

**VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION**

The Village of Yellow Springs Planning Commission will meet in regular session on Monday, July 10, 2017 at 7PM in Village Council Chambers on the second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

REVIEW OF MINUTES

Minutes of June 12, 2017

COMMUNICATIONS

COUNCIL REPORT

CITIZEN COMMENTS

PUBLIC HEARINGS:

- 1) **Text Amendments** -The Village of Yellow Springs is applying for an amendment to the zoning code for the addition of Pocket Neighborhood Developments (PNDs).

Amend Table 1248.02 Schedule of Uses ó the addition of pocket neighborhood developments as a conditional use in Residential-A, Residential B, and Residential-C Districts.

Amend Chapter 1260.04 (d) Principal Use per Lot ó the addition of pocket neighborhood developments as an exception to principal use per lot.

Amend Chapter 1262.08 (e) (6) Conditional Use Requirements ó the addition of pocket neighborhood developments with specific conditional use requirements.

Amend Chapter 1284.03 Definitions: C-D ó removing the definition of Cluster housing; adding the definition of Common open space; adding the definition of Dwelling, pocket neighborhood development (PND).

OLD BUSINESS

Vote on Vice Chair for Planning Commission

NEW BUSINESS

AGENDA PLANNING

Short term rentals revision to the text amendments previously approved

Text amendment re: height of Accessory Structures (max. 24ø for future ADU)

Comprehensive Land Use Plan: Discussion of Update Process

Discussion re: size of accessory structures to primary, including the definition of floor area, gross

ADJOURNMENT

**Planning Commission
Regular Meeting Minutes**

Council Chambers 7:00pm

Monday, June 12, 2017

CALL TO ORDER

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

ROLL CALL

Planning Commission members present were Matt Reed, Chair, Gerald Simms, Council Representative, Susan Stiles and Alternate Chris Zurbuchen sitting in for Adam Abraham. Also present were Denise Swinger, Zoning Administrator, and Jessica Brockman, Village Solicitor. Matt Reed and Adam Abraham were not present.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Charles Buster questioned the accuracy of a description on page 2 as to where the utility and vehicle access is located. The Clerk noted that she would check the DVD for accuracy and make changes if needed.

Simms Moved and Zurbuchen Seconded a Motion to adopt the Minutes of May 8, 2017. The MOTION PASSED 3-0 on a voice vote.

COMMUNICATIONS

Charles and Charlene Buster re: Minor Subdivision

COUNCIL REPORT

Simms noted that Council has been working on the Cresco request to purchase land from the Village and following up by visiting existing facilities. Discussion regarding Glass Farm is ongoing.

Swinger noted that at some point there may need to be a special meeting of Planning Commission to address the proposed land purchase. Swinger noted that the use Cresco proposes for the site is an approved use.

CITIZEN COMMENTS

There were no comments made.

PUBLIC HEARINGS

- 1) **Minor Subdivision Application** ó For an existing lot located at 745 Dayton Street. Micah David, Hashlamah Project Foundation, property owner ó Parcel ID #F19000100030006300.

Simms MOVED to UNTABLE THE PUBLIC HEARING ON THE MINOR SUBDIVISION APPLICATION. Zurbuchen SECONDED, and the MOTION PASSED 3-0 ON A VOICE VOTE.

Swinger noted that at the last meeting of the Planning Commission the question was raised as to whether Book 300, Page 197 accurately described the location of the easement. There was concern that the access easement did not run the entire length of the Lot #5 property. Please see Attachment 1, which is a letter from M & M Title Company and a copy of the limited warranty deed, Attachment 2 which is Book 300, Page 197 and Attachment 3, which is PC34 110A-110B. Anne Taylor of M&M Title Company verifies that the right of access easement runs not only the length of the entire property described as Lot #5, but also along the property to the north following the private road to Dayton Street. These documents show the intent to provide access from Parcel ID F19-1-3-63 south line (abutting Lot #4) to Dayton Street with Book 300, Page 197 describing the land from Dayton Street to the northern edge of Lot #5, Tract 1, and Parcel Cabinet 34 ó 110A-110B which is the Dayton Street plat showing all of Lot 5 as described in the surveyor's new description of Lot #5 Tract 1 and Tract 2. To further clarify, Mr. David owns all of Lot 5 and has a right of access to his entire property from the easement. This is the reason that the private road is marked in gray by Greene County (Exhibit A).

Micah David purchased the property at 745 Dayton Street (Lot # 5 in Exhibit A) in February, 2017. Unbeknownst to him, the two-family dwelling on this property is a non-conforming structure as it located in the R-A, Low Density Residential District. This means he is not allowed to expand the structure's footprint. He is also not allowed to build an accessory dwelling unit as ADUs are only allowed on lots with single-family dwellings. Due to the size of the lot, he has submitted an application to make his one lot into two lots, following the lot area requirements of the zoning code for R-A. Because this lot is accessed by an easement to Dayton Street, the Village is exercising due diligence by noticing it a second time in the Yellow Springs News, sending a public hearing notice to all abutting property owners and placing a sign on the property. Typically, this is not a requirement in the minor subdivision regulations. The applicant intends to build a single-family dwelling on the proposed new lot.

