subject to fine. All right, so you have a base plate of what noise, at least the city has decided, is in the City of Milford, but what is fair to these guys? Forget us as the land owners. What gives them the best possibility of being

successful is for you guys to come up with a rule that says, "Okay, have the music, do the stuff, but here's the benchmark. Don't pass the benchmark."

Mr. Krehnbrink: Then right now you're saying if what may come or when the city does something, that's not fair to them. I mean, I can see potential litigation for these guys in the future if there's no ordinance. I can see people getting unhappy. So, do what's best and fair for them to do a thriving business, and give them the rules and the tools that allow them to do what they need to do. Thank you.

Ms. McKnight: Gentleman, before you come up, I just want to make sure we've heard from everyone so you have an opportunity to reply. Thank you.

Ms. Goki: My name is Katie Goki. I live at 4315 Wellington Drive, so not in Milford, but I do work at the brewery. I just wanted to make a quick clarification. Tuesdays, or game night as everybody calls it, is over at 9:00, not midnight. Wednesdays open mic night every other Wednesday, ends at 9:00, not midnight. Thursdays we do have acoustic music, ends at 10:00, not midnight. Friday, 4:30-7:30, 7:30PM is when it ends, not midnight. Saturday 11:00, but it's a Saturday night, so I think that's fair, and Sundays if we have music it's in the afternoon, not until midnight. So, five nights a week music until midnight, that's just not true, so just wanted to clarify.

Mr. Donovan: Can I speak before they go, or should I wait? You tell me. Just curious. I don't want to-

Ms. McKnight: I'd like to hear from everyone and then hear from the owners and then close the discussion, so if you'd like to speak, now would be your time.

Mr. Donovan: Okay.

Mr. Wenstrup: For the recording, say your name again so we have that clear.

Mr. Donovan: It's Darryl Donovan at 28 Wooster Pike. First off, to address the question you asked, why can't we take them at their word? My answer to that was at the original meeting to approve the construction of that brewery, we were told specifically acoustic music only, so to take someone at their word, I agree with a mechanism so we're not fighting with them, but they did tell us that specifically. We tried to find it, and that's why I asked Pam before the meeting tonight, "Do you record the answers were given rather than just the questions?" Which I think you said earlier in the meetings when they started, they may not have been recorded.

Ms. Holbrook: We record all the meetings. Whether I still have that particular recording from 2016 I don't know. I'll have to check.

Mr. Donovan: Okay, but my point being is to take someone's word when that's already been broken. Okay, we went from the guitar ... I don't even think we started with guitar. I think we started with amp, but my point is I agree with the mechanism to work with you guys. We want a successful business, but please do us the favor and work with us. We're trying to work with you. We could sit here and say, "You know what, put an addition. You're moving 50 yards closer to my

property." We could say, "Please, don't let them have windows at all." That's not what we want.

Mr. Donovan: We just want to be peaceful. That's all we're asking from anybody. Okay? Without that mechanism, without that ordinance, you're giving somebody the right to do business before you even have a plan of what they can't do. I agree. There's got to be something to state how this works for the rest of the people. Look, Dale Roe and Hank and Oli, I know we've had our differences in the past, but I will say this, when it comes to construction, I'd move in any building he has, but at the same time, it's a financial issue for the owners of the brewery, for the owners of the property. But it impacts the people around Milford. If we're going to let this one go, then do we open ones at other places that start impacting the rest of Milford?

Mr. Donovan: When we're told something, we want to know it's held to that, and it wasn't. That's addressed your question at taking their word, okay? Just so you know that, that's all I want to bring up.

Ms. McKnight: Thank you.

Mr. Donovan: Take the word of them saying we'll only open the windows or close them at a certain time. You know what, if we're going to sit there and do that, I got a feeling that not just me, a lot of people in this room are going to be calling the police complaining. I mean, to address your question about this should be at a Council meeting, you're a Mayor sitting on a zoning commission and you go to those Council meetings because you run that too, so you can probably answer the questions, not that they're right for this meeting.

