

**CITY OF CLEVELAND HEIGHTS
PLANNING COMMISSION
FEBRUARY 14, 2018
MINUTES OF THE MEETING**

MEMBERS PRESENT:	Craig Cobb Jessica Cohen Michael Gaynier Leonard Horowitz Adam Howe Anthony Mattox, Jr.	Chair Vice Chair
MEMBERS ABSENT:	Jeff Rink	
STAFF PRESENT:	Richard Wong Kara Hamley O'Donnell Elizabeth Rothenberg Christy Lee	Director of Planning & Development City Planner Assistant Director of Law Recording Secretary
OTHERS PRESENT	Mary Dunbar	City Council Planning & Development Committee Chair

Mr. Cobb called the meeting to order at 7:04 p.m. He welcomed the audience to the February 14, 2018, meeting of the Cleveland Heights Planning Commission. Everyone is here but Jeff Rink. He stated that the first order of business this evening was to elect a chair for the year, followed by vice chair.

Mr. Gaynier made a motion for Mr. Cobb to continue another term.

Mr. Howe seconded.

Mr. Cobb asked if there were any other nominations and there were none. All in favor say "Aye."

Motion carried 6-0.

Mr. Cobb nominated current vice chair Jessica Cohen to continue.

Mr. Mattox seconded the motion.

All in favor said "Aye," and the motion carried 6-0.

Mr. Cobb asked if everyone had a chance to look at the minutes from the last meeting, and if they had any changes or corrections. There were no changes or corrections, so those will be approved

Mr. Cobb informed the attendees the order of the meeting and that if they plan to testify as an applicant or a member of the public that they will need to stand and take the oath or affirmation.

Ms. Hamley O'Donnell asked that all persons that will or think they might testify to please stand.

Ms. Elizabeth Rothenberg asked do you swear or affirm that the testimony that you're about to give to the Planning Commission is the whole truth and nothing but the truth?

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

Mr. Cobb said that everything tonight is recorded, so when you speak, go to the podium and give your name, address and also confirm that you took the oath.

Ms. Hamley O'Donnell pointed out that Project Number 18-03 has requested a continuance so if anyone was here for Mr. Mao property on 2640 Euclid Heights Boulevard, they have requested a continuance.

Project No. 18-01: Bradish, dba Paws Play N Stay, 1970 Lee, 'S-2' Mixed-Use, requests conditional use permit for canine center with dog day care, boarding, grooming, training and outdoor play area per Code Ch. 1111, 1115, 1131, 1145, 1151, 1153, 1161, 1163 & 1166.

Ms. Hamley O'Donnell I would like the staff report dated February 7, 2018 to be entered in the record as a well as a letter of support from Alex Pesta, which is dated February 12, 2018. This is the site just south of Zagara's parking lot. Here Zagara's is shown at the very top, here is the existing parking lot this is the former Rite Aid Site, back here you can see that's where the drive thru was, street view, north view shown with existing brick wall with a buffer area view from the house looking south from the building and a brick wall with landscaping. This is the proposed site plan, the former Rite Aid took up this whole space. The applicant's intention is to use the back half of the building and rent the front for additional tenant space. The daycare and other uses are outlined in the staff report. You can see where the kennels are, play areas for the pets, and the outdoor play area.

Ms. Hamley O'Donnell asked for the Planning Commission to review this based on the Standards for Conditional Uses. The hours of operation, all the items are all laid out in the staff report, as is the staff commentary on how this complies with Standards for Conditional Uses and the standards for this specific use. It's my understanding that applicant has talked with many neighbors in the area and there are neighbors here in support of this use, as well as the letter that you received from Mr. Pesta. Staff recommends that Planning Commission approve the proposed operation of the K-9 center with doggy daycare, boarding, grooming, training and outdoor play as described in the application materials and in accordance with the zoning code with the following additional conditions

1. The dogs shall be licensed and shall be controlled in a reasonable manner at all times in accordance with Cleveland Heights Ordinance 505.07, "Animals Not Under Control;"
2. That the use shall not be injurious to the use and enjoyment of other property in the immediate vicinity or create a nuisance for nearby residents and businesses;
3. The applicant shall work with staff to resolve any complaints from neighbors;
4. The use shall have adequate soundproofing, ventilation and odor controls to ensure that any noises and odors associated with the facility's operation are not detectible on neighboring properties;
5. All waste shall be disposed of with adequate frequency and in such a sanitary manner as to avoid odors, vermin or other nuisance conditions or the spread of disease;
6. The facility shall be maintained in a humane, safe and sanitary condition in accordance with accepted veterinary standards to ensure the health, safety and welfare of animals on the premises;

7. Facilities shall be subject to inspection by the Zoning Administrator, the Building Commissioner, or their designated agent(s) upon request during business hours;
8. Fence variance shall be required for construction of 8' tall fence;
9. Landscaping plan and installation timetable shall be approved by Planning Director prior to issuance of Certificate of Business Operation/Occupancy;
10. Staff shall monitor the outdoor play area at all times; and
11. All required construction and installation of the use and approved landscaping shall be completed within 24 months of Planning Commission approval.

Mr. Cobb any question for staff and there were none.

Mr. Cobb asked if there is there anything that the applicant would like to add.

Mr. Jeff Bradish came to the podium and said thank you for putting all of that together. My name is Jeff Bradish and I'm here with my wife, Meghan, and we live in the area. We're local people looking to open a local business in a growing community. We are excited that we are able to stay here on the east side, in the Heights, for this project and excited to see what things bring.

Mr. Cobb asked if he had taken the oath.

Mr. Jeff Bradish said he did.

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

Mr. Mattox Jr. said he just wanted to thank you and he was excited about this.

Mr. Jeff Bradish said thank you and so are we.

Mr. Cobb asked if there is there anyone that would like to make a motion.

Mr. Mattox Jr. said he would make a motion that we approve project 18-01 with the staff recommendations.

Ms. Jessica Cohen seconded the motion.

Mr. Cobb asked if there was any discussion needed. There was none. He said all in favor say "Aye", any oppose, any abstentions.

Motion carried 6-0.

Project No. 18-02: First Church of Religious Science, dba Miracle Center, 2653 S. Taylor, 'A' Single-Family, requests conditional use permit for place of worship per Code ch. 1111, 1115, 1151, 1153, 1161, 1163 & 1166.

Ms. Hamley O'Donnell said she would like the staff report dated February 7, 2018, to be entered in to the public record, as well as a letter to Reverend June Clark from Angela Landoor of Eastwood Furniture, dated January 12, 2018, as well a letter to Rev. June Clark, dated February 5, 2018, from Jim Dickenson. It's my understanding that the applicants are here, as well and some people from the business district as well that may want to speak.

Ms. Hamley O'Donnell said this property was an existing church which you will see from the history in your staff report. It was approved in 1968 for Junior Achievement and then in

1945 for the 100-member Unity Center who received permission to use this as a church and has been use by the congregation since 1975. The Unity Center congregation has dwindled since that time and recently had 20-30 people in attendance on Sundays. The Miracle Center currently have about the same amount of people, 25-30 people, attending most weeks, and proposed that they would never have more than 68 seats in the worship area which coincides with the maximum number of seats, based on the existing parking that they have. Ms. Hamley O'Donnell showed the area on the slides, pointing out Studio Taylor, and other shops, such as Yoga Roots. There's a large parking lot that serves both buildings, which are on the same parcel. For a long time the current tenants have used a very unofficial document, more of a hand shake, as an agreement to the parking situation. Now in order to access this parking lot people enter off of South Taylor and drive across the church's parking lot to access parking. There's a very narrow driveway coming off of Fairmount Boulevard that really isn't designed for very wide cars. In one letter from the furniture store that you have, it states that they will allow the church to use this additional parking on Sundays. She showed the floor plan and the standards for conditional uses by which you would be making your decision on this a church.

A church in a single-family district is in keeping with the intent and planning objectives of this Code. No change to the building's exterior or general site layout is proposed, though the applicant proposes changing the face of the freestanding sign. This congregation is similarly sized to the one vacating the site.

Revitalizing a church will return patterns of use similar to those established by the previous congregation and should not endanger the public health, safety or welfare. This location meets Code requirements for provision of on-site parking as long as no more than 68 seats are present in the sanctuary space. At many Cleveland Heights congregations, on-site parking is not sufficient for the peak need and neighbors become accustomed to on-street parking on residential streets on Sundays, when church use is busiest. Staff prefers this option to losing housing or green space for parking that is needed only a few hours on Sunday. Institutions in residential and commercial districts need to be respectful of their neighbors and direct congregants parking on-street to leave room for residents to exit their driveways. And to be respectful of the spacing adjunct commercial tenants and the sustainability guidelines as we often say we like to see our building occupied and active which is good for the neighborhood and for the building sustainability. I understand that Rev. June and the congregation has also had conversations with some of the merchants, too, so there seems to be some ongoing dialog, which is noted in the letter from Mr. Dickson.