This tract of land, Swinger explained, was last subdivided through a replat process whereby five existing lotsø property lines were moved, which created two new lots but without increasing the total number of lots, as five lots remained after the replat. Because of this, staff view this as a minor subdivision, whereby one lot became two lots.

Stiles OPENED THE PUBLIC HEARING.

Charles Buster read in the entirety of his letter, which asserts that the density of the utilities in the easement will be too great, and asked again that a utility study be conducted regarding the density of the laterals and to determine if any health hazards might exist.

Buster stated that he had called the Village Manager to inquire as to standards for the placement of sewer and water lines, and did not receive a call back.

Buster stated that he then directed his question to the County, and read those standards.

Buster questioned whether the County Engineer is aware of density concerns with regard to the water, sewer and gas lines. Buster asked who would be responsible for any break or other issue with the lines. He argued that waiting for the approval from Planning Commission before determining whether the access easement is sufficient is completely backwards.

Buster stated that he asked Ken LeBlanc how he would approach the situation, and was told that LeBlanc would first have the applicant hire an engineer to map out existing laterals and submit that to the commission.

Stiles then asked that comments be limited to 4 minutes per speaker.

Micah David stated that he has on several occasions stated to Buster that he is willing to address any monetary concerns with regard to the use of the property, even to the point of signing a contract if Buster were to desire this.

David stated that following the last meeting, he had been approached in the hallway by Ms. Curliss, who questioned whether David did indeed own the land. The conversation lasted öseveral hoursö according to David, and he was led to believe that he would be sued if he pursued his request. He stated that he is not intending to construct a church, which seemed to be a concern. He stated that he tried to be flexible, but stated that the insertion of others has, öcreated issues where there were no issuesö. David stated that he hired a surveyor and a lawyer in an effort to prove that the lot that he purchased did in fact belong to him in its entirety.

David stated that his understanding is that these types of challenges are very unusual for a legal lot split, and opined that öthe bar keeps movingö. He asked that Curliss apologize to him once a decision is rendered, but opined that she seemed unlikely to do so.

David stated that he harbors no ill will towards Mr. Buster, but stated that, öhis personal concerns are not legal concernsö. David argued that the easement cannot be micro managed, and opined that the objection stems from a belief that there will be a church constructed there. David stated that his organization is a peace organization, not a religious one.

Laura Curliss introduced herself as representing Carole Cobbs, owner of lot 3. Curliss stated that there öare legal questions your solicitor must addressö. She read from the minutes of the previous meeting, during which Simms received confirmation that division of lot 5 would result in 6 total lots. This, Curliss argued, would create more than six lots in a minor subdivision.

Stiles stated that Curlissø information was new information.

Curliss disagreed, stating that the information had been asked for by Simms.

Public roadway access for a minor subdivision, Curliss stated, is conflictingly addressed in the zoning code. It is stated one way, as noted by Swinger, Curliss argued, in 1260.02(e), the general provision, says that any lot created after the effective date shall have frontage on an improved public street or approved private street access easement equal to the minimum required lot width in the zoning district in which it is created. Section 1226.06(a)(5), Curliss said, states that öevery lot shall abut on a streetö and 1226.11 (a)(1) states that öthe proposed subdivision is along an existing public road, and involves no opening widening . . . or extension of public utilities.

Curliss read on, stating that the Village needs to determine whether separate and adequate sewer and water connections exist. She argued that this can only occur through an easement, and the property owner ödoes not own the fee simpleö. A utility study needs to be done, and the applicant needs to do this, Curliss argued.

Curliss argued that the Village is supposed to find sufficiency and adequacy and argued that a lot split places a burden upon the neighbor upon whose land the easement exists.

These issues can be addressed with a written agreement, Curliss commented. Curliss related a list of items she stated as sufficiency and adequacy issues, including identification and placement of utilities and identification as to what will occur during construction. . . .liability. . . parking.

Carole Cobbs spoke, stating that she was upset in general, and commenting that property issues are common in the Village. Cobbs asserted that she and Buster were trying to find out what was going on with the property, since it had all been family land, and they were unsure as to whether the land David purchased did include a small portion of land in question. Cobbs went on to say, "I don't want anything built there because of what my Aunt Betty had in mind for us."

Cobbs stated that a lot of things are happening that citizens are not aware of and are not right.

Stiles CLOSED THE PUBLIC HEARING.

Swinger stated that normally a minor subdivision would only come onto the agenda as a consent item, but that she had placed this into Public Hearings in part as a courtesy to the neighbors. Swinger stated that she has notified all neighbors and noticed the hearing in the YS News.

Swinger explained that a replat is when property lines are moved, but the properties remain the same or fewer lots at the end. This is why the previous situation in which the lots were reconfigured was referred to as such.