Mr. Albrecht: No, I've answered the questions, and I've also brought your concerns to council. I'm the one who brought the concern regarding an ordinance to Council.

Mr. Donovan: Right, and I think these people, as they said from the last meeting, thought this is where they had to be to hopefully stop something before it starts. That's all we're trying to do. We do want the tools for them to be successful, but I'm going to tell you something, when you move 50 yards closer to my backdoor and you got 70 people on a top deck on a Friday night and I've got guests on my back deck, where's the law draw the line if I crank music up? And trust me, I can, but I choose not to affect my neighbors. Work with us. That's all I'm going to ask.

Mr. Wenstrup: Darryl, did you just say that you came to this meeting to stop something before it happened?

Mr. Donovan: Yes, to stop-

Mr. Wenstrup: Or did you come to this meeting to have your concerns addressed and work collaboratively to find a solution? I think you have come to this meeting to stop the development, and I think your concern is about noise ordinance and they're going to have to comply with any noise ordinance that is developed in council, not in the planning meeting, so-

Mr. Donovan: That's putting the horse in front of the carriage.

Mr. Wenstrup: I want to make sure this is clear. There is no ordinance other than a car, and unfortunately by the time you call and complain about the car, they took off, so yeah, but this is real they're not going anywhere, so they have responded. I think they're genuine, you don't. That's all right.

Mr. Donovan: I talked to Dan's wife, and she said they're working. Well, I agree since I wasn't here for the meeting where a lot of these people were last time, unfortunately, can I tell you that things have gotten better? Not without a doubt. It has gotten a lot better. They have improved. They've worked with their neighbors. They heard them, but I'm just saying when you build something and you're moving it 50 yards or feet closer to my house, I know it's not just impacting me now. I thought it was just me and Caelee that were coming here because we were across the river. And all we're asking for you guys is to make a decision to improve the work they do and how they get there. Give them that tool to make it so they can find a limit.

Mr. Donovan: Don't make it so that people call you every Friday, Saturday, and Monday complaining. Give them something to look for and to stay inside of.

Mr. Wenstrup: Thank you.

Mr. Brenner: Joe Brenner, 5636 Oak Vista Drive. I think we are really trying to work with the citizens. We scrapped the entire first plan and are trying to do something a little bit more expensive, but we think it'll help out a ton. And I know you're all researching a sound ordinance, and checking on it, but whatever that comes up with we will abide by that.

Mr. Lynch: Dan Lynch, 3411 Woodlake Court We're here in front of the Planning Commission and the citizens to say that we will abide by any forthcoming sound ordinance. We intend to abide by that. If we don't, we'll be fined like any other business. That's all we're asking is to know what the speed limit is. Right now, there's no speed limit per se. We have installed in our tap room decibel readers. We continually tell bands before they start to play to never reach a certain level, and we have been managing that as was noted by one of the gentlemen. He indicated that we've done better, and we really have. And so we were asking that the building design as presented be approved, and we agree that we will abide by any sound issue forthcoming. That's all.

Mr. Wenstrup: So, I want to acknowledge that there is an effect of constant sound that affects the neighbors. It seemed like everyone wanted to prove that to me. I know that. I get that. I don't doubt that. I don't question it. I don't need to sit on your patio. I get it. I don't know how loud it is. I don't know why it's so loud, but I know it's there, and I know residents in the City of Milford and in Indian Hill and anywhere that can hear sound have rights. And I know that the brewery has made a lot of efforts to try to mitigate this from being a problem for their neighbors.

Mr. Wenstrup: That's when I say they're genuine. We live in a time where there's a lot of angst about honesty and integrity. The answer is sometimes things are going to slip. Don't assume malicious intent is my suggestion. If you go to the rotunda downtown at the museum center and you stand in one corner, and I stand in the other corner and I whisper, you can hear me. That's because acoustics are affected by the shape of things, and there's kind of a natural auditorium there

with that river valley. That's not anybody's fault, but it's something we have to deal with. Even though the sound at the property level of the brewery might be at a certain decibel level, it may amplify as it goes up the hill.