Staff Recommends that Planning Commission approve a Conditional Use Permit for First Church of Religious Science, doing business as the Miracle Center, to operate with the following additional conditions:

1. This use shall not be injurious to the use and enjoyment of other properties in the immediate vicinity or create a nuisance for adjacent properties;
2. The applicant shall work with staff to resolve any complaints from neighbors;
3. Any exterior changes, including signage, shall require the approval of the Architectural Board of Review;
4. Existing landscaping shall be maintained or, if desired, a new landscape plan shall be approved by the Planning Director;
5. No more than 68 seats may be permitted in sanctuary with existing on-site parking. If First Church of Religious Science, dba Miracle Center, finds they require additional seats, they shall be required to secure off-site dedicated or shared parking; and

6. All required construction and installation of the use shall be completed within 18 months of Planning Commission approval.

Mr. Cobb asked if there were any questions or if there was anything that the applicant wants to add?

Reverend June Clark stated her address as 10301 Kingsbury Boulevard, Cleveland, Ohio 44104. We are just excited to be in a new phase of bring spiritual awareness to the community. This is just a whole new world for us. We've met the neighboring business and find them to be willing and acceptable for what we have to offer, as well as appreciate what they're offering. We're just blessed. So if you have any question this is Jerry Lawson who is the Board President. As far as the landscaping, we discussed this at our board meeting on Sunday and we will keep the current landscaping company. We've extended their contract. They've been doing the landscaping for the last five to six years. So we signed him on Sunday at our board meeting.

Mr. Cobb thanked Reverend Clark and asked if anyone had any questions for Reverend Clark.

Ms. Hamley O'Donnell asked Reverend Clark to affirm that you took the oath.

Ms. Reverend June Clark stated she did take the oath.

Ms. Jessica Cohen said I'm very impressed with the whole area all the business working together and think that this is a unique situation, usually there's issues over parking, but everyone seems to be working together.

Mr. Cobb asked if we have a couple of business owners that want to be heard on this.

Nancy Taylor stated I own Studio Taylor on Fairmount & I took the oath. Welcome June and Jerry we have started a great relationship and I think we will have a very friendly answer to our parking issue between their church and my salon. However, one of my questions and I am hoping that there is some sort of solution for this. I didn't know if everyone is aware of this, the point of sale is requiring that the sellers resurface the parking lot which is great, it needs it, however there are some sort of tanks underground that because of a new ruling in 1976, that said the previous owner didn't have to do anything, but now as sellers, those tanks have to be withdrawn and the area underneath has to be cleaned up, if contaminated. Since no one really knows where the tanks are, which is my understanding, would that be right?

Ms. Hamley O'Donnell I did talk to housing inspections and the seller said they didn't think it was on the point of sale inspection

Ms. Taylor the tanks are not, I've talk to Brian Anderson, and Kara O'Donnell, and I believe that I'm hearing that the tanks are mostly going have to be removed.

Ms. Hamley O'Donnell that's not my understanding.

Ms. Taylor said ok.

Ms. Hamley O'Donnell I have heard that from you, but the Housing Inspections says that it's not in their point of sale.

Ms. Taylor said, it's not I did see that. I was wondering where this was coming from.

Ms. Hamley O'Donnell said I've only heard it from you, so I don't know.

Ms. Taylor said I think I've heard it from Reverend June.

Reverend June Clark that was discussed (inaudible).

Ms. Taylor said I definitely heard it from Brian Anderson.

Reverend June Clark said we would love it if that was the case.

Ms. Taylor said I would love it if that were not true.

Ms. Rothenberg said there's definitely a process that they just can't resurface it without pulling a permit, and so that doesn't come before this committee, so we wouldn't know. There will be people whose job it will be when that permitting process happens. To make sure that the rules are being followed, we will let that committee know that this concern was raised tonight.

Ms. Taylor said in the likelihood that the tanks are condemned, when they will have to be removed? They would have to come out and be shut down that (inaudible) for the merchants. Parking will become an issue. June and I have an agreement in writing. I have personally hired a parking lot attended on Saturdays to help with the parking issues. Reverend June has allowed, as Ms. Hamley O'Donnell has suggested for my employees to park in her lot on Saturday. But we also find on the weekends that spaces are absorbed and consumed by Yoga Roots, but during the week however, it is just a free for all. Even on Sundays and Mondays it's absolute chaos, everybody uses that parking lot. They have been asked very nicely in consideration that they are not paying rent or maintenance that they direct their customers to go elsewhere, but there's not a lot of incentive, it's free parking! Our main concern will be the flow of traffic and how it will affect our business.

Ms. Hamley O'Donnell said I think those are the sort of issue that we should have in our Business Development Manager Brian talk with Ms. Taylor about those sorts of things, because the parking lot definitely has to be fixed. I'm not sure what the status of whether the tanks come out or stay in but, at the very least, it's going to have to be shut down and repaved. I'm sure that the both of you would like it to go as quickly as possible. I think there is possibly something that can be done to lay out a plan of action that best suits both parties. Often times it is done one side at a time. We would encourage all parties, including Brian Anderson and the contractor, whoever that may be, to have that conversation with you to work out phasing so that it's not inconvenient. I'm sure you don't want them doing it on a Saturday, which is one of the busiest days in the business district.

Ms. Taylor agreed and said think that if it's just a resurfacing, that's going to be relatively quick as long as we know in advance. Allowing all tenants of Jim Dickson to be informed of these plans, I think for a couple of days, we can work around it. She said I am presuming that it's a possibility that some tanks are going to have to come out. Our immediate concern is the flow of traffic and how it will affect our business. As a suggestion, possibly placing a squad car on Fairmount would help with the flow of traffic.

Mr. Cobb said we will make sure that the right people at the city are made aware of your concerns

Ms. Hamley O'Donnell said I'll send you an email.

Mr. Cobb said it's nice of you to bring this to us, we'll make sure that the right people are aware of your concerns.

Ms. Taylor said I appreciate that, thank you very much.

Reverend Clark asked can you forward all information to us as well. This issue would greatly affect our services, too. We just want to work together so the days coincide with each other.

Ms. Hamley O'Donnell said, absolutely, we'll keep in contact.

Mr. Cobb asked if anyone else from the public wished to comment. He then asked if anyone would like to make a motion on this.

Mr. Horowitz said I move approval of Project No. 18-02 with the six conditions in the staff recommendation

Mr. Howe said I'll second it.

Mr. Cobb asked if any discussion was needed. There was none. He asked all in favor say "Aye." There were no negative votes or abstentions.

Motion carried 6-0.

Project No.18-03: X. Mao, 2640 Euclid Hts. Blvd., 'MF-3' Multi-Family, conditional use permit for lodging/boarding house with reduction to parking requirements per Code ch. 1111, 1115, 1123, 1151, 1153, & 1161.

The Case was continued.

Project No. 14-04: Lee Greene, dba Kultivation Music Group, indoor commercial entertainment facility, 2134 Lee Road, 'C-2' Local Retail District. The Commission reviewed conditional use permit for possible revocation per Code chapters 1115, 1131, 1151, 1153 and 1161.

Mr. Cobb said this matter was before us, I do believe, two previous times, the first time for a Conditional Use Permit and then, more recently in 2014, when concerns arose whether any of the terms of that conditional use permit were being violated. The minutes from that meeting are in the packet that we all received and this item is now on the agenda because there have been some new concerns raised about whether the conditional use permit is being followed once again. With that I am going to turn it over to staff.

Ms. Hamley O'Donnell said what we want to point out is that you have a memo from the Fire Department that talks about some of the recent history.

Ms. Rothenberg said I notice that it doesn't have the official marking, so that is a memorandum dated February 9, 2018, to Kara O'Donnell from Jim Streb, who is the Fire Inspector for the City of Cleveland Heights. That's the memorandum she is asking to be a part of the staff report.

Ms. Hamley O'Donnell as asked that the staff report dated February 2, 2018, be entered into the public record. You have the memo from the fire department talking about some of the past history which has been rectified. You also have a copy of the certificate of use and occupancy which is something that the Building Department issues. That lists the maximum occupancy per space and with that is attached a letter from Ms. Greene, which says no minor will be unaccompanied in this space, that they will be accompanied by an adult. In addition, there are advertisements for events where alcohol was offered for sale. No liquor permit has been issued at this site since it's been opened.

Ms. Rothenberg asked where did this advertisement come from.

Ms. Hamley O'Donnell responded that this advertisement came from the Facebook page of Kultivation.

Ms. Rothenberg asked how did you get them?

Ms. Hamley O'Donnell said the Police Chief pulled them off of the Kultivation Facebook page. Also there is a copy of the 2017 Business Occupancy and Use Permit; both renewals for the Business Occupancy and Uses Permit where sent out by Housing Inspections last fall and were to be submitted by the end of the year, which did not happen. Currently Kultivation has no 2018 Business Occupancy and Use Permit. Last, we have Sergeant Skok from the Cleveland Heights Police Department here and Officer Spehert, who can give an update on the Kultivation's history of the last several years.

Ms. Cohen asked if I may ask a quick question on the memo from the Fire Chief, just to clarify.

Ms. Hamley O'Donnell clarified it was the Fire Inspector who wrote the memo.