Swinger noted that the area is being referred to as the "Dayton Street subdivision" but that it is in fact the "Dayton Street plat."

Buster commented that the area is not a subdivision, and that he understood that.

Brockman stated that because the 1990 reconfiguration of the area was a replat and NOT a subdivision, than the currently requested lot split is permissible as a minor subdivision. Brockman continued, stating that in looking at the replat map, there were 5 lots prior to the 1990 replat, and there were 5 lots following that replat, hence it IS a replat.

Buster argued that if the petitioner's case is granted, there will be "tract one and tract two."

Swinger stated that labeling areas to be subdivided is not uncommon, and that label is changed to an F-19 number as a parcel identifier once the lot split is filed with the Recorder's office, and at that point it becomes a lot.

Zurbuchen addressed the issue, stating that, "you had so much information, Ms. Curliss, that I am overwhelmed and can't process through all of that."

Zurbuchen stated that at the previous meeting she had agreed with Mr. Buster in his contention that a utility study should proceed any granting of the request. Zurbuchen stated that while she felt that granting permission prior to any utility study feels, "a bit like the horse in front of the cart," she understands that her duty as a Planning Commission member is to rule on the use of the property, after which that information goes to Greene County for their assessment of the utilities. Zurbuchen continued, stating that while she found the process somewhat backwards, in the end the cost of proceeding in this manner is borne by the petitioner, not by the neighbors.

Zurbuchen stated that she was unsure as to how to respond to the legal issues raised by Curliss.

The concern related to the number of utility lines in the easement Zurbuchen characterized as entirely understandable.

Buster stated that there has to be a responsibility as to whether the easement can accommodate the increased usage. He commented that the easement is only 40 feet.

Swinger stated that the legal description states that the easement is 50 feet.

Buster stated that 10 feet of the easement is in Cobbs' yard, and that those 10 feet are in a tree line.

Simms asked Brockman whether PC is obligated to consider the legal concerns verbally presented by Curliss.

Brockman stated that she had just received Curliss's letter, it had not been presented to PC, and therefore it did not need to be considered by PC.

Simms asked whether the stated concerns were sufficient to hold up a decision on the part of PC.

Brockman stated that they were not, and that the decision is to be made on the basis of the findings

Simms received confirmation from Swinger, who stated that while it is in some ways confusing to consider the matter without knowing whether the structures proposed can be supported by the infrastructure, those considerations are made at a later point by the County.

Brockman stated that the only items necessary for consideration on the part of the PC are the eight items (Requirements) noted in Swinger's report.

Swinger stated for the record that the property is not a non-conforming lot: the duplex is a non-conforming use for the duplex, and in the lot split both properties meet the minimum requirements for R-A.

The lot frontage is the front of the property for both tract one and tract two, Swinger said, as a result of the right of access easement. This is the same right of access serving lots three and four: lot five granted them the right of access. Had they needed to have frontage directly onto Dayton Street, those lots could not have been developed.

Stiles CALLED FOR A MOTION.

The Clerk asked PC whether they needed to go through the eight requirements and weigh in on each.

Each member of PC stated that they did not feel the need to do so.

Simms MOVED TO APPROVE THE MINOR SUBDIVISION APPLICATION AS RECOMMENDED BY STAFF. Zurbuchen SECONDED, and the MOTION PASSED 3-0 ON A ROLL CALL VOTE.

- 2) **Conditional Use Application** for the operation of a mobile food truck in the B-1 Central Business District on the property of the King's House -230 Xenia Avenue - Parcel ID #F19 000100100003700.

Applicant: Miguel Espinoza and Dawn Boyer, owner, Mexico City Tacos, LLC, aka Miguel's Tacos.

Property Owner: Christy Lewis and Brendan Comerford, The King's House

Swinger stated that the property is located in the B-1, Central Business District at 232 Xenia Avenue. The Greene County Auditor lists the entire property under the 232 Xenia Avenue address, although a portion of the building is addressed as 230 Xenia Avenue for mailing purposes with the Post Office. The Village of Yellow Springs Zoning Department identifies and then notices properties based on the Greene County Auditor's address for them, which in this case is 232 Xenia Avenue.

The property's total acreage is 0.2935 with a large building known as The King's House. The building contains two retail businesses, Asanda Imports and Wildflower Boutique, and on the upper floor are residential apartments. The mobile food truck is to be located behind the main building and next to an attached covered patio. Currently, there is a storage shed next to the covered patio. This will be removed and the mobile food truck trailer will be located there. The property owner has given written permission to use the covered patio in the lease agreement, which staff has confirmed.

The applicant has applied for a conditional use permit to allow the operation of a mobile vending food truck trailer for the purpose of providing food options Thursdays through Sundays, from 11:00AM to 10:00PM for a total of 44 hours per week. The mobile vending food truck will be parked on the property itself and will not take away any parking spaces.

Simms asked whether the use would meet the requirement for parking spaces.