Mr. Wenstrup:

And that's something we want to understand, so one of the things I'm thinking is we're here to approve a building. I want to be fair and say, "Just keep acoustics in mind, because when we have an ordinance eventually as a City, you'll want to be able to comply with it, and it's a lot easier to build with better materials than rebuild with better materials," but I don't see a problem with building the building. I do see a real hot urgent feeling among both sides that we haven't given them an ordinance, and that's not our place to do that, but some kind of rules they can play by so that we can go forward and the renaissance that we're having kind of mandates that we need to do that. I'm pleased that the brewery said they would comply with whatever that is, and so with that said, and some of the adjustments we had talked about with the staff recommendations, I'm feeling that we have to go ahead and take it as a genuine desire to expand their business, which is profitable and beneficial to the community and also that the designs that they have done are their best efforts to minimize sound.

Ms. McKnight:

Thank you. Any other comments or discussion points?

Mr. Pelle:

Yes, I certainly have some thoughts on this. I don't know if I have a resolution. I just keep going back to when you strip everything away. I think there's no issue about the improved proposal in terms of the plan. I mean, they came back almost right away and had a wonderful solution aesthetically. But the biggest issue has always been the noise level, and I'm perfectly okay with this plan, but if you open his windows and doors, you're back to where you started. It's just a nicer building causing the same problem. That's what I'm trying to figure out. They made this great effort. A vast improvement. I don't hear the noise, so it's hard for me to understand what it's doing, but I totally get it's causing a problem so how we mitigate that I suggest not getting rid of number four for that reason or some other solution.

Mr. Pelle:

I also get where they're coming from regarding fairness with Quaker Steak is making noise all the time. I hear them. I'm right in south Milford. I don't hear the brewery. I hear Quaker Steak all the time, and I hear the shooting and things like that. So, it depends on where you are. I just don't know how to mitigate that without keeping those and yet, it doesn't seem fair to the business to do that, so I'm really stuck on this.

Mr. Albrecht:

Whenever I'm trying to make a decision, whether it's here or at Council, I try to refer back to what's in those green books, either in the charter or in the green books with respect to codes. Absence of a code creates two things, and all I'm doing is trying to tighten down the codes just to give the Planning Commission more teeth, right? Just trying to be fair. I look at this Commission as a judicial spot, not as an emotional or side taking spot. I try to look at every issue that comes before us based upon the codes that they've given us. They meaning Council, not just this year's Council, Council for the last 100 years. Times change, so codes have to change. The codes don't change overnight. We've been working on a code revision for a year.

Mr. Albrecht: We're still not there yet, because we're trying to be very careful and predict what's going to happen five years from now. We're not prognosticators. So, I have to look at this in fairness for me from a perspective of what's fair. Two things. First, I know for a fact that our job is to look at that building, look at our codes, and say, "Does that building comply with the codes? Does the use of that building comply with the codes?" Not regulate when they can open and close windows or doors. Whether they have windows or doors, I guess technically if that's a building code issue, right, somewhere along the line of safety code and things like that, not necessarily when they open or close those doors.

Mr. Albrecht: That ordinance has got to come from Council to give everyone direction. So, I hate to put restrictions on anybody coming in here with codes that don't exist, or codes that this Planning Commission would love to have exist, or the people in this room would love to have exist. Both sides have come to us asking for codes.

Mr. Albrecht: It just takes time to do it right, and they're doing it. They're working on it. So, I'm just asking for patience when it comes to codes. I'm not the mayor here. I am one member of Planning Commission. So, when I look at these, that's why I was proposing to add language that would give us teeth later to regulate the brewery or any other business coming, not just the brewery. In this case, you're asking us to approve this particular brewery.

Mr. Albrecht: I want to have teeth in what we send to the books, we approve so that it's not said four years from now, "They promised something at a meeting, and it didn't happen," when it wasn't ever put in the book, right? If it's here we can say, "Well yeah, you're right. Mr. Donovan, it's in the approval," right? So, all I'm asking is that I'd like to be more generic with the restriction, which actually could be more restrictive to them or less restrictive to them. I can't tell you which way we could determine tonight. If we could determine it this quickly there'd already be an ordinance. So, in my mind I'd rather leave it more open.