Ms. Cohen said the letter says of 2/5/2018, they're violation free, but then on the bottom it says "to this day I still haven't received a phone call from the business owner that her building alarm system is fixed and is now currently violation free." So does that mean the Fire Inspector is saying that they are violation-free and the building alarm system is not. I am confused.

Ms. Hamley O'Donnell he's saying that the alarm system company told the inspector that the alarm system was back in service. He was expecting the owner, Ms. Greene, to confirm that with him.

Ms. Hamley O'Donnell said perhaps she can do that tonight.

Ms. Cohen said so then is the fire inspector saying that currently they are violation free?

Ms. Hamley O'Donnell said, yes, that was what he was saying to us.

Mr. Cobb Just to be clear the fire violations and the alarm system, as far we know they're good to go?

Ms. Hamley O'Donnell said, yes, that issue is resolved.

Ms. Rothenberg said that is resolved, but the memo details a history of non-compliance until recently.

Mr. Cobb is there or is there not a current occupancy permit?

Ms. Rothenberg said there is currently no business certificate.

Ms. Hamley O'Donnell said it's the Business Occupancy and Use Permit.

Mr. Cobb asked was there ever one approved for that location.

Ms. Hamley O'Donnell said yes.

Mr. Cobb asked did it expire.?

Ms. Hamley O'Donnell said yes, they have to renew it every year, every calendar year.

Mr. Cobb when was the renewal due?

Ms. Hamley O'Donnell said October.

Mr. Cobb asked what is required for that renewal?

Ms. Hamley O' Donnell said filling out pretty straight-forward paperwork and paying a fee.

Ms. Rothenberg said there's no inspection related to that, it's just an annual renewal form for all business. The first time you get it, there is an inspection that relates to it, but after the first time, it's just a renewal.

Mr. Cobb asked if there were any other questions for staff before we hear from the officers? We are going to hear from you first, Sergeant Skok.

Ms. Rothenberg said he's going to give you the background and then the officer in uniform will speak.

Mr. Cobb asked did you take the oath or affirmation?

Sergeant Christopher Skok I took the oath.

Ms. Rothenberg said state your name for the record.

Sergeant Christopher Skok.

Ms. Rothenberg asked what is your position with the city?

Sergeant Christopher Skok stated I am a Sergeant with the City of Cleveland Heights. I work in the plain clothes unit, where I am in charge of a unit called the Crime Suppression Team. We handle many different investigations, but mostly narcotics and burglaries within the City as well as any serious crimes that need immediate attention. I have three to five detectives under me that assist in investigating crimes.

Ms. Rothenberg asked how long have you been in your current position

Sergeant Christopher Skok said five years

Ms. Rothenberg asked how long have you been a police officer for the City of Cleveland Heights?

Sergeant Skok said approximately twenty years.

Ms. Rothenberg asked can you tell us why you're here?

Sergeant Skok said tonight I will address how we generate the reports. What I am holding here is a document, that anytime the police are called to a specific address, we have a dispatcher log the date, time and the location. That way we can go back and check the history of that establishment. What we have done here is have an officer run the address of Kultivation which is 2134 Lee Road, from January 1, 2014 – February 13, 2018. There are twenty- two incidents documented where we have responded to this location. Not all of them were serious situations, but I do want to address some of the serious ones. I have another report, same concept, and prior to Kultivation moving in this space. There was a four-year period of ongoing calls to this address dating from January 1, 2010- January 1, 2014. For those four years we had three calls to that establishment and not one was actually about an incident inside the building, but about the surrounding area outside the establishment. Just three calls in that four year period. The first case was March 1, 2014, the time was 22:51hrs (10:51 p.m.) when an officer noticed that Kultivation was open and had no idea what the establishment was. He saw a lot of people there and went to investigate. He went inside to conduct a business check, to see if they had a permit. The officer came in contact with Lee Greene who informed the officer that Kultivation was a party center, recording center, dance club. The officers asked if she had an occupancy permit through the city of Cleveland Heights, Greene stated that she was in the process but had not been granted one. Greene further stated that she had permission to host a private party until one was granted. On the way out, the officer was able to obtain a flyer from inside, basically it said music by DJ Koup hosted by Chris Hilton and Woof Cult Madness and gives the address. This event was scheduled to start at 9:00 p.m. ending at 2 a.m. with a \$5.00 cover charge before 11:00 p.m., \$10.00 after 12:00 a.m. The officer later expressed their concerns to the fire battalion chief, the chief responded to that location that night, to inspect the premises and, I believe, Lee Greene agreed to shut down the event at midnight that night. The officers estimated approximately one hundred people were observed leaving the establishment that night.

Second incident, dated July 27, 2014, just past midnight (12:49 a.m.), officers responded to Kultivation, 2134 Lee Road, reports of a large crowd gathering, reports of three arrested for disorderly conduct. One had a warrant with Bedford Police Department. The officers responded that they observed approximately seventy people in the middle of East Derbyshire Road near Lee involved in a physical altercation, officer arrived and several parties were shouting while the officers were trying to disburse the crowd. They continued shouting with "F" the police. There was a security guard on scene helping to disburse the crowd, who were from Kultivation. Our officers spoke with the owner and manager of Kultivation, Lee Greene, who stated that her establishment had nothing to do with the altercation; however, several of the parties involved were seen walking into and back out of Kultivation. Officers did arrest the parties that were fighting that evening. This call didn't have a report attached to it, but there was a log entry that officers had responded.

Just past midnight on June 19, 2016, (12:37a.m.), at 2134 Lee Road, there was a call that came in that there had been shots fired, officers checked the area and they didn't locate any shell casings and found no evidence of shots being fired. The same night at 1:49 a.m., June 19, 2016, officer responded back to Kultivation, 2134 Lee Road, call reported a noise

disturbance at the above address. By the time officers got there, the suspects were gone on arrival.

On July 5, 2016, 12:27 a.m., officers responded to 2134 Lee Road for a disturbance of shot being fired at the above location, officer reports no injuries, according to the officer report.

Ms. Cohen asked what was that date again?

Sergeant Skok said that was July 5, 2016; the officers were dispatched to Kultivation for a large disturbance. One caller reported hearing gun shots fired as a large fight broke out. As Officer Evans pulled up on scene, people were dispersing from the club, running in the street and obstructing traffic. Groups were running on Lee Road from Washington Boulevard to Cedar and some groups were running through the Cedar Lee intersection, making their way south. Officers dispersed the crowd and eventually told the club to close for the night. The business owner of Kultivation was identified as Lee Greene. The officers found no evidence of shots fired, nor located any crime victims. This should be noted that out the course of this incident patrons parked behind the building and the adjoining lot of Way Auto Body Shop or the Lusty Wrench auto shop as well as the parking lot for the CVS. Officer Evans observed multiple groups of people jay-walking and obstructing traffic as they made their way from the club. Patrons appeared to be in the age range of mid-teens to twenty years old, this is all from Officer Evans observation.

On October 9, 2016, just past midnight (12:28a.m.), officers respond to Kultivation, 2134 Lee Road, the caller reported a large physical disturbance at the above location. The officer reports one juvenile female arrested, another male was ticketed. Dispatch advised officers of numerus calls that were received regarding a large-scale act of disturbance. Upon arrival the officers observed parties in the area approximately seventy to one hundred people which began to scatter once officers pull up to the scene. While attempting to clear the area, a black 9mm high point fire arm was located on the street in front of Kultivation 2134 Lee Road. The weapon was loaded with a round in the chamber and the magazine contained nine additional rounds. The officer secured the weapon. Officer observed, while responding to a call from the manager of CVS located at 2160 Lee Road, complaining of a large crowd causing disturbance inside, those parties were cleared out of the store. The officer then attempted to make contact with parties inside Kultivation, but the doors had been locked as the large and loud crowd was still in the area. Officers began to advise the parties standing to disburse. Some of the groups that police had spoken with started to shout and cause an even bigger disturbance. One female then grabbed a male and walked into the east bound lanes of Cedar Road traffic, bending herself forward positioned in front of the male and proceed to simulate a sexual act. Officer Jackman crossed back over to make contact with the couple, the male received a citation for walking in the road and the female was arrested for disorderly conduct. The male who was cited, his name is Arvus Williams, who is a juvenile currently in custody and being charged federally for numerus gang related crimes. The FBI confirmed he's an active gang member. He's a member of the "rat gang" out of 140th St. Clair. He's being held for crimes such as bank robberies and aggravated robberies.

The next case here is an alarm call it's very vague, no report was pulled. December 16, 2016 at 21:54hrs an officer responded to 2134 Lee Road for an alarm called in by Vivent. The front door alarm was reported to have been tampered with, the officer reported that the owner refused to open up the door saying the alarm checked out ok or "TCO" which means "taken care of."

