

**Planning Commission
Regular Meeting**

Council Chambers 7:00pm

Monday, June 10, 2019

CALL TO ORDER

The meeting was called to order at 7:00 P.M.

ROLL CALL

Planning Commission members present were Frank Doden, Chair, Council Representative Marianne MacQueen, Susan Stiles, Alternate Dino Pallotta and Ted Donnell. Also present was Denise Swinger, Zoning Administrator and Solicitor Chris Conard.

REVIEW OF AGENDA

The order of Public Hearings was moved so that MacQueen and Donnell could participate in the first two hearings before recusing.

New Business was moved before Public Hearings.

REVIEW OF MINUTES

Minutes of May 13, 2019 Regular Meeting. Stiles MOVED and Williams SECONDED a MOTION TO ADOPT the Minutes as written. The MOTION PASSED 5-0 on a voice vote.

Minutes of May 6, 2019 Work Session. Stiles MOVED and Williams SECONDED a MOTION TO ADOPT the Minutes as written. The MOTION PASSED 5-0 on a voice vote.

COMMUNICATIONS

There were no communications.

COUNCIL REPORT

MacQueen noted that she had brought up “incentive based affordable housing” to Council at their last May meeting and will send the report on to PC.

MacQueen noted parking discussions which had occurred at Council table. She commented that PC may have an interest in any further discussion of discussion. She noted that this may be covered in the Comprehensive Plan Update.

MacQueen noted a rate increase for pool fees under discussion.

There has been a proposal to create a Housing Commission, MacQueen reported, and this will be further vetted at the June 17th meeting.

CITIZEN COMMENTS

There were no citizen comments.

OLD BUSINESS

Review and Recommendations to Update Subdivision Regulations. Swinger noted that Matt Hoying of Choice One Engineering had intended to be present for the meeting, but was called away on a family matter.

She commented that Choice One will be looking at stormwater calculations which are geared towards more intensive rainfall amounts, and will explore alternative methods of water mitigation.

Burns commented that the village has some immediate needs, which Choice One will be addressing as well as completing their work in addressing subdivision regulations.

Comprehensive Land Use Plan Update RFP Review. Patti Bates, Burns and Swinger have reviewed all of the RFPs received and then discussed their top three choices with incoming Village Manager Josue Salmeron.

Swinger noted that after discussion, staff had three RFPs remaining that they considered frontrunners, and of those three, they have made a recommendation, that being Community Planning Insights.

MacQueen stated that she had chosen only one of the providers selected by staff. She opined that all should “feel comfortable with whom we are working”. She asked that the top two providers come in and meet with Planning Commission.

Stiles stated that she ranked her choices close to the way staff had, noting that only one group noted expertise in digital interface. She stated no strong feeling regarding a need to meet.

Pallotta commented that there is more buy-in in an in person meeting and brings greater transparency.

Donnell commented that his comments were “almost dead on with staff”. He commented that the village knows the group from LJB well, and they know the village well. He commented upon their digital acumen. Donnell warned against getting into too much minutia and against moving forward of a visioning process.

Doden expressed a desire to meet in person, but agreed with the warning against “getting too much into the weeds”.

Swinger noted CPI and Human Nature as the top two staff picks. She noted the ability both demonstrated to take the current plan elements and restate them meaningfully.

Swinger noted that incoming Manager Salmeron strongly recommended recommending one provider to Council.

Burns commented that the Village has worked with LJB for years, and asked what more they would need to do to earn the trust of the Village and PC.

MacQueen asked who the lead would be.

Swinger opined that it would be Dan Hoying.

MacQueen commented that there will be several community information gathering sessions, and that “the personality of the provider will be important in those instances.”

Donnell commented that the process is technically driven, and that tends to be a different process than something like Visioning.

Swinger suggested Aaron Sorrell meeting with several staff members and some members of PC, and let them make the decision as to whether the top pick is acceptable.

Donnell pointed out that PC is asking for a document that can be manipulated moving forward by PC or by the Village, and this is paramount.

Swinger stated her worry about getting pulled sideways by a visioning process, when it is critical that the CLUP be fully accessible and can be updated on a regular basis.

MacQueen stated that she sees the process as more of a visioning type of process, and asked whether that process should occur first.

Swinger noted that the CLUP addresses what is possible in terms of growth from an infrastructure perspective, and lays out what tools exist to support various types of growth.