Swinger stated that her assumption is that the trailer would be accessed by persons already in the downtown area for other purposes.

Dawn Boyer stated that she is the owner of the trailer. She responded to a question from Stiles that she did not anticipate providing more than one or two picnic tables or several bistro style tables.

Electrical access, Boyer said, is provided, as there is a power outlet outside appropriate to their needs. It is on the King's House property and the owners are fine with allowing the use.

Brandon Comerford stated that the electric line is separately metered.

Boyer stated that she did not know whether the food operation would continue year-round.

Stiles OPENED THE PUBLIC HEARING.

Tom Grey, owner of Tomø Market, stated that his lot is used by everyone coming to the downtown area, and stated that yet another business in need of parking access should be required to provide this, rather than continue to overburden his lot. Grey then clarified that the Masonic Lodge owns the lot, and that their rent is contingent upon Greyø sales. Gray asked again that PC require designated parking for the applicant.

Stiles CLOSED THE PUBLIC HEARING.

PC discussed the matter of parking in general, noting previous decisions.

Brendon Comerford commented that the lot to the rear of the Trail Tavern is owned by Don Beard, and that there are agreements regarding the use of the lot by tenants of Kingø yard.

Comerford confirmed that no spaces have been secured for the food truck. There is a verbal agreement for several of the shop employees to park in that lot, but there is a written agreement for the residential tenants for two spots.

Swinger stated that the situation is difficult to evaluate.

Zurbuchen appreciated Greyø concern. Local eateries must provide parking, she stated, and it is inconsistent not to require the same of the mobile vendors.

Swinger noted that the parking calculation is based upon seating.

Stiles received confirmation that there is no hard and fast requirement for parking provision.

Swinger asked Boyer whether they had any parking areas arranged-for in the downtown area.

Boyer replied in the negative, but commented that if provision of seating would add to the requirement for parking, then she would simply not provide the seating areas.

Stiles received confirmation that the food truck located in the Nipperø lot does not provide parking areas, and was not required to do so.

Zurbuchen expressed sympathy for Greyø perspective relative to the parking issue.

Grey complained that the food truck has placed mulch down as if to create a path to the food truck.

Boyer apologized, and stated that she is unsure as to what can be done to monitor persons using the Tomø lot for purposes other than food shopping.

Stiles asked Comerford if he would be able to negotiate more spaces. He was unsure of this.

Swinger read the parking requirement relative to seating and noted it at 7-8 spaces. Placement of a bike rack would mitigate this need, and the location in the B-1 allows it to be reduced by another several spaces.

The matter was discussed at some length.

Brockman read through the requirements, noting the need for pedestrian access to the food truck from available parking if it is to be considered feasible.

The Clerk wondered if an arrangement could be made with Beard such that one-to-two parking areas could be designated for pick up purposes.

Swinger stated that this would be a viable option.

Simms received confirmation that there is a clear path from Xenia Avenue to the food truck, and from the parking lot at the rear.

If only public parking areas are considered, Simms asked, is there sufficient parking.

Swinger noted the municipal lot near Subway.

Zurbuchen suggested that perhaps parking could be added at the rear of the Kingø House lot.

Boyer commented that there is some parking along Walnut Street.

Don Lewis identified himself as a trustee of 242 Xenia Avenue, and commented that if five parking areas are required, once those are filled they will park in the Tom's lot. He stressed that his rent is based upon Tom's sales, and non-grocery parking has a negative effect on those sales.

Christy Lewis commented that the King's House lot is large and should be put to use. She noted that beautifying that lot will have a positive effect upon the town in general.

Stiles CLOSED THE PUBLIC HEARING.

Stiles noted that PC can approve the use with or without conditions.

Zurbuchen commented that she did not know how to both address the food truck request and to address Tom Grey's parking issues. While the code states that parking is required, PC is being advised that they can amend those requirements based upon location in the B-1.

Swinger commented that she had assumed that most persons who park in the lot owned by Beard are there to shop in King's Yard, and that that is an acceptable use of the lot.

Swinger noted that she had characterized the food truck use as an "open counter food service" use with "limited or no seating provided". This characterization would put the requirement at six parking spaces, which can then be reduced based upon location in the B-1 and if bike parking is provided. The number of required parking spots is at PC's discretion, Swinger stated.

The Clerk suggested limited time parking spaces to assure some rotating availability.

Simms noted that the food truck located at Nipper's Corner had not been required to provide parking.

Swinger noted that there is no parking requirement for mobile food vending, but that she had put that requirement in as a consideration, should PC wish to view the use as "carry-out restaurant" use.

PC discussed the various differences between such uses as Corner Cone versus the food truck located at Nipper's Corner.

Zurbuchen stated that parking is the only issue she sees with the use.

Stiles asked whether if the decision to approve the food truck at Nipper's Corner did not include a parking requirement, should PC not remain consistent in rendering a decision which does not include parking consideration for the application at hand.