On, May 22, 2017, at 12:35a.m. ,officer responded to 2134 Lee Road, Kultivation, for weapons fired. There were negative reports of shots fired, two adults were arrested,

however. Police officers responded to the back parking lot of Kultivation, which you can get to coming from Cedar Road. While officers were trying to assess the situation, they noticed that there was a shirtless man walking in the parking lot, they then heard a noise of an object hitting the ground. He then started walking towards Cedar. The officer then went over to where he heard the noise come from and he located a firearm under the car where the suspect had been standing. The suspect's name is Marvin Scott, he was then arrested. Officers also found another gun after they searched one of the cars on scene. Officer Trilling, being the first on scene, saw multiple parties in the rear parking lot screaming and yelling. There was a grey Dodge Durango on scene at the time, with a female there later identified as Porsha Brooks, bleeding from her face. She was intoxicated yelling and screaming after being advised multiple times to calm down and control herself. Porsha was then arrested for disorderly conduct. Officer spoke to witness on Torenn Williams, Marcus Coleman and Ciera Coldwell. Everyone gave a statement to the police before Porsha was arrested. There was a family gathering that evening at Kultivation, 2134 Lee Road, for Torenn who was in town from Georgia. During that gathering, an argument between Torenn and Porsha started and later became physical. At some point, shots were fired and no one on scene could or would identify who fired the shots. Detectives later became involved when they learned through interviews that Scott's brother identified by officers on scene as one Torren Williams from Georgia was in Cleveland visiting family, where a party had been arranged for him at Kultivation Theater. There were about 30-50 people there, cases of alcohol and food were brought there by the family. Scott and Brook both had been drinking that night; people were there recording songs and grilling outside in the back parking lot. At some point later that evening, a verbal argument started between Brooks and Williams outside by the grill. Brooks reports that she was assaulted by Williams and other family members of Scott's. Brooks stated that at some point, she went to her car to retrieve her 9mm pistol. Scott, now armed with a pistol, pointing the pistol in the air and proceeds to shoot. Brooks told the police she did not see Scott with a gun before arriving at Kultivation. But she knows of Scott to carry a gun, Scott's story, however, differs. First he states he took Brook's gun from her and shot it himself to clear the bullets. Then he changed the story to say that he wrestled the gun away from another person at the party. Both stories given by Scott are conflicting.

This next case doesn't have an address linked to 2134 Kultivation, August 7, 2017, 21:23 (9:23 p.m.). I do want to touch on this case as it relates to the area. There was a felonious assault, and an individual was shot at the corner of Lee and Essex in the gas station in the business district. Officers located a gun around the corner from where that incident occurred. During the course of their investigation, during the interview of the victim, he stated that he had left Kultivation and was walking to his destination when he was shot. What we did was we end up taking a DNA sample from the victim. Once locating the gun, we found that it was a DNA match to the DNA found on the gun. So the reason for mentioning this case is it's assumed that, while leaving Kultivation he had a gun on him while in Kultivation, didn't make any other stops and ends up being shot. He then ditches the gun before the police arrive.

The next case is still under investigation. January 20, 2017, a call for 2134 Lee Rd at 6:37 a.m. This is also labeled as a felonious assault, a male claims to have been stabbed inside Kultivation. It's still under investigation at this time. The party that was described to the officers that he was at a party across from Cleveland Heights High School the evening in question. There is some inconstancy with the victim's report, the officers located another party that may have witnessed this event, seems that the victim was there earlier in the night. This time we don't believe that the evidence is leading to the stabbing happening inside of Kultivation, but the victim is still claiming that it did. So we are still investigating the incident. There are no video or serious leads at this time.

Officer Sperhart will be explaining this event; I will just be giving a brief synopsis. On, January 27, 2018, at 22:00 hours (10:00 p.m.), officers responded to a Kultivation, 2134 Lee Road, Sergeant Dameco reports that he was in the area of lot five, he was monitoring pedestrian and vehicular traffic in the lot. He heard a lot of yelling just northwest of his post. Possibly the Cedar/Lee intersection, again, this is at 10:00 p.m. He then exited the lot, he witnessed a large group of people at Cedar/Lee intersection. He estimated it to be about one hundred juveniles in both groups. A citizen walking past him said that he thought there was a fight. He then radioed in to Dispatch the location and responded to the intersection. At that time, he witnessed more juveniles, around fifty or so, directly in front of Kultivation, 2134 Lee Road. Additional units responded to the scene beginning to move the crowds from the area. There were, at that time, approximately an additional fifty juveniles that exited the building of Kultivation. The officer came in contact with Isiah Hodge, identified himself as the manager of the location. There was a sweet sixteen birthday party that had taken place at Kultivation that evening. Sergeant Dameco asked how many people were at the party and he was told eighty-eight people. Hodge also claimed to have six security personnel on duty that night as well as two off-duty Cleveland Police officers.

Mr. Mattox Sergeant asked what was that date?

Sergeant Christopher Skok replied, January 27, 2018. Sergeant Dameco asked to speak with the Cleveland Officers and he was unable to be put into contact with them by Hodges. He reported that they had left for the night, Hodge was advised that they were to keep the juveniles inside Kultivation to await their rides. The officers continued to clear any juveniles from the area until it was all clear.

Sergeant Skok stated that's all I have.

Ms. Rothenberg asked Sergeant Skok if there is a rule in that part of town about juveniles, is there a curfew law?

Sergeant Skok said we have two curfews, we have the special curfew law which is 6:00 p.m. in that area, and we have the regular curfew for 13 to 15 years olds that is 10:30 p.m., and 12:00 a.m. is 16 and up.

Ms. Rothenberg responded that there's a special curfew.

Sergeant Skok said there's a special curfew that starts at 6:00 p.m. when juveniles have to be out of the area. There are special circumstances; I don't have the ordinances in front of me.

Ms. Rothenberg stated the Cedar/ Lee district is subject to being special.

Sergeant Skok replied that is correct.

Ms. Cohen asked are the other districts, say the business districts, where these special curfews including Cedar/ Lee or does it include other areas?

Sergeant Skok replied Coventry.

Ms. Rothenberg stated that this officer is going to speak more to it. Is that why the juvenile were told to go inside?

Sergeant Skok said I believe so, juveniles are allowed to go to planned events. But their parents have to be there to pick them up once the event is over. The officer can speak more to that case. Do you have any questions?

Mr. Cobb asked how many calls did you get in 2015?

Sergeant Skok said in 2015, there were two incidents: (1) January 31, 2015 and June 18, 2015. One was a suspicious smell at the above location, 2134 Lee Road, an incident that I probably didn't talk about. The officer reports no answer at the door and the area checked secure; (2) June 18, 2015 at 6:29 p.m. there was a missing property report, one of the people visiting Kultivation left their bag inside Kultivation and they had no way to contact the owner. They didn't have the owner Lee Greene's number. According to her statement, she made numerous attempts reaching out to Lee Greene to retrieve her property. The victim didn't receive her property back, so she filed a police report.

My name is Officer Edward Spehert. I have been with the City of Cleveland Height Police Department for 11.5 years and I did take the oath. The business district curfew affects the Taylor business district Coventry and Lee Road as well as Cedar Fairmount district. After 6:00 p.m., juveniles have to be out of the business district unless accompanied by an adult or doing some type of business for the adult, such as grocery shopping. There are some special parameters in the Cedar Lee area specifically, if there's a football game going on, they have 45 minutes after the game to be completely out of the area. Meaning they can't frequent Wendy's, CVS or the main stretch there, they must be gone. Failure to do so, they will be arrested under the business district curfews, booked and it will be filed under the juvenile court system and the parent will also be cited and fined. The day of the 27th that Sergeant Skok spoke of, I had a call to assist Sergeant Dameco with a large crowd, which was the sweet sixteen party. When I pulled up, as we will see on the body cam video, just be aware that we don't active the camera until we are out of the car. However, upon my arrival to the scene, there were people standing in the street until they saw police and then they scatter. About a hundred, maybe a little more than that, of juveniles both on the east and west side of Lee Road, hanging out by the bus stop, running across towards Wendy's and the Lot 5 area and a bunch lingering around the area in front of Fresh and Meaty Burgers and Kultivation as well as the Lusty Wrench. Yelling at passersby, many of the juveniles at the bus stop where also yelling at the police. We were able to disburse them into much smaller groups to better handle them. There were seven officers on scene, which made us outnumbered. The best tactic at that point was to break them up into groups to better handle the situation. As Sergeant Dameco stated, and Sergeant Skok hit on Kultivation claiming to have had security there, however they failed to produce them when asked for. We requested that they bring any remaining juveniles that weren't being disorderly back into the establishment while they waited for their rides, which they did do. There were other juveniles waiting outside quietly, which was fine. Apparently, the party was to go an hour later, but from what we were told, due to a little bit of an issue inside, they decided to shut it down. Asking everyone to go home, forcing everyone pretty much, not only the non-disrupting juveniles but the disrupting juveniles to be together. You will see a couple of body cam video.

Elizabeth Rothenberg do you care which video we start with

Officer Edward Spehert asked Ms. Hamley O'Donnell to play the bodycam videos:

Officer Allen Body Cam Footage Playing 1:14:34 – 01:22:07

Officer Spehert Body Cam Footage Cont. 01:22:07-01:24:39

Mr. Mattox Jr. asked do you recall an ambulance that night?