Mr. Pelle: Yes, let me ask this question, you and Pam. Any ordinance that's set down the road that is a retroactive thing, right? Let's say they go ahead and as planned with your suggestion of not having number four in there where you can leave the windows and doors open to a certain time-

Ms. Holbrook: Number four says all windows and doors to remain closed whenever any sound amplification is being used inside the building.

Mr. Pelle: Okay, so let's assume that they're suggestion to remove that goes ahead and later an ordinance comes in place that refutes that for whatever reason, just thinking what happens?

Mr. Albrecht: Yes, but we're saying in here ... the wording I would suggest is that they will comply with any code-

Mr. Pelle: Got you. That's what I'm wondering.

Mr. Albrecht: Any code in effect for the City of Milford will comply with any noise ordinance.

Mr. Pelle: Okay, that answers the question.

Mr. Albrecht: With the City of Milford. So that requires them to do that, and a code like that would be effective when you make it effective. Since it's a noise thing, it's not like, you've have to change your building.

Mr. Wenstrup: Yes, it would not be grandfathered. No one would be grandfathered from a noise ordinance.

Ms. Holbrook: That's true. They would not be grandfathered.

Mr. Albrecht: Nobody would be grandfathered.

Ms. Holbrook: Right.

Mr. Albrecht: Because we need to do something that's fair for them, Chappy's, and Quaker Steak. That applies to everybody, not just this particular business. So, we need to do that. We're working on that, so why not put that wording in here that they need to comply with noise ordinances and they agree they have to do that in order to get this approval? And then let Council do their job.

Mr. Wenstrup: Along those lines, and if you'd carry this into that meeting, I'd appreciate it, there should be a way that individuals and businesses can under that ordinance apply for a permit for a special event, whether you're having your daughter's wedding reception in your backyard. We ought to be able to do that, and there ought to be ways to notify people. They've applied for a permit, they can have a band in their backyard until midnight on Saturday because their daughter's getting married. That's just common neighbor stuff, and it takes the issues away from them and you have to have a permit if you want to do that. Everybody's got some semblance of what to expect. I think that would be helpful too.

Mr. Albrecht: That's good feedback. I'm hearing it.

Ms. McKnight: Well, I would concur. The building looks great. I think it will be a beautiful addition. It'll look good along the river. You're creating a lovely venue to go along with your lovely product. That's all good, very happy to have you here. I have to agree with what Dino said, though. Open windows and doors are going to allow the sound to carry. So, we're not that much further ahead with open windows and doors than we were with open sides and acoustic panels that were going to go up and down. I'm hearing a lot of interest on the part of our community for the City to have a noise ordinance. I know firsthand that they're complicated and need to be carefully drafted and carefully enforced, but it can be done, and we have several examples that show that we need such a device.

Ms. McKnight: I heard construction is scheduled to start hopefully by August and done by Thanksgiving. If next winter is anything like this winter there won't be a lot of opportunity to have open windows and doors for a while after opening the new addition. And just by way of clarification, any action taken by this body tonight will be tied to the addition. We're not acting on any existing condition. It's tied to the addition, because that's the request that's in front of us. Having enforced these things I know how you don't want to draft something that you can't enforce. However, I think having windows and doors closed with amplified sound in lieu of a noise ordinance is a reasonable solution.

Ms. McKnight: However, I feel the noise ordinance is necessary and chop chop, the City needs to get on it. So, putting both into the recommendations, once an ordinance is adopted initially, I thought they could come back and say, "Can you modify our condition from no open doors and windows to can we now comply with the new ordinance?" That's still something I'd throw out there. The other would be to have, as long as the city doesn't have a noise ordinance, all windows and doors to remain closed. Once the city adopts the noise ordinance then they would be required to comply with that ordinance going forward.

Mr. Albrecht: I think that would be a great compromise.