The Clerk noted that at the time of the decision regarding mobile vending at Nipper's Corner, the decision permitted two food trucks and two non-food stalls for that lot, which effectively uses up all parking other than that directly in front of the gas station.

The Clerk commented further that if PC requires any temporary parking for food pick-up it would be unfair to argue that "people will park anywhere they want regardless", since that is not something over which the owners of the food truck have any control. Provision of the space should be sufficient, she commented, if parking provision is the concern.

Zurbuchen expressed agreement with the assumption that the King's Yard parking lot is provided for all shoppers visiting the King's yard and downtown area generally.

Swinger gave her recommendation that the use be approved.

Simms MOVED TO APPROVE THE APPLICATION FOR A MOBILE FOOD TRUCK AS RECOMMENDED BY STAFF. Zurbuchen SECONDED, and the MOTION PASSED 3-0 on a ROLL CALL VOTE.

Swinger noted that the Village Manager is aware of the need to find more parking options in the downtown area.

Boyer commented that she is aware that when she returns at the one-year mark for renewal, she should be aware of the possibility that the parking issue will be revisited.

Simms asked whether the issue of downtown parking should be examined by PC.

The Clerk sought clarification that the issue of seating was not a concern with regard to parking.

Simms clarified that his motion was based upon staff's recommendation and did not carry any conditions with regard to parking or seating. Parking is an issue that Council needs to address, Simms said.

- 3) **Text Amendments** -The Village of Yellow Springs is applying for an amendment to the zoning code for the addition of Pocket Neighborhood Developments (PNDs).

Regarding Chapter 1248.03, Swinger stated that Swinger stated that during the May meeting PC voted to approve an amendment to 1248.03, adding pocket neighborhood developments and their total number of units per residential district. It wasn't until after the meeting, Swinger said, that she realized it is already stated in the conditional use requirements and is redundant.

Swinger asked that PC disregard this as a text amendment, and those present agreed.

Amend Chapter 1260.04 (d) Principal Use per Lot of the addition of pocket neighborhood developments as an exception to principal use per lot.

Swinger noted this is self-explanatory, noting the places in the text where "PND" was added.

Stiles OPENED THE PUBLIC HEARING.

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Simms MOVED TO APPROVE THE TEXT AMENDMENTS TO 1260.04. Zurbuchen SECONDED, and the MOTION PASSED 3-0.

Amend Chapter 1262.08 (e) (6) Conditional Use Requirements of the addition of pocket neighborhood developments with specific conditional use requirements.

Swinger noted that the only points not previously discussed were the italicized items, as follows:

On a lot to be used for a PND, an existing single-family dwelling or duplex structure, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased, and the existing structure will factor into the maximum lot coverage permitted for that residential zoning district. An existing single-family dwelling or duplex structure will only count as one dwelling unit towards the minimum of 4 dwelling units as noted in section B.6. An existing accessory dwelling unit (ADU) will not be allowed in a PND. The ADU may be converted to another use such as a storage building or HOA community room.

Zurbuchen added the word "existing" before ADU in the final sentence.

The maximum lot coverage permitted for principal and accessory structures in PNDs shall be limited to that allowed in the corresponding residential zoning district. Because PNDs shall be located on one lot under the control of a Home Owner's Association (HOA). The developer and/or the Greene County Engineer shall determine the lot area for each individual dwelling unit, and these individual lot area measurements will be used to determine future accessory structures.

A Level B site plan review is required for approval of the Pocket Neighborhood Development conditional use. Prior to submittal to the Planning Commission, the Level B site plan shall be reviewed by a designated Village of Yellow Springs engineer, who will provide a written report of findings for the Planning Commission. The engineer will be present at the conditional use hearing to answer questions related to their findings.

Planning Commission expressed approval of the suggested changes.

Stiles OPENED THE PUBLIC HEARING.

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Simms MOVED TO APPROVE THE TEXT AMENDMENTS TO 1262.08. Zurbuchen SECONDED, and the MOTION PASSED 3-0.

Amend Table 1264.02 Parking Requirements by Use-Residential – the addition of pocket neighborhood developments with specific parking requirements.

Swinger noted the change made as follows.

<u>Pocket Neighborhood Development</u>	<u>1.5 spaces per dwelling unit.</u>
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Stiles OPENED THE PUBLIC HEARING.

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Stiles MOVED TO APPROVE THE TEXT AMENDMENTS TO 1264.02. Simms SECONDED, and the MOTION PASSED 3-0.

Amend Chapter 1284.03 Definitions: C-D ö removing the definition of Cluster housing; adding the definition of Common open space; adding the definition of Dwelling, pocket neighborhood development (PND).

öCluster Housingö was removed, and the following section was added:

Common Open Space. A perpetual open space area of land to benefit all residents of a Pocket Neighborhood Development (PND) or Planned Unit Development (PUD), which is unoccupied by buildings, structures, storage or parking areas, streets right-of-way, exterior setbacks, driveways, required yards and utility easements, except for recreational structures, and which is outside of streams, wetlands and their buffers, and which is generally for the purpose of active or passive recreation.