Doden stressed the importance of making the document accessible to its users.

Donnell commented that the CLUP is underutilized outside of staff because it is not readily accessible. The community involvement portion of the process of the CLUP rewrite, he commented is more an educational tool for the public.

Stiles MOVED TO RECOMMEND THAT STAFF PROCEED WITH MEETING WITH CPI TEAM MEMBERS, SORRELL IN PARTICULAR, and that those PC members available join that meeting. Doden SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

MacQueen asked for a report as to what the regulations are currently with regard to detached and attached housing.

Swinger noted that this information is contained in the zoning code, but that she could provide a summary.

NEW BUSINESS

August Schedule. Swinger asked whether PC can forgo the August meeting. This was agreed upon.

Discussion re: Possible Rescheduling of PC Regular Meetings. All agreed that Tuesdays would work as an alternate day. The Clerk will send an inquiry back around to make sure this will in fact work.

PUBLIC HEARINGS:

Text Amendments -The Village of Yellow Springs is applying for amendments to the zoning code for transient guest lodging and to the planning and zoning code on voting processes for the Planning Commission and Board of Zoning Appeals.

Amend Chapter 1278.06 – clarify quorums and voting processes for Board of Zoning Appeals.

At PC's last meeting, members voted on all related text amendments to Planning Commission and Board of Zoning Appeals (BZA) voting processes. Chapter 1278 had two sections that required a change to the text, however staff public noticed only 1278.01 and not 1278.06. Planning Commission members decided to vote in favor of amending 1278.01 at the May meeting which allowed for appeals in the administration of the planning and zoning code be decided by a vote of a majority of the quorum of the Board. This amendment aligns with the Village's charter which says that BZA appeals shall be decided by a vote of the majority of the quorum.

Chapter 1278.06 - Decisions of the Board is an amendment to change from the requirement of three concurring members to the concurring vote of a majority of the quorum. Staff is also suggesting removal of the sentence regarding abstentions or recusals counting as votes concurring with the majority.

Swinger noted that she had not previously noticed this Section, so that PC had not been able to vote on the matter.

Conard opined that the change works from his perspective.

Doden OPENED THE PUBLIC HEARING. There being no comment from those present, Doden CLOSED THE PUBLIC HEARING.

Donnell MOVED TO APPROVE THE AMENDMENT AS WRITTEN. Pallotta SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Donnell and MacQueen recused themselves from the remainder of the meeting, based upon potential conflict of interest.

Planning Commission was in general agreement to make transient guest lodging a conditional use. What is still undecided is additional conditional use requirements, such as only allowing TGLs where the owner lives on site. At the April meeting of Planning Commission (PC), staff concluded there was general disinterest in this after PC members heard from TGL permit holders at both the community meeting and those in attendance at the April PC meeting. Staff is unclear if Planning Commission shifted their thinking on this issue at the May PC meeting so PC will need to come to a resolution on what the specific requirements are going to be if recommending a return of TGLs to a conditional use. This change will require new TGL establishments to go before PC. The fee for a conditional use hearing is \$100. If approved, TGL establishments will also need to pay the initial \$25 certification fee.

Stiles asked that the issue of owner occupied be revisited. She suggested an upper limit of total permits to be issued. She asked that the top limit be enacted.

Swinger stated that the total is below 50 at present. She asked that if the person applying for the TGL is not the property owner, they be required to have a letter from the property owner granting permission for the use, and that this be added as a condition.

Pallotta stated that the "days of use" caveat provides a lot of control over the situation.

Conard noted the difficulty of enforcement of this caveat.

Pallotta spoke in favor of imposing safety requirements.

Doden asked for clarification between permanent resident and owner-occupied, and a way to assure safety and accountability in each instance, including perhaps listing more than one responsible contact.

Swinger commented that it is perhaps easiest to place a cap on the total number of air bnbs.

PC discussed the cap and discussed safety regulations.

Swinger noted that the bulk of the Air BnBs are concentrated in R-B.

Swinger commented that her preference would be to restore TGL as a conditional use with safety conditions as well as any other reasonable conditions.

Conard offered several examples for owner-occupied options. He iterated the concern some have stated that investors will buy up housing for use as TGL operations, and offered the owner-occupied options as a means to address this concern.