Ms. McKnight: It gives some assurance to the residents that the noise won't be flowing out of the windows, but as someone either up here or over there said, once the ordinance has passed, whatever that ends up being, the likelihood of that sound traveling is still going to be there, but there will be restrictions on the amount of noise, the hours, whatever the ordinance ends up saying.

Mr. Wenstrup: And persons will have some recourse.

Ms. McKnight: And there will be recourse, definitely.

Mr. Wenstrup: I just have a little bit of a hesitancy, my standpoint, to try to ad hoc some kind of ordinance when I'm not on council. I'm on Planning Commission. I don't want to apply it to one business that isn't applied to other businesses. I don't think that's quite fair to say, "Well, we're going to write an ordinance on this building until we write a restriction on this building because we haven't gotten around to writing an ordinance." Meanwhile, I think the effort should be placed into coming up with an ordinance, and I wouldn't say this if I didn't think that they've been good neighbors, but I think they've been good neighbors. Wasn't cheap to have another building drawn up and take into account ... they put their money where their mouth is.

Mr. Wenstrup: They may have ticked some people off because one night they had more music, or a couple of nights, but you understand this is a big problem, guys. So, you can really minimize that and help everybody until we give you an ordinance by really keeping on that common sense. I don't know that anything would satisfy both parties at this time. I don't think when we have an ordinance that there's going to be people that are going to be like, "What?" But that's why we're here, but we're not the ones that should write noise ordinance. We're the ones should approve buildings that are within code for the property that is in that certain zoning area, and on that count, despite all the caveats about noise and sound and everything, I don't see any reason why I would not approve this.

Mr. Pelle: I would add to that, it doesn't sound fair to me either. On the other hand, that's not what's being brought before Planning Commission. Quaker Steak's issues, that's not what's in front of us to vote on or decide on.

Mr. Wenstrup: Right.

Mr. Pelle: So, we only have this one to go on. And the noise ordinance is something that can handle all of that.

Mr. Wenstrup: Yes. And the fact that they brought it here and advanced up to the people who can do something about it as far as noise, you know, we have the authority to approve the use of a building within the code, and, I think we have a responsibility to make sure that goes up to the people that write ordinances so that it's addressed, but I think it's discriminatory to pick on one business just because there's a lot of people complaining about it.

Ms. Holbrook: Can I just mention that the brewery is different than Chappy's.

Mr. Pelle: Conditional use?

Ms. Holbrook: It's a conditional use, and fair or not, they are entirely different approvals. The microbrewery is a conditional use, and you as Planning Commission do have the ability to place conditions on an approval. It may not seem logical that it should be different, because they're both serving alcohol and they both may have music, but as it stands now the brewery is a conditional use, you are allowed to place conditions on an approval.

Mr. Wenstrup: Well then, I know what conditions I'd like to put on it. I mean that's simple, I'd like to have an in-house decibel level that they monitor, they have the thing there. But also, I would like to have times when music stops, I'd like to have nights when there's no amplified sound, no acoustical guy playing acoustical guitar, but he's got an amp and a mike in front of him. It's an amplified guitar. And hours of operation, with music, and maybe at a certain hour if they want to play all the way up to ten o'clock, hold the doors down at seven, you see what I'm saying? I think that makes sense, they want to have the outdoor space, it's a beautiful place along the river. If it's just a beautiful place along the river with windows where you can look out and see the river, it takes away the whole focus. So those kinds of conditions we can put that on there, I think we could craft something that neither one of them would like, and then we could go home.

Ms. McKnight: I think you're drafting a noise ordinance right there, by putting in hours and decibels, and that's not what we're here to do.

Mr. Wenstrup: Can we put conditions on when they open and close windows? Is that really ... Or is it, we can put conditions on what kind of glass they put in their windows.

Ms. Holbrook: Well keep in mind, it has to be something that can be enforced, and who's going to enforce it. So, whatever you put into place, regardless of whether it's a noise ordinance, or something here, it's got to be something that staff, whether it's police or code enforcement, has to be able to enforce.