Under the section related to dwellings the following was added:

6) Dwelling, Pocket Neighborhood Development (PND). A detached building designed as part of a group of dwelling units that are individually owned, trading individual open space for common open space and for which each unit is occupied exclusively by one family.

Stiles OPENED THE PUBLIC HEARING.

Tim Ryan asked for the definition of ödwellingö wondering if there would be square footage requirements attached to that definition.

Swinger explained that the dwellings can be single family, but that there are no minimums set by the Village: that requirement is set by the State, and would be conveyed through the County when a building permit would be issued.

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Simms MOVED TO APPROVE THE TEXT AMENDMENTS TO 1284.03 Definitions C-D. Zurbuchen SECONDED, and the MOTION PASSED 3-0.

Amend Chapter 1284.05 Definitions: H-I-J-K – adding the definition of a Homeowners association (HOA).

Swinger noted the single addition as follows:

Homeowners Association (HOA). An organization of homeowners of a particular subdivision, condominium development, planned unit development or pocket neighborhood development or condominium development whose purpose is to provide a common basis for preserving, maintaining and enhancing their homes and property.

Stiles OPENED THE PUBLIC HEARING

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Zurbuchen MOVED TO APPROVE THE TEXT AMENDMENTS TO 1284.05 Definitions H-K. Simms SECONDED, and the MOTION PASSED 3-0.

Amend Chapter 1284.07 Definitions: O-P-Q – adding the definition of a Pocket neighborhood development (PND).

Swinger noted the added definition to this section as follows:

Pocket Neighborhood Development. - a type of planned community which consists of a clustering of smaller residences or dwelling units that are individually owned, around a courtyard or common open space-area, and designed to promote a sense of community and neighborliness through an increased level of contact on a single lot under the control of a Homeowner's Association (HOA).

Stiles OPENED THE PUBLIC HEARING

There being no comment, Stiles CLOSED THE PUBLIC HEARING.

Simms MOVED TO APPROVE THE TEXT AMENDMENTS TO 1284.07 Definitions O-P-Q. Zurbuchen SECONDED, and the MOTION PASSED 3-0.

Swinger noted that these amendments will now go before Council as legislation, perhaps at a July session.

OLD BUSINESS

Vote on Vice Chair for Planning Commission. The vote was delayed to the next meeting.

Noise Issue Update. Swinger stated that she, Chief Carlson and the complainant would visit the site and discuss potential solutions. She noted that property owners may need to address the issue with their tenants, since the noise does not seem to be emanating from the Brewery.

Comprehensive Land Use Plan: Discussion of Update Process. Swinger noted that this discussion has been shunted aside due to a great deal of new business. She suggested the possibility of a second monthly meeting to address this.

NEW BUSINESS

Glass Farm Report. Zurbuchen stated that she had spoken to Ken LeBlanc regarding his recommendation that a road not run from Ridgecrest Drive to Wright Street. He explained that this was because of the high rate of speed possible through the residential area, but commented that if the road was mitigated with curves, a road could be considered.

AGENDA PLANNING

- Short term rentals revision to the text amendments previously approved.
- Text amendment re: height of Accessory Structures (max. 24' for future ADU).
- Discussion re: size of accessory structures to primary, including the definition of floor area; gross.

Stiles noted that she will be out of town for the July meeting.

ADJOURNMENT

At 9:09pm, Simms MOVED and Zurbuchen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 3-0 ON A VOICE VOTE.

Matt Reed, 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.



TO: Planning Commission

FROM: Denise Swinger, Planning & Zoning Administrator

DATE: July 3, 2017

RE: Short Term Rentals and Pocket Neighborhood Developments

The review of text amendments to short-term rentals has been taken off the agenda for now. We will not be reviewing it at this time as Council is currently working on the transient occupancy tax issue. Depending on the direction Council decides to take on this issue, will determine amendments to the existing language.

We have pushed back the date to present the Pocket Neighborhood Development legislation to the July 17th meeting of Council. In reviewing each section to report to Council, I found a couple of areas that raised questions. After reviewing the minutes of previous Planning Commission meetings and not finding any answers, I decided to bring these back once more since we had the time. There are four sections to review and are detailed below:

- **Text Amendment – Adding Pocket Neighborhood Developments To Residential A, B And C**

<i>Table 1248.02 Schedule of Uses: Residential Districts</i>				
<i>Use</i>	<i>R-A</i>	<i>R-B</i>	<i>R-C</i>	<i>Specific Conditions</i>
Residential				
Accessory dwelling unit	C	C	C	Section 1262.08(e)(1)
Accessory buildings, structures and uses	P	P	P	Section 1260.04
Bed and breakfasts	C	C	C	Section 1262.08(e)(2)
Boarding homes			C	Section 1262.08(e)(3)
Continuing care retirement community		C	C	
Day care, family	P	P	P	
Day care, group	C	C	C	