Officer Edward Spehert said no ambulance called.

Ms. Cohen noticed there were some men with shirts that said "security" on the back. Was that with Cleveland Height Police Department or was that someone else?

Officer Edward Spehert said, no ,that was Kultivation.

Mr. Gaynier asked what were the age groups at this events? Is it generally juveniles or are there adults there? We went through a litany of events that had weapons and some injuries and so forth and they were all teenagers?

Officer Edward Spehart replied it's pretty diverse age range, anywhere from 15 on up, earlier twenties.

Ms. Rothenberg said the owner is here and is going to testify next, so you can ask her. You may also want to ask that question to the owner who might have a better idea.

Officer Edward Spehert said that night it was pretty much 15, 16, 17 and up. The juveniles that I spoke with, the majority weren't even from the Heights area. Some of them were from Cleveland, Euclid, East Cleveland and some from the Heights area, as well.

Mr. Cobb asked Ms. Greene if she wanted to address us?

Ms. Rothenberg added that it's also very important that Ms. Greene know she has the right to ask questions of the officers who have testified today, but she can't speak to them directly. You can ask the question of the Commission and the chair will ask the officers to come back to the podium.

My name is Lee Greene, owner of Kultivation, and I took the oath. I live in Cleveland Heights, 3397 Meadowbrook Boulevard. There were a couple of different notes that I took and I would like to go through a couple of the incidents. Sergeant Skok described a lot of the calls, some of them we were aware of and some we weren't. In the very beginning we had to come back before the Planning Commission to address three or four of those incidents which were already settled. When we first opened, anything in the area that was negative was linked to Kultivation. I didn't bring any records with me today, however I have had meetings before with the prior Chief of Police, but no meeting with the current Chief of Police. The videos that we just watched, to clarify we did have security. We called and talked to Captain Nolan, for the sweet sixteen event requesting that Cleveland Height Police be security for us. But we were refused, that's how we ended up with Cleveland Police. The Cleveland Heights Police Department said they don't provide security for social events. Fortunately for us, we able to hire security from other cities to help. However, in the event that something happens, the calls are directed to the Cleveland Heights Police Department. As you saw in the video we did have some security on hand. I would also like to have my theater director to come up and testify. During the event that you watched on the body cam footage, the amount of people that you saw wasn't the amount in the event. We had, that night a count of 88 people. The actual number of people was about 100. We were told at that time we needed to come up with an exit plan. Officer Allen, who was there that night, said that he would work with us to develop one. But, up to that point we weren't aware that one needed to be in place. I was unaware of the special permit or curfew. I know this because I specifically said to the police, we were trying to get everyone out of the building so they could get home before the curfew, which we believed to be 10:30 p.m. The event

itself was over at 9:30 p.m. Then the supervisor had Isiah and I get everyone back in the building, because they couldn't stand or wait outside. I heard a lot of the calls, some I was aware of and some I wasn't. We're not notified when police are called, but if there is something that happened up the street, say Derbyshire, Lee, Essex or Washington, we don't know about that either. Some of the cases that Sergeant Skok went through, we weren't aware of any of them. The one specific case that he mentioned, that we didn't even have an event on the day in question. I know specifically on July 5th, we didn't. The landlord and I both received a letter, she asked us did we have a 4th of July event, I told her we did not. However there was a call placed that shots had been fired, July 5th at midnight. But, there wasn't an event. I received an email to come to address the Planning Commission. I wanted to know what kind of incident had been reported. I wanted to know because there hadn't been an incident. Then I received a letter stating that I needed to appear before the board.

She stated the Facebook events mentioned by the police never happened

My name is Isiah Hodge and I live at 3435 Superior Park Boulevard, by Cain Park, and I took the oath.

Elizabeth Rothenberg said when you say these events are you referring to the Facebook print out that we were handed out?

Ms. Greene and Mr. Hodge said those events were advertised but never took place.

Mr. Hodge said we are a non-profit organization and we actually were warned that we can't do anything without a liquor license. We just don't just host teen parties; we actually provide theater services as well as music production for local artists in the city. We also have a studio that we use to record music for a lot of the artists in the area. I would like to touch base on the Fire Department. I am the theater director of Kultivation and I've been here for about a year. We're also working hard to make Kultivation a focal point in the community for our youth. We're across from the high school, we're trying hard to find a way to get the youth to listen and become active in the community. So what we provide is a way of help for them to try different things by performing, setting up concessions, beats for kids after-school program, it's not at Kultivation theater, it's done at St. Frances private school. Now as far as the teen parties, we have stopped them due to the constant backlash from the community and police. We have these parties not so much just for a social gathering, but for the youth to come together in a safe place where they can view the music.

Ms. Greene said we never had a fight inside our venue.

Mr. Hodge affirmed they had never had a fight; no one has ever been stabbed in our venue, as well. When we heard about this, we immediately tried to figure out what happened. We were trying to find out who it was, what was going on, how can we help them. If there's a problem going on, we disburse it, we shut down everything because of the city that we are in. We can't have that much friction.

Ms. Greene said I did call Officer Anderson, and left about five or six messages. The night that Sergeant Skok was referring to was actually a private event. The young man had a project that he was finishing, later followed by a private release party. There were claims that a stabbing occurred, no one had mentioned anything about this to me. I was told that the name couldn't be released by the Police Department. But no one seems to know of this incident, but I did hear the officer say they believe this incident was made up.

Mr. Hodge said we actually were at every event.

It's very hard on us, we really put all our time and dedication into the whole building. The fire situation, to touch back on that, he (the Fire Inspector) was really just showing up without warning up at the building. We never set up a meeting, until one day I actually got to talk to him. And I asked him just call me and I'll be here.

Ms. Greene that was the former Fire Inspector (Steve Martin) and not the current inspector. Mr. Hodge said he would say that we wouldn't be cooperating. He would call me and say, "Well you guys aren't here," and I would actually be out of town and he's been in our building about 7 times last year. Checking on everything, every time there was a problem, he would let us know what was wrong. The first time it was the light, second time it was the wiring, then the extension cords. Every time, he would come we would fix it. We just had to pay \$1500.00 for a whole new back fire door because he saw light under it.

Ms. Greene said we were told by a firemen from another city that all we had to do was put fire strips at the door, but we didn't know that because they didn't tell us. They also had us take down the entire decor that I think has been there for years, which Mr. Martin said was fire hazard and once we paid someone to take it down, we were then told it was ok to have. By then it was too late, it was already down. It was basically demolished, the whole theater. The owners weren't happy, even though they gave us permission to do it, they still weren't happy about it. But, it's a constant thing, we really are trying to work with the community, and when the police do come, we try to work with the police. I don't want to make assumptions, but I have to agree with the last supervisor, who was very honest with us, said as long as we are working with the teens, we're going to have problem. Unfortunately, we don't know how to not have problems, if you can hear in the video, you can hear us telling the kids to come back into to building, which they can't be outside at this time. I personally went and brought kids back, I am not even sure if all those kids were even at Kultivation. But I brought every kid that I could back inside, telling them they have to stay in and be dismissed. A lot of the kids were being rude and condescending to the police and we tried to address that with them, telling them that you can't do that. You have to be cooperative, these are the types of things you see in the news. We're trying to educate them, but it's a difficult process when you get 10 or 20 kids in front of the building and four police cars flying out of nowhere, it's sometimes very overwhelming.

Mr. Hodge said I feel like every time we have a teen event, it's the only time we see a large amount of police. And there's really no problem, we really have no fights. I finally had a chance to talk to Officer Allen, and I spoke with other officers whose name I don't know who said just don't throw teen events, they don't know how to act. At this point, we can't afford it, we can't afford to throw another teen event because we don't know how to disburse them, how to have a safe exiting process without bothering the community.

Ms. Greene said we asked how does the high school do it? How do they do it at the football games?

Mr. Hodge said we want to work with the community and the City of Cleveland Heights Police department so that everyone is safe. We are very serious about the safety of people in our building. That's why we pay so much money for fire security, as well as our personal security. Every time we have a teen event, we notify the police. Every time we call Cleveland Heights Police, they don't want to help us. I don't know if it's teens, if that is why they don't want to help us. But, we have to pay two off-duty police officers \$400.00 apiece and they leave before 9:30 p.m. before the party was over. The reason why we stopped that event so early, it wasn't because something bad happened, it was because the security left early and we were fearful of something happening. I know the officer said it was because something bad happened, it was just the opposite, and it was to prevent something

bad from happening. We originally were going to stop the party at 11:00 p.m. because that was the time we thought the curfew was.

Mr. Hodge continued, saying we stopped the party at 10:00 p.m. and we were trying to make sure that the kids got home safely. When police arrived we're still able to round up the teen and have them come back in the building. The kids were extremely disrespectful to the police, however they listened to us as we told them to come back in the building because it wasn't safe and wait to be dismissed. Just this past weekend we had a similar issue with the police. Only difference, we didn't allow for the teens to exit the building until their rides arrived to pick them up. That is our new exit plan, it worked even with us having less kids than the event prior.