Mr. Wenstrup: Correct. And my story about the museum center wasn't just because I thought it was a good story. I could be standing this far away from you and you could not hear me talk, but if you were over in that corner, you'd hear it. That's why I'm trying to say acoustics play a big part in this, so if we're going to put some pieces in it, whether the speakers face out or face into the room where they hit a wall and probably bounce back out, all that is worth considering within the purview of their development, and if they haven't heard it, they're not listening.

Mr. Pelle: That's the issue in their particular location, unfortunately. Some people are hearing it very loudly and I'm not hearing it at all and I'm just as far away. It's just one of those things, right?

Mr. Albrecht: I think the difficult thing about enforcing this is for example, have you ever been on a lake? I'm 300 feet up from the lake, and I can hear a person in a pontoon boat. Does that mean we tell the people on the pontoon just to shut up, say I don't like the noise, or they're playing music, tell them no music? Because really what I fear is I'm hearing the only solution is no music. I mean, there's people who say four o'clock is too early, ten o'clock, you know what I mean?

Mr. Albrecht: I like your solution that covers the folks that have come today asking that these windows be closed, but also gives us authority to override that once an ordinance is put in place, which is who should be writing the ordinance.

Mr. Pelle: And the business, the ability to really understand what they're up against.

Mr. Albrecht: I'm confident enough that they're working on this that probably all this is moot, because I would assume it'd be done before they're building is done. And I love your point, that these are not restrictions put on these gentlemen today, because this is only for the addition. I kept hearing "Oh, they agreed to this and now they've violated it." Well they didn't violate anything, so it's important that people know that, just for their own peace of mind. I like your compromise, that's why you've been here for so many years and your jurisprudence is appreciated, so I liked the way you worded that.

Mr. Pelle: I think that covers everything as nicely as we can cover it, meeting the conditions of what we're assigned and have the authority to do, and yet protecting all parties as much as possible. I don't have any problems with that.

Mr. Albrecht: I appreciate the people in this room who have come to complain, because it's what's brought the ordinance up to the level of Council. So, you're being heard. You're not falling on deaf ears, nobody here is taking personal sides. And you've also let the gentlemen know that there's a concern, we've let them know there's a concern, and they have turned it down. We aren't going to solve the acoustical problem no matter what ordinance we put in place.

Mr. Albrecht: But it's being baked, then it'll have to be openly, publicly debated which you'll be welcome and invited to come to, there's a whole process it goes through to get an ordinance passed, and it's all open, it's all public. All that's happening right now the city manager is trying to do exactly what people have asked him to do, and that's research it and come with a suggestion. It goes to a committee, the committee would then push it to council, then it'd be open debate, there'd be lots of steps and process that would involve public feedback.

Ms. Holbrook: I had a conversation last week with the City Manager. He is in the process of drafting an ordinance. The next step would be to share it with the Law Director and Police Department because they're the ones that will be enforcing it, so they have to feel that they can enforce it. After that it would go to committee, and from committee it would be passed up to City Council.

Mr. Pelle: Do we have enough agreement? We can go ahead with a motion on this?

Ms. McKnight: I think I've heard at least three people say they agree. So, if condition number four were to read all windows and doors to remain closed whenever any sound amplification is being used inside the building, in lieu of a City of Milford noise ordinance. And then a number five would read, upon adoption of noise ordinance by the City, the ordinance will supersede condition number four. So, whatever is contained in that ordinance, with regard to hours, decibels, any specifics, would override the windows and doors remaining closed.

Mr. Bredemeier: Mark Bredemeier, KBA Architects, 29 High Street, Milford, Ohio. I know what the intent is, and I think that the owners are agreeable to that. The only thing I would add to that is that one of the egress doors is located in the building, obviously I know it's not your intent to lock down the building. But that egress door does provide communication between the building and the patio, so there will be times when there would be bands playing and that door would be open to closed.

Ms. McKnight: So you're saying not propped open?

Mr. Bredemeier: Correct.

Ms. McKnight: ... but open and closed as people went to the patio or came back in.

Mr. Bredemeier: Correct.

Mr. Albrecht: Thank you for that clarification, because someone could misinterpret that.

Ms. McKnight: Alright, ready for a motion.