Dwellings, attached single-family		P	P	
Dwellings, Multiple-family		C	P	
Dwellings, Pocket Neighborhood Developments	C	C	C	Section 1262.08 (e)(6)
Dwellings, single-family detached	P	P	P	
Dwellings, two-family		P	P	
<u>Pocket Neighborhood Developments</u>	<u>C</u>	<u>C</u>	<u>C</u>	Section 1262.08 (e)(6)
Short-term rental units	C	C	C	Section 1262.08(e)(7)

Currently we have pocket neighborhood developments under the description for dwellings, but in this proposed language, PNDs are actually comprised of two types of dwellings (single-family detached and two-family). I recommend we remove PNDs from dwellings and insert it separately so that it is listed as an option under Residential, like short-term rental units currently is.

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- **Text Amendment – Principal Use per Lot**

1260.04 USES.

(d) Principal Use per Lot. A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building, except for groups of multiple family dwellings, agricultural buildings, approved mixed use developments, Planned Unit Developments (PUDs), Pocket Neighborhood Developments (PNDs), or commercial or industrial buildings determined by the Planning Commission to be a principal use collectively, based on meeting all of the following criteria:

- (1) Individual buildings share common parking areas, signs, access and similar features;
- (2) Buildings are under single ownership in commercial and industrial developments and land is under single ownership in residential pocket neighborhood developments (PNDs);
- (3) Individual activities support one another (such as auto sales/vehicle repair or gas station/restaurant/convenience store); or
- (4) Buildings are architecturally unified and compatible.

Above is the amendment Planning Commission voted in. After looking at it again, it is not possible to meet ALL of the criteria requirements, especially for PUDs. Prior to this amendment, it stated buildings are under single ownership. That may have worked for Millworks and later DMS, but that isn't always going to be the case. Take for example the CBE, a PUD where buildings will not be under single ownership, but individual lots will be sold and buildings will be individually owned.

In discussing this with other staff, a recommended change below is suggested. If there is a way to modify this so the Planning Commission has a guide for what the principal use is collectively, we should also consider that. The issue with the language as it stands now and as we are proposing to Council is that it is not possible to meet ALL of the criteria as it suggests.

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- ~~— (3) Individual activities support one another (such as auto sales/vehicle repair or gas station/restaurant/convenience store); or~~
- ~~— (4) Buildings are architecturally unified and compatible.~~

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- **Text Amendment - Conditional Use Requirements.** Please see *J. Other PND Standards* for questions needing clarification. I've included the entire chapter as a reference.

1262.08 SPECIFIC REQUIREMENTS.

(e) Residential.

(6) Pocket Neighborhood Developments (PNDs).

The following regulations apply to Pocket Neighborhood Developments (PNDs):

A. Location:

1. Pocket Neighborhood Developments may be considered in only the three residential districts; Residential A ó Low Density Residential District,
2. Residential B ó Moderate Density Residential District
3. Residential C ó High Density Residential District.

B. Density and Minimum Lot Area:

1. In Residential A, the permitted density shall be a maximum of 6 units per acre.
2. In Residential B, the permitted density shall be a maximum of 8 units per acre.
3. In Residential C, the permitted density shall be a maximum of 14 units per acre.
4. The minimum lot area for a PND is equal to the minimum lot requirements for the corresponding residential district.
5. On a lot to be used for a PND, the lot size maximum must be under five acres.
6. On a lot to be used for a PND, a minimum of 4 dwelling units around a common open space area are required.

7. On a lot to be used for a PND, an existing single-family dwelling or duplex structure, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased, and the existing structure will factor into the maximum lot coverage permitted for that residential zoning district. An existing single-family dwelling or duplex structure will only count as one dwelling unit towards the minimum of 4 dwelling units as noted in section B.6. An existing accessory dwelling unit (ADU) will not be allowed in a PND. An existing ADU may be converted to another use such as a storage building or HOA community room.

C. Height Limit and Roof Pitch

1. The height limit permitted for structures in PNDs shall be a maximum of 35 feet for each dwelling unit, and rooflines must present a distinct profile and appearance and express the neighborhood character.

D. Lot Coverage

1. The maximum lot coverage permitted for principal and accessory structures in PNDs shall be limited to that allowed in the corresponding residential zoning district. Because PNDs shall be located on one lot under the control of a Home Owners Association (HOA, the developer and/or the Greene County Engineer shall determine the lot area for each individual dwelling unit, and these individual lot area measurements will be used to determine future accessory structures.

E. Yard Setbacks

1. Front and Rear Setbacks shall be equal to the setback requirements in the corresponding residential districts and will be measured from the perimeter property lot line. The front yard setback shall be measured by where the road frontage is and not the lot line of the land owned by each individual property owner within the PND. The side yard setback is a minimum of 10 feet between the eaves of each dwelling unit.
2. Frontage on a public street is not required for individual lots in a PND provided that the Planning Commission determines through the site review process that the development provides for adequate access to the lot via easements, shared driveways or other means.