Mr. Cobb said I believe there are some of us who have questions for you, if you don't mind.

Ms. Cohen said you had said something about being at all the events, but you were unaware of shots being fired.

Ms. Greene said, yes, absolutely. I've never been at an event and heard of shots being fired. Only time that I have heard anything was when I received a letter saying that it was reported that shots had been fired, and the police would always say that they never found any shell casing.

Ms. Cohen said let me ask you about the incident where guns were actually recovered by police.

Ms. Greene said they don't bring them in, we do have a no firearm policy that is posted in the building. We always have a police officer at the front door patting down everyone that comes in to Kultivation. I can't say that attendees have guns in their cars, but I can say that guns are not brought in our building, we're very strict about that. We're trying to create a safe environment. You will hear kids talking about the fact that there are no weapons allowed in the building. I am there, my children are there, too, and we don't want to be harmed by a firearm.

Ms. Cohen said that's great that it's not in the building, but if folks are coming to you who own either legal or illegal firearms, that are sitting in the parking lot of the Cedar/Lee business district. It seems with a few incidents they're talking about, there have been issues outside of the building causing danger to the residents and the people that are doing business in Cedar/Lee.

Ms. Greene said they have never found gun casings.

Ms. Cohen said but they found guns, there are guns according to the police

Ms. Greene said we weren't aware of that .

Ms. Cohen said I understand that you're trying to create a safe place within the building, but how are you publicizing these events? It seems like you're getting the minority or majority of teens who are attracting violent behavior. It seems like it's the minority that you're getting may be an attendee that is causing these problems or agitates these events.

Ms. Greene said we never know that, it's never the same people.

Ms. Cohen responded so are you advertising these events publicly, so gang bangers are coming and see these as an opportunity for violence or is this private where focus on some of our after-school programs in Cleveland Heights, where they focus on one grade, one school.

Ms. Greene said we may have an event for a specific person, for example, we have a child in the program finishes their project, we may have a party for that person where they can invite 30 people to come and hear their finished project. We don't know everyone that comes through the doors.

Ms. Cohen asked if these are invitee list.

Ms. Greene said the only means that we have of securing the location is before entering, we pat down each person that comes through the door. That's why I was meeting with the Police Chief to establish a plan of action; he stated that if we are able to secure the inside, then they would secure the outside. So for a time there was a police car that set in front of the venue, which we absolutely loved! Then they just suddenly stopped. We then started calling asking for security from the CHPD, and then we were told that they no longer would provide security for us. Then we started looking for private security, we were able to find help from an off-duty officer from Solon, however, he's not from of the City of Cleveland Heights. Most of the police here in Cleveland Heights have been in the city for over twenty years, they know the kids and kids know them. When you bring someone that is unfamiliar to them, shouting orders as a police officer, the kids don't respond to that well. Then, we do our best to correct them, telling them that's not an acceptable why to treat the police. It seems that the two incidents that happened in 2015 made us a target. Example, when the alarm was set off it was by mistake, a student hit the switch by accident. The police said that no one responded, when actually I was the one that called to explain that it was an accident. The alarm company even called to explain that it was an accident, too. However, the police report says just the opposite, there are many discrepancies. They claim they came to the door and no one opened the door. We have a doorbell for that reason because we have a studio.

Ms. Dunbar said this is reminding me of the Coventry situation where they would have a street fair. They end up shutting down because they attracted flash mobs. They were using cell phones to let people know about these events and people would pile on. I do believe that the police were tracking some of these events online. I was wondering do the police still do that. That's when we put the limit on how long kids could be in the business area after that.

Ms. Greene said we attracted a flash mob, too. That why we started using a clicker so that we are able to keep an accurate head count. Even if you call 200 kids the likelihood of all 200 showing up is slim. That's another one of our issues, if we are at occupancy and we have a line then what do we say or do with the kids outside? They stand, they wait until there is room for them.

Mr. Cobb said it was two of us on this Commission that were present back in 2014, when you were here after the incidents in July. At the time it was a commitment by you to meet with the City Manager and the prior Chief of Police and that was the reason for my question in 2015, because there wasn't anything that happened in 2015. If I heard you correctly, you said that you had no contact with the current Chief of Police.

Ms. Greene said, outside of email, I was unaware that there was a new Police Chief. I just thought that we were doing well.

Mr. Cobb said, so these incidents that we heard about in 2016, 2017, you didn't think there was an issue or problem going on with your facility?

Ms. Greene said we weren't made aware of any of that, I was told to handle everything inside by the prior police Chief Jeff. I was told to handle only the inside of the building. And everything outside would be handled by the police. Some of the events I knew personally were not related to our facility, but it seems as though everything that happens in that area we are the blame for. Lee and Essex are not even close to us, and have a gentleman saying I was at Kultivation, he may have had a session at our facility which we can't confirm. But no police ever came to us or inquire if that person had been at our business. We have a sign-in book that all artists must sign before using the studio.

Mr. Cobb said your Facebook page, which I have looked at beyond what we have been handed, there looks to be four different advertisement about cash bar ,alcohol, or shots. How did those get on your Facebook page if you or someone that's affiliated with you didn't post them? And if you knew they were wrong and you didn't have those events why didn't you pull them down?

Mr. Hodge said we actually thought they had been taken down, I actually help with the promotion of Kultivation along with a team. These events that are in question never happened.

Mr. Cobb said I have your Facebook page up and I see four postings here, and the Facebook page has been updated recently, it looks to me. So someone is going on, and you should be aware those posting are there. I am looking at some documents that you submitted back in 2014. One to the Building Department, dated March 10, that the theater would not be used as a community hall or party center that is available to rent to guests under the age of 18 will need to be accompanied by an adult. Your presentation to us, your focus was on it being used for musical productions and as a recording studio, also with activities for students. But, what I am hearing it sounds to like your using it as a party center.

Ms. Greene said every event we have, we are affiliated with.

Mr. Cobb said I can appreciate that but it sounds like you're running a party center there in addition to the other things that you represented to us would be the primary use of the facility. Are you telling us you never had alcohol served there?

Ms. Greene said we did in the beginning, we would tell patrons that they could only receive alcohol with a donation. Then we found out that we weren't allowed to do that, so we stopped. Because you knew we weren't allowed to sell alcohol, you knew other that allow patrons to drink if they provide a donation. We do host events; we have kids there who finish their projects, there musicians & bands we are an event center.

Mr. Cobb asked did you have this McGregor Fight party that is listed on your Facebook page?

Mr. Cobb said the McGregor fight, the mixed martial arts fight last fall, that is on your Facebook page, did you have that event ?

Mr. Hodge said they're talking about the Mayweather fight

Ms. Greene said yes we did.

Mr. Cobb asked was there alcohol available?

Mr. Hodge said no, we actually had two events that night. A showcase and the Mayweather fight. It was B.Y.O.B

Ms. Greene said there was alcohol there.

Mr. Cobb asked did you ever apply for an alcohol permit?

Ms. Greene said we applied for one, but we were later told the building owner that they don't approve them in Cleveland Heights anymore.

Mr. Cobb said you mentioned your non-profit status, do you have a 501-c certificate?

Ms. Green said yes, it's Kultivation Theater.

Mr. Cobb asked if the occupancy permit is current or is it lapsed?

Ms. Greene said it is lapsed, however I did call and I was told that if application wasn't submitted on time it was a \$25 charge per month. The day that I was going to come and pay, I received a letter stating that the permit was going to be revoked. So I never completed the process.

Ms. Rothenberg asked do you remember who signed that letter, the letter that you just talked about, is it possible that you're think of the letter about this hearing tonight?

Ms. Greene replied, yes, they sent an e-mail. Someone named Karen (Knittel).

Ms. Rothenberg said it was about your conditional use permit.

Ms. Greene asked if a conditional uses permit is a different thing, I didn't know they were two different things, actually last year they sent it in the mail I never came to pick it, I know last year they did sent it by mail. Now this year they said that they weren't mailing it, that I need to pick it up, and so now it's late and it's \$ 25.00 for each month. So now paying \$100.00, you now owe \$150.00, it was due in October, and it was due the end of December.

Mr. Gaynier said I have a couple of comments and question. I am very disappointed in a lot of what I have heard, that has gone on the testimony that we have heard. A couple of things stood out to me, Ms. Greene you had mentioned that one point that you are unaware of the business district curfew for juveniles, yet this has been in place here in Cleveland Heights for about six years. It is also posted on sign front in front near your building, right at the corner.

Ms. Greene said it says 6:30 p.m. I know exactly where you're speaking of.

Ms. Rothenberg said it's on the boundaries of the commercial district.

Ms. Greene said it says 11:00 to 10:30, ordinance says 11:30 this is my first time hearing about this.

Mr. Gaynier most of us in the city have lived here for a long time, I was living here when they put this restriction in because it was big news. You're in an organization or you're running an organization that's focused on teens in this area. I am flabbergasted at people are coming out late at night, this isn't like a football game ending at 9:00 p.m. or 8:30 p.m. people are pouring out on the street at 11:00p.m., 12:00 a.m. at night, sometimes later, creating disturbances and you do seem to have a good plan for managing the juveniles and keeping them inside the building for pick up by the parent, as you say you're trying to do. Then you say that Cleveland Heights should provide security, but no city provides private security.