Mr. Wenstrup: I wanted to just make a point, two little things. One is on number two, additional landscaping, Pam had said including a schedule of landscaping, correct? landscaping to include something that would impede the auto lights year-round, as they pull in and shine across the river. I understand that's an easy fix, plant some evergreens on the side of that hill and you've made the best effort. That and then number three, sound amplification permitted inside the building only, and I'm wondering if I'm stepping into an operational thing here. But I know a little bit about sound, and if the speakers are facing ... If the band has monitors that are facing them, it's going to blow across the river. If the speakers are facing the bar and the back wall, the sound's going to go that way. Now some of it'll bounce off, but if they can directionally consider the acoustics of where they place their speakers, I think they can help the neighbors a lot too, even with the windows closed.

Mr. Albrecht: I think those are all great suggestions, but I don't think that they're codable.

Mr. Wenstrup: Well I definitely think that the landscaping consideration should be part of our motion, including blocking the lights. And they know enough about acoustics, we really don't have to say much more about it, is that a seven-day-a-week restriction on closing the windows whenever they have sound?

Ms. McKnight: Yes.

Mr. Albrecht: Amplified sound.

Ms. McKnight: Amplified sound.

Mr. Wenstrup: Amplified sound?

Mr. Pelle: Amplified sound.

Mr. Wenstrup: And seven days a week, 24 hours a day?

Mr. Albrecht: If they have amplified music sound.

Mr. Wenstrup: I think that puts them at a disadvantage to other businesses.

Ms. McKnight: I think if I were an owner of a business who had a condition like that on it, I would be pounding the door of City Hall making sure that noise ordinance got passed especially as an owner of a business, that is about to have a condition like that?

Mr. Lynch: If we're not going to start this 'til August, it's going to be done in December, the sound ordinance seems to me, with as important as it is, would be in the books by that time.

Mr. Albrecht: Yes, but there's no guarantee. We're going to have public debate and we don't know how that public debate's going to go? We don't just edictally put in an ordinance and say, "This is the way it is, tough luck neighbors." The constituents in all of Milford are going to have feedback, other businesses are going to have feedback. It's not going to be just an ordinance for you. So, I can't promise you a time frame, that's why I liked Lois's solutions.

Mr. Pelle: I'd like to make a motion that the conditions in the application for site plan review for the Little Miami Brewing Company tap room addition with upstairs deck be approved with the following changes; point number four, change to, "All windows and doors to remain closed whenever any sound amplification is being used inside the building in lieu of a noise ordinance by the city," and condition number five, "Upon adoption of a noise ordinance by the city, the adopted noise ordinance will supersede condition number four."

Ms. McKnight: Would you be willing to add the planting schedule to number two?

Mr. Pelle: The what schedule?

Ms. McKnight: Planting schedule, number two is "Provide additional landscaping to soften the industrial look of the steel staircase and provide a planting schedule with the application."

Mr. Pelle: Yes, and the addition of "and provide a planting schedule-

Ms. Holbrook: To include the evergreens?

Mr. Wenstrup: With buffer for headlights.

Mr. Pelle: So we do, "evergreens with buffer for headlights."

Ms. McKnight: Alright, is there a second?

Mr. Albrecht: Second.

Ms. McKnight: We have a motion and a second to approve the addition to the Little Miami Brewing Company elevated deck, with the four conditions as recommended by staff, modifying condition number two to include a planting schedule and evergreen screening of the headlights in the parking lot, condition number four regarding ... in lieu of a City of Milford noise ordinance, and addition of number five, upon the adoption of noise ordinance it'll supersede condition number four.

Mr. Wenstrup: Question.

Mr. Wenstrup: Does supersede mean that number four is null and void, or does it mean that in addition to number four?

Ms. McKnight: It overrides.

Mr. Wenstrup: Thank you.

Ms. McKnight: It will take precedent over anything else that's stated in number four. Any discussion?

Ms. McKnight: Call a roll, please.

Ms. Holbrook: Ms. McKnight?

Ms. McKnight: Yes.

Ms. Holbrook: Mr. Albrecht?