Doden OPENED THE PUBLIC HEARING.

John Herbal asked for clarification as to what a “cap” meant. Swinger responded to his question and explained the meaning of a conditional use.

Conard clarified that a conditional use allows neighboring property owners to be heard on the matter, and their concerns taken into account in the decision if appropriate.

Doden CLOSED THE PUBLIC HEARING.

Conard clarified that an air bnb is a form of sub-leasing.

PC members decided to recommend changing TGL to a conditional use with no further current restrictions, and to assess the situation within nine months to see whether further limitations would be in order.

Amend Chapter 1246.02 Schedule of Uses – Educational Institution Districts – change transient guest lodging to a conditional use. Stiles MOVED and Doden SECONDED a MOTION TO APPROVE.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED the PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Amend Chapter 1248.02 Schedule of Uses – Residential Districts – change transient guest lodging to a conditional use. Stiles MOVED and Doden SECONDED A MOTION TO APPROVE.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED the PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Amend Chapter 1250.02 Schedule of Uses – Business Districts – change transient guest lodging to a conditional use. Stiles MOVED and Doden SECONDED A MOTION TO APPROVE.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED the PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Amend Chapter 1258.01 District Uses Table – change transient guest lodging to a conditional use in certain districts. Stiles MOVED and Doden SECONDED A MOTION TO APPROVE.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED the PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Amend Chapter 1262.08(e)(7) Specific Requirements – add specific requirements for transient guest lodging. Stiles MOVED and Doden SECONDED A MOTION TO APPROVE.

Swinger read through the agreed-upon additions to the specific requirements as follows:

- (7) Transient Guest Lodging.
 - A. Permit. Upon approval of the conditional use, the owner shall submit to the Zoning Administrator, a transient guest lodging application with the applicable fee. This application includes the contact information for the owner and if applicable, the property manager who can be contacted and will respond within a reasonable time period to any complaints, violations, emergencies or other concerns related to the transient guest lodging property or tenants.
 - B. Location. The Planning Commission shall consider the proposed location relative to its proximity to other such uses in the vicinity in order to avoid an undue concentration that could have a negative effect on the surrounding neighborhood. A transient guest lodging unit may be located in a dwelling unit, a room or rooms in a dwelling unit, or an accessory dwelling unit.
 - C. Maximum occupancy. The maximum number of tenants permitted shall be determined by applicable Health Department requirements. If the transient guest lodging is located in an accessory dwelling unit (ADU) no more than two adults shall occupy the accessory dwelling unit.
 - D. Utilities. The transient guest lodging unit shall share all public utilities (water/sewer/electric) with the principal dwelling unit. Transient guest lodging units will not be separately metered.
 - E. Parking. A minimum of one off-street parking space shall be provided on the lot for the transient guest lodging unit in addition to the off-street parking spaces required for the principal dwelling unit.
 - F. Ingress/Egress. No new access points or driveways shall be created or installed for access to the transient guest lodging unit.
 - G. Transient Guest Lodging applications are non-transferable. A change in the ownership of the property or if the application was submitted under a tenant’s name and the tenant no longer resides at this address, will void the application.
 - H. If the applicant is not the property owner, a letter from the property owner agreeing to the use of their dwelling for transient guest lodging is required.
 - I. An inspection by the Miami Township Fire and Rescue for the installation of smoke and carbon monoxide detectors must accompany the application for Transient Guest Lodging. The detectors will be inspected by MTFR annually.

PC discussed the possibility of adding a section enabling the Planning Department the ability to revoke a permit for repeated proven complaints.

After discussion, and realization that this language would require a fair amount of legal thought and attention which might delay the recommendation to Council, PC members decided to hold this option to see whether it becomes necessary at a later point.

Doden OPENED THE PUBLIC HEARING.

There being no comment made, Doden CLOSED the PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Swinger will take the necessary legislation to Council with the recommendation from Planning Commission.

AGENDA PLANNING
Multi-Unit Housing.

ADJOURNMENT
At 8:53pm, Doden MOVED and Stiles SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Frank Doden, Chair

Attest: Judy Kintner, Clerk

Please note: These minutes are not verbatim. A DVD copy of the meeting is available at the Yellow Springs Library during regular Library hours, and in the Clerk of Council's office between 9 and 3 Monday through Friday.