Ms. Greene said we were told different.

Mr. Hodge said we were willing to pay for security.

Ms. Cohen agreed that's not a service for the local police department.

Mr. Gaynier said these officers that you are hiring from Solon and Cleveland, you're paying them as private contractors, to work for your organization and you implying that you expect the City to send officers there to work for you or take care and manage your crowd, as an expense that the City should take on.

Mr. Hodge said that is not true.

Ms. Greene said we were told that we would have to pay them, if they did come there, we would have to pay them by the hour. We were very aware.

Mr. Gaynier said so nobody is willing to do it, that you're reaching out to other cities.

Ms. Greene said we called and we were told that they don't do that for us, his specific words were, "We don't provide security for Kultivation theater." I said to him I didn't know that.

Mr. Gaynier you have been in business for four years, 3.5 years.

Ms. Greene said we're going into our fourth year.

Mr. Gaynier said I'm surprised that there isn't a better plan for managing what happens at the end of these events.

Ms. Greene said not all these events are teen events

Mr. Hodge said we have limited the number of teen events that we have because of the accusations that are being placed against us. Everything that happens inside is very peaceful; however once everyone is dismissed, we are targeted. We don't know how to control the teens once they are outside of the building.

Ms. Greene said the teen events are over at 10:00 p.m. and we don't have an outpour of teenagers when the function is over.

Mr. Gaynier asked what about the incidents that were later at night?

Ms. Greene replied those were not teen events.

Mr. Hodge said the video that they saw earlier was a teen event; however it ended at 10:00 p.m.

Ms. Greene said it was actually 9:30 p.m.

Ms. Cohen said I looked at the Facebook page and it is clear this is an event center. As of December 21, 2017, it says, "book your shows and events here at Kultivation." That is in direct violation of the agreement of the 2014 Planning Commission review, which was which was very clear that you were not to be a party center.

Ms. Greene said that's not for parties, it's for lectures and seminars.

Ms. Cohen said I don't see any ad for at least the last year and a half for a lecture or a seminar. There are concerts, fight parties. And the other issue I want to touch back on is with juveniles without supervision. It was very clear that there was an agreement in place in 2014, that all juveniles would be accompanied by an adult, now you had over one hundred juveniles at this sweet 16 event. I can't image, unless they were all related to each other, that you had an adult for every juvenile that was in the building during this time. We know that not to be true because there were numerus teen waiting to be picked up that night.

Ms. Greene said there may have been 15.

Ms. Cohen said, like Michael Gaynier, I see a very consistent disregard to the conditions that were put in place by the Planning Commission, back in 2014. That there needs to be an adult for every juvenile that enters the building. Whether, they are in a recording studio or at a sweet 16 party, which has clearly been ignored for a number of years. I appreciate your comment about not be able to control outside, I'm not sure that I agree, and I appreciate the frustration that you have encountered, but had you been enforcing what the Planning Commission had put in place in 2014, perhaps we wouldn't have had these problems inside or outside.

Ms. Greene said those events that you're talking about were adult events, it still would have happened. I completely understand what you're saying.

Ms. Cohen said that we impose conditions for a reason, with conditional use permits. I don't see how we can continue use of the conditional use permit knowing that the conditions have been disregarded constantly for a number of years.

Mr. Maddox, Jr. said I am looking at the August 13, 2014, as part of the plan, for those teen that the adult were supposed to be there. Is there any reason why they weren't?

Mr. Hodge said the events were parties.

Lee Greene said it said "adult supervision."

Mr. Hodge said we had adult supervision, we also had security.

Ms. Greene said we didn't have an adult for each kid.

Mr. Hodge said we didn't know that we had to have one adult for each teenager that was in the Kultivation.

Ms. Greene said it's bad interpretation on our part. If we get ten to fifteen adults at an event that should be enough, to help monitor the teens, I didn't know that if I had fifty teens, I need fifty adults present.

Mr. Maddox, Jr. said what I am reading here it specifically says anyone under 18 will be required to be accompanied by an adult. So that would be an adult for each teen that came to Kultivation, you did receive a copy of this agreement when it was made?

Ms. Greene said I am not sure, but probably so.

Ms. Cohen said it was also in the letter that Ms. Greene sent with the packet sent on March 10 2014 that was sent to Building Department.

Ms. Rothenberg said I just want to add, because there's not a record, we are sorry that we didn't raise the question for the Building Department. That letter is attached to the permit that is used by the Building Department, because if you have a venue that is regularly hosting teens it's a different part of the Building Code, there are different set of concerns when you are talking about minors. So the reason was requested in the first place was due to Building Code issues. So in addition to concerns that you may have, we are going to have to go back and report to the Building Department about the repeated testimony that we heard here tonight, about all these teen events, because it is likely violate the Building Code, as well.

Ms. Hamley O'Donnell stated, when they first came to us for their initial approval, it was for an event venue but also a tutoring center and after-school care. The Building Commissioner at the time, Mr. Carbone, said that if you have kids that are unaccompanied, that are going to be a whole other level of Building Code issues, so they withdrew that tutoring. And the testimony in the minutes that was given to all of you, multiple times, you said teens would be accompanied by an adult. That was our understanding as well as the Building Department as to how Kultivation was going to be run.

Mr. Hodge asked is it possible, that we have an event and a particular person comes to town and we book them to perform at Kultivation, our occupancy is 135 and the teen wanted to come and enjoy the show, they would have to bring their parent?

Ms. Rothenberg said that is what you promised in 2014, that what Kultivation promised.

Ms. Greene asked what is the difference between the building permit, occupancy permit, and conditional use permit.

Ms. Rothenberg replied we can explain all of that at another time, tonight you're here for the Planning Commission, for the second time the Commission is viewing your Conditional Use Permit.

Ms. Greene asked what is the Conditional Use Permit and how does that relate to my occupancy permit?

Ms. Rothenberg said you cannot have a legal occupancy permit without a Conditional Use Permit and the word "conditional" means that its conditioned upon you upon you following the requirements imposed when you originally obtained it. And so, at any period of time, this body here has the right to revoke your permit if they find that you're not following the conditions. That is why you're here tonight, and this is the second time that you're being

brought before this board. That's why we're here tonight for the conditional use permit, it is conditional, and it's not absolute.

Mr. Cobb asked is there anything new that you want to tell us?

Mr. Hodge said we're not having any more teen parties.

Mr. Cobb asked if there were any other questions. There were none. Can I hear from one of the officers that that might have some knowledge about the availability of Cleveland Height Officers to work off duty? Can a private business hire off-duty officers to work security or is that frowned upon against department policy?

Sergeant Skok said we do not have a policy in place. I've been with CHPD for 20 years, I can tell you that dating back when Chief Lentz was here, Chief Robinson, now Chief Mecklenberg, anytime someone requested Cleveland Heights Police to do security for a club-type atmosphere, and we have refused service. We just don't provide that type of service, however, we do provide other security service at schools, grocery stores, and things of that nature.

Mr. Cobb asked if police officer from another community were to come and work, would their police authority be limited due to not being in their jurisdiction unless it was a felony committed?

Sergeant Skok said if there OPOTA-certified they do have arrest powers, but it is limited. When placing handcuffs on an individual, and then transporting to Cleveland Heights jail, though it's has been frowned upon when other officers come into our city to take on security jobs. But the ones that we do see, usually the County Sheriff's department and they contract these officers out for work. If they do encounter an issue and make an arrest, typically, they would make arrangements to transport that individual back to the County jail; we wouldn't house or assist in detainment.

Mr. Cobb asked, to your knowledge, have there been any efforts in the last year from any one from Kultivation, reaching out to your department to try and address some of the concerns that have been raised?

Sergeant Skok said I wouldn't have that information.

Ms. Cohen asked do you know what the department policy is for having a decoy car around in that area upon request, would you know how you go about requesting that?

Sergeant Skok said when we start reviewing the call for service and we begin to notice a high volume of calls, we will, on some occasions, place a unit showing police presence at that establishment. However, we are pulling manpower of the city to address these issues which takes away from the residents of the City. But when we have a serious issue, we will place a car in the area and, once the threat has ended, we will pull back.

Ms. Cohen said I do remember there being a similar situation around Cain Village business district where a car was temporally placed and then removed once things claimed down in the area.

Officer Spehart said I just wanted to add, for example on Thursday at Panini's on Coventry, they have college I.D. night where they have hired the County Sheriff's officers, having two on duty for the night. Any club or liquor establishment can hire security. When the request

is put in, it is forwarded to Captain Dolan's office and then to the Sheriff's department where they are told to contact someone there. Also, in regards to the business district and Cedar/Lee area, they have beat officers at all times. My bureau is a part of the Community Response Team where 7 days a week, a beat officer will be in the area. These are the first assignment given to officers.

Ms. Cohen asked when you say on the beat, you mean in uniform?