Fred Albrecht: Yes.

Ms. Holbrook: Mr. Pelle?

Mr. Pelle: Yes.

Ms. Holbrook: Mr. Wenstrup?

Mr. Wenstrup: No.

Ms. McKnight: Okay. Thank you, everyone.

Ms. McKnight: Pam, we have additional discussion on the agenda for the Community Reinvestment Area.

Ms. Holbrook: The City has a Community Reinvestment Area and properties located in the CRA map area are eligible for a 12 to 15-year tax abatement. This program was adopted by the City in 1986, and each year we give a status report to the State of Ohio, showing properties that are actually receiving this abatement. The spreadsheet you received includes the properties currently receiving a tax abatement. The tax abated is based on the improvements, they still pay taxes for land or existing buildings.

Ms. Holbrook: The property card is an example of what you might find if you went on the auditor's site, and pulled up 201 Castleberry, the auditor's site will show two parcel IDs. One will have the T after it, that represents the portion of the property that's been abated.

Ms. Holbrook: The applicant fills out an application, there's a \$500 fee, the abatement takes effect in the year following the issuance of a certificate of occupancy, and there is an annual reporting requirement. A School agreement is required which is essentially a courtesy notice to the school district.

Ms. Holbrook: Milford's abatement areas are in the pre-1994 category, there are different rules for abatements depending on the category of CRA. New employee payroll in excess of a million dollars triggers school revenue sharing, applicants are responsible for 50% of income tax in excess of one million dollars. Planning Commission acts as the Housing Committee Review. It's an advisory review.

Ms. McKnight: You said it's a 15-year abatement?

Ms. Holbrook: 12 or 15, depending upon the type of improvement.

Ms. McKnight: This is tax year 2018, pay year 2019 is their last year of abatement, so next year?

Ms. Holbrook: The abatement will be removed from the list.

Ms. McKnight: They'll pay the full rate?

Ms. Holbrook: Yes.

Mr. Albrecht: What happens to the abatement when there's inflation? Let's say the auditors reevaluate the property.

Ms. Holbrook: So if you take this example, the portion of the property that's not abated, shown on page two, you'll see land, and as they've gone through different revaluations the land value has gone up and down. So, if you look at the abated portion, this property card you turn to page two, the building value, that's what they're not paying tax on. As the city, we have no control over the valuation. This is a city program, it's been in effect for a long time. You can amend this map two times and then the third time kicks in the new rules, and that's why the city has not gone forward with amending the map.

Mr. Wenstrup: How many times has the map been drawn out?

Ms. Holbrook: This map has been amended twice.

Mr. Wenstrup: So this third time, they'd have to-

Ms. Holbrook: Follow the new rules.

Mr. Wenstrup: Thank you. And these are commercial and residential properties?

Ms. Holbrook: Yes.

Mr. Pelle: And by new rules you mean those post-1994?

Ms. Holbrook: Yes.

Mr. Wenstrup: Do they differ in some significant way?

Ms. Holbrook: They do, there's more requirements for Post 1994 CRA's.

Mr. Pelle: So this gives us more flexibility?

Ms. Holbrook: It's easier to administer. There are fewer rules.

Ms. McKnight: Do you need us to take any action?

Ms. Holbrook: I need for you to make a motion to recommend continuing the CRA program.

Ms. McKnight: I'll make a motion that we continue the Community Reinvestment Area program.

Mr. Roe: I'll second that.

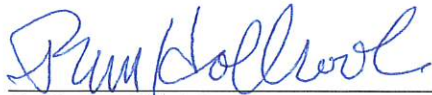
Ms. McKnight: All in favor say aye.

Group: Aye.

Ms. McKnight: Any opposed? Any other business to come before the planning committee?

Ms. Holbrook: That's it.

There being no further business or comments to come before the Planning Commission, Ms. McKnight made a motion to adjourn the meeting at 8:25 pm; seconded by Mr. Pelle. Following a unanimous decision, the ayes carried.



Assistant City Manager



~~Lois McKnight, Chairman~~
DINO PELLE