F. Required Common Open Space

1. A minimum of 400 square feet of common open space is required per dwelling unit with a minimum of 200 square feet of contiguous usable open space adjacent to each dwelling unit with no dimension less than 10 feet. Up to 200 square feet of the open space can be private. Front porches are not included in the private open space calculation, and no more than 50 percent of the private open space can be within an unenclosed covered patio. At least 50 percent of the dwelling units shall abut the common open space, all of the dwelling units shall be within 60 feet walking distance to the common open space, and the common open space shall have dwelling units abutting at least two sides.

G. Parking

1. One and one-half spaces per dwelling unit shall be required.
2. Location:
 - a. Parking shall be on the PND property with a plan approved by the Planning Commission to ensure that parking is as unobtrusive as possible. The parking

requirements and landscape requirements in the PND shall be limited to that allowed in the Yellow Springs Zoning Code. Parking areas are excluded from the calculations of common open space.

H. Lighting

1. Lighting fixtures shall be equipped with cutoff elements to direct light downwards and prevent light spill or trespass beyond the boundaries of the individual dwelling unit lot areas.

I. Utilities

1. A Utility Vault will be required where all meters can be located.

J. Other PND Standards:

1. PNDs are limited to detached single family dwelling units in R-A, Low Density Residential. In R-B, Moderate Density Residential and R-C, High Density Residential, up to 50 percent can be two-family dwellings. *Do we want to consider single-family attached in R-B, R-C or both? If so, what percentage? Single family attached and two family are allowed in R-B and R-C in the ZC. Neither are allowed in R-A.*
2. Accessory structures shall be allowed and must not exceed 66 percent of the primary dwelling unit gross floor area??? Current code allows for square footage total of all floors or 800 square feet, whichever is less, and must be outside of the required exterior setback. Accessory structures cannot be located between road frontages and dwelling units. ??? This needs clarification. Must be located within the lot line boundaries???
3. Accessory Dwelling Units (ADUs) shall not be allowed in PNDs.
4. A PND shall be located on one lot with all common open space under the control of a Homeowners Association (HOA). Prior to *final plat approval*, ??? *This is not a PUD where there is a preliminary meeting and then a final plat approval meeting. Should we change this?* the developer will provide a set of conditions, covenants and restrictions (CC&Rs) for the Pocket Neighborhood Development, which shall be reviewed and, if approved by the Village of Yellow Springs, shall be recorded with Greene County. The CC&Rs must create a homeowners association that will provide for maintenance of all common areas in the Pocket Neighborhood Development.
5. The dwelling units may be individually owned or rented with no more than 50 percent rentals.
6. A Level B site plan review is required for approval of the Pocket Neighborhood Development conditional use. Prior to submittal to the Planning Commission, the Level B site plan shall be reviewed by a designated Village of Yellow Springs engineer, who will provide a written report of findings for the Planning Commission. The engineer will be present at the conditional use hearing to answer questions related to their findings.
7. Pedestrian pathways must be included to provide for movement of residents and guests from parking areas to homes and other amenities. These pathways must be shown on the site plan and be part of the common areas/tracts.
8. Other considerations not addressed specifically, shall follow the requirements of the Yellow Springs Zoning Code.

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- **Text Amendment - 1284.03 Definitions C-D**

~~**Cluster housing.** An arrangement that allows detached dwelling units to be grouped in such a way as to trade the open space usually surrounding individual structures for common open space.~~

We are still removing the definition of cluster housing from the zoning code. This is being replaced by the Pocket Neighborhood Development definition so no changes to this are necessary.

Below are the definitions for types of dwellings. As suggested under Table 1248.02 Schedule of Uses, PND should be removed from the definition of a dwelling as it is a regulatory development tool like a Planned Unit Development, and not a specific type of dwelling unit.

Dwelling:

(1) Dwelling, multiple family. A building designed for occupancy by three or more families living independently of one another.

(2) Dwelling, single-family. A detached building designed exclusively for and occupied exclusively by one family.

(3) Dwelling, single-family attached. A multiple-family building containing at least three dwelling units; in which each unit has its own front and rear access to the outside on the ground floor; and where units share one or more common walls but not a common floor/ceiling

(4) Dwelling, two-family. A building consisting of two dwelling units or designed for or used by two families or housekeeping units living independently of one another. May also be referred to as a duplex.

(5) Dwelling, manufactured home. See "manufactured home."

(6) Dwelling, Pocket Neighborhood Development (PND). **A detached building designed as part of a group of dwelling units that are individually owned, trading individual open space for common open space and for which each unit is occupied exclusively by one family.**

Should this even be in there? A PND is a plan like a PUD and the type of dwellings allowed are mentioned elsewhere. If you do decide to keep this, then we need to consider the word "detached" since we are including two family units and will be considering whether or not to add single-family attached.

See you Monday night!

Respectfully submitted,

Denise Swinger