Officer Spehart said yes, in uniform, walking around patrolling the city, business checks, on Taylor Road you will see an officer in the parking lot or in front of Pizza Hut because of multiple robberies. Also due to the murder that happened inside of the Mr. Hero's restaurant, there has been police presence.

Anthony Maddox, Jr. asked is there someone currently posted at Lee Road?

Officer Spehart said, yes, as we speak, as a matter of fact. My bureau works on the weekdays from 6:00 p.m. to 2:00 a.m. and Friday & Saturday they are assigned 7:00 p.m. – 3:00 a.m., as well as the day traffic officers who are on post from 10:00a.m. 6:00 p.m. during the week.

Ms. Greene said I have a couple of questions. My first question is about manpower. He mentioned that there are officers in the area and I do know that there is a police car constantly at CVS, which use to be posted just a block in front of our building. So we're talking a short distant, so I don't understand how it would be excessive use of manpower for them to assist us. The second question is, in regards to not using security, if you listen to the video, we were just told by Officer Allen if we need security that we need to contact Cleveland Height Police. My response to him was that I did and was told by Captain Dolan that Cleveland Heights Police doesn't provide security. He said that he doesn't know why we were told that, but may be that outside my pay grade, those were his exact words.

Mr. Cobb asked when you were told that, did you ask him what my alternative?

Ms. Greene said yes, he said call Captain Dolan and ask him. We haven't had an event since then. So we decided to just come here to the meeting and address everything at once. But we did inquire about getting help from the Cleveland Heights Police Department. Once again, we were told that was the protocol. We have tried to reach out to the Cleveland Heights Police Department countless times, but haven't received assistance.

Mr. Hodge said we really wouldn't mind sending the flyers letting the Police Department know of any events in the future. We just want to be safe.

Mr. Cobb said you weren't here in 2014, but that was another comment that was made, that you would let the police know any time you were having an event. I am not sure if you remember that.

Ms. Greene said I remember being told that I had to meet with the Police Chief to discuss something, for as I knew we had everything in place. There were no concerns or problems at the time. It has been made to seem that all this events that were brought tonight happened back to back, which isn't true. These events happened in a span of four years. Some of these calls are said to be a total of 13, some of them were just routine calls, never was there ever an incident inside of Kultivation. Never was there at any time evidence of shell casings in the building, we were said to be a disturbance. It was also said that it was the police that first started making complaints, not the neighbors or businesses. We work

together; we do collaborative events with the surrounding business in the district. I have worked with Nancy Taylor, Fresh & Meaty, the beauty shop, the business upstairs from us. We have basically worked with all the business in the business district, building relationships through networking.

Mr. Hodge added we started to have a petition drawn up showing that we have support in the community. But, we didn't feel it was needed because we felt that we were ok based on our relationships with the City and our neighbors in the community.

Ms. Greene said I truly thought this was going to be about neighbor disturbances.

Mr. Hodge replied we truly thought that tonight's meeting was going to be about disturbance complaints from the neighbors, because we have such good relationships with our neighboring business. We have networked with each business by collaborating events at our venue. We have joined with the "The Fix" and every salon in the area. The tattoo shop was going to host an event this month but had to cancel due to financial reasons. I myself have been working on putting together a young men's group, which allows for young men to come, share and learn with their peers and mentors.

Ms. Greene said thank you for informing us that there is a gang in the area.

Mr. Hodge said we didn't know that there was a gang.

Ms. Greene said we didn't know of the gangs in the area, so we thank you for letting us know what is going on in Cleveland Heights with our youth. Keep in mind I am a Cleveland Heights resident, my daughter is 18 and my son is 22 and their peer group is our target for affairs at Kultivation. Both my children are musicians who want to contribute to the community in a positive way.

Mr. Cobb said we all truly appreciate that you are trying to make contributions towards the community.

Ms. Greene said I think it's very difficult because we don't have the support from all the community. I don't know if it's because we are working with teens, if that the cause. Outside of a police supervisor being completely honest with us, telling us that as long as we host teen events, we will receive backlash.

Mr. Cobb said my sense is that some of these events weren't limited to just teen events, they were young adults and to look again at your Facebook page, there very little about teenagers. It truly geared to adults and young people, but unless there is something new or you have any other questions. I have a couple questions for staff. In their conditional use permit, one of those was a rental hall license, under what circumstance does one has to have to obtain a rental hall licenses?

Ms. Rothenberg asked can we pause for second and note that the conditional use permit was for indoor commercial entertainment facility which is different than a party center or banquet hall. That's one thing to be very aware of, but that doesn't answer your question.

Mr. Cobb asked what are the requirements to have a rental hall license?

Ms. Hamley O'Donnell replied that a rental hall license is not something that comes through our department. However, I did find admissions tax and I asked about the rental hall license at the time and Kultivation didn't need one.

Ms. Rothenberg said it's one of the items that are still on the books; it was something that we don't know is still happened in this city administratively anymore.

Mr. Cobb asked if there were any other question for staff or the applicant. After what we have heard tonight, is there anyone that wants to make a motion considering the Conditional Use Permit?

Ms. Greene asked if it is possible for a probationary period where we would no longer host teen events within the city limits; we have other cities that are willing to host our teen programs.

Mr. Mattox, Jr. said I want to be clear about in your building; you have a studio, theater, open space for events.

Mr. Hodge said no.

Ms. Greene said no, we have a theater and a studio, the theater actually has seating, then there is also open space in front of the seating.

Mr. Mattox, Jr. asked if that is where the events take place.

Ms. Greene said yes.

A member of the Planning Commission asked if we could deliberate in Executive Session.

Ms. Rothenberg said you have the right to make a motion to deliberate in Executive Session and then we can use the room down the hall and you can deliberate there.

Ms. Cohen made a motion that we deliberate in Executive Session at 9:27

Mr. Maddox, Jr. seconded the motion.

Ms. Rothenberg said we need a roll call under Ohio Law.

Richard Wong called roll: Mr. Gaynier, Mr. Howe, Ms. Cohen, Mr. Horowitz, Mr. Mattox, and Mr Cobb. Six present.

Ms. Rothenberg told the Commission you may now enter into deliberation to make a decision and come back with a verdict.

At 9:38 p.m., Mr. Cobb stated we are back on the record after Executive Session. Is there anyone who would like to make a motion on **Project No. 14-04: Lee Greene, dba Kultivation Music Group, indoor commercial entertainment facility, 2134 Lee Road, 'C-2' Local Retail District?** The Commission reviewed conditional use permit for possible revocation per Code chapters 1115, 1131, 1151, 1153 and 1161.

Ms. Cohen moved on Project 14-04, that the Planning Commission revoking the Conditional Use Permit that was granted. This was based on the evidence that we received tonight, including the thirteen calls that where described by Sergeant Skok, since 2014, the admission by the proprietor that they had alcohol on the premises without a liquor license, also that the proprietor admitted that she didn't enforce the juvenile accompaniment

condition, that was part of the original agreement around the conditional use permit. Specifically the factors that of the conditional use permit that we are revoking on

1. *The current use is not in keeping with the Standards for Conditional Uses, specifically Section 1153.05(d), because this conditional use is injurious to the use and enjoyment of other property in the immediate vicinity which was proven by the police reports and police testimony; and*
2. *The use is not in keeping with the Standards for Conditional Uses, specifically Section 1153.05(h), because this conditional use is detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for police services.*

Mr. Cobb asked if is there a second and Mr. Gaynier seconded.

Mr. Cobb asked is there a need for any further discussion?

Mr. Cobb said let's do a roll call on this.

Mr. Wong called roll: Mr. Gaynier "Aye", Mr. Howe "Aye" , Ms. Cohen "Aye" , Mr. Horowitz "Aye" , Mr. Mattox Jr "Aye" , and Mr. Cobb "Aye"

Richard Wong 6-0.

Motion carried.

Mr. Cobb said the conditional use permit is revoked for Kultivation.

Ms. Rothenberg said you can call the City tomorrow morning if you have any further questions. It is revoked effective immediately, but we will be in contact with you, I am sure you have plenty of questions.

Project No.18-04: Request that the Planning Commission find all cell antennas & associated equipment substantially similar to satellite dish receiving antennas per Code section 1111.06(b)(2) & 1153.05(w).

Ms. Hamley O'Donnell said you have the staff report in there and we would like for you to find that all cell antennas and associated equipment are substantially similar to satellite dish receiving antennas which will allow us to have administrative approval of cellular antennas. This is a part of the Zoning Code updates.

Mr. Cobb asked who wants to make a motion.

Ms. Cohen said I want to make a motion that approve Project 18-04 and accept the staff recommendation as noted.

Mr. Gaynier seconded the motion and asked if this "finding similar" is a temporary situation.

Ms. Hamley O'Donnell said, yes, the intention is to update this section.

Mr. Cobb asked if any further discussion is needed. There was none. With no abstentions or no votes, the motion carried 6-0.

There was no Old Business or New Business.

The meeting adjourned at 9:49 p.m.

Craig S. Cobb, Chair

Richard Wong, Secretary