

**Planning Commission
Regular Meeting Minutes**

Council Chambers 7:00pm

Monday, August 14, 2017

CALL TO ORDER

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

ROLL CALL

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

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of July 10, 2017 were reviewed. Zurbuchen MOVED to APPROVE THE MINUTES AS WRITTEN. Pelzl SECONDED and the MOTION PASSED 3-0 with Hempfling and Stiles abstaining.

COMMUNICATIONS

There was one communication stating support for the proposed PND addition to the zoning code.

OLD BUSINESS

NEW BUSINESS

There was no New Business.

COUNCIL REPORT

CITIZEN COMMENTS

PUBLIC HEARINGS:

- 1) Rezoning Application of Trish Gustafson and Carol Smith have applied for a rezoning of their property abutting 422 N. High Street of Parcel ID #F16000100090001700 to Residential B of Moderate Density Residential, upon approval by Village Council of their Type II Annexation application.

Swinger explained that Trish Gustafson and Carol Smith have applied for a map amendment to rezone their property to Residential B, Moderate Density Residential, and identified as Parcel ID F16000100090001700, which abuts their property identified as Parcel ID #F19000100010004800 and is zoned R-B.

The property identified as Parcel ID #F16000100090001700 is currently in Miami Township. After the Village of Yellow Springs annexed the Glass Farm, this property and another at 505 King Street became what is known as an island, which is unincorporated territory surrounded by annexed territory. This is no longer allowed when annexation is being considered under the current Ohio Revised Code. Because this annexation request does not expand Village borders, Village Council passed legislation saying they would provide the necessary safety services. The property owner then applied to Greene County for a Type II Annexation. Greene County held a public hearing, and after a waiting period to give the township and residents time to object, the County accepted the annexation. The final step to this annexation process is Council's approval, which will be voted on by resolution on August 21st.

When a property is annexed into the Village of Yellow Springs, it comes in as R-A, Low Density Residential. The abutting property owners along North High Street and Fairfield Pike are zoned R-B. The property owner wishes to rezone it to R-B.

With Planning Commission's recommendation, and Council's approval of the annexation, Council may then pass by Ordinance to accept this rezoning at their meeting on August 21st. After the annexation is approved, the property owner intends to file a replat application to combine the two lots, and a zoning permit can then be issued for the single family dwelling if all the requirements for R-B are met.

Staff recommends approval of this rezoning as it will not create a "spot zone" and by doing so will enable the applicant to replat so that the lot and its frontage on North High will enable access to this acreage without requiring an easement for ingress and egress. The property owner intends to build one single-family dwelling with a mother-in-law suite on this property and does not intend to subdivide the property during her ownership.

Staff have planned a meeting with Brentwood Builders, who will be building the desired structure.

Zurbuchen received confirmation that "Lot 13" is in the Village and that utilities can be extended to the property. (Swinger later corrected herself stating that she meant to say that Lot FOUR, which is in the Village will have utilities extended from the rear of the property)

Zurbuchen asked whether Gustafson had reached any agreement with the owner of the property to the north, with whom it appeared that she shared a driveway. Swinger opined that the neighbors had been in communication.

Hempfling voiced an objection to the zoning requirement that all property annexed into the Village default to come in as R-A. This was discussed as a potential future topic.

Reed OPENED THE PUBLIC HEARING.

Duard Headley, adjacent property owner, asked why it mattered how the zoning comes in to the Village, given the property owners intent for the property, but stated that he had no objection to the request.

Reed CLOSED THE PUBLIC HEARING.

Stiles received confirmation that there is an outbuilding on lot 4.

John Harkleroad of Brentwood Builders addressed a question posed by Pelzl, who wondered if the two lots would be combined after the annexation occurs. Harkleroad opined that the lots were to be combined.

Harkleroad deflected a question from Pelzl regarding lot splits in the future, stating that his information was that the property owner intends the area to remain as a family home "for generations to come."

Harkleroad returned to the podium to retract his earlier opinion that the lots were to be combined. He stated that in looking at paperwork at present, it was not clear to him if the intention is to combine the lots.

Swinger stated that it is her understanding that the lots are to be combined, but that this is not a substantive issue, since both lots belong to the property owner.

Harkleroad addressed a question posed by Pelzl, stating that the property owner is not present due to family matters.

Jim Mayer posed a number of questions based upon his apparent concern that a pocket neighborhood could be built on the land if the PND legislation were to become part of the zoning code.

Zurbuchen pointed out that the property owner plans to build only one other home.

Mayer commented that the land has sold twice. He stated his concern as that he has plans to build a picture window and does not wish his view to be obstructed in the future.

Zurbuchen MOVED TO APPROVE THE REQUESTED ZONING CHANGE FROM R-A to R-B.
Hempfling SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

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

Reed noted the letter received from Jane Baker, Barbara Boettcher, Cindi Remm and Pat Stempfily in support of the addition of pocket neighborhood developments to the zoning code.

Swinger introduced the topic, explaining the process in general. She noted that a presentation was given to Council at their July 17th meeting. While showing images of pocket neighborhoods and examples of different types of site plans, she provided an overview of the pocket neighborhood concept, its definition, the HOA and common open spaces areas, in addition to highlighting the main conditions proposed in Chapter 1262.08 Conditional Use Requirements.

Swinger moved into the text amendments, first discussing B.7 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. An existing ADU may be converted to another use such as a storage building or HOA community room.

Swinger asked for clarification as to what the existing dwelling can be used for. After a brief debate, PC agreed as a group to keep any restrictions to a bare minimum so as to not limit the developer in what he or she might be envisioning, and to allow an existing ADU to be converted to an HOA-owned facility.

A. 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.

Regarding the height requirement, Swinger asked whether PC wanted to limit dwelling height and PC as a group again opined that the developer should not be limited.

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.

Swinger asked to add the words, “unless single family attached” to the last sentence, and this was approved.

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.

Swinger asked for clarification of this condition, expressing confusion as to the nature of the private open space. She stated that dwelling units are typically clustered around a common open space, which would comprise the 200 square feet of contiguous open space. She expressed that she did not want so much private open space that homes are separated and become more like a traditional neighborhood.

Stiles suggested deletion of the word “common” in the first sentence. This was agreed-upon.

Pelzl suggested then deleting the sentence that “up to 200 square feet of the open space can be private.”

Stiles suggested that language stating that 400 square feet per unit be open space, of which 200 square feet must be open (common).

Zurbuchen read from one of the examples provided, and noted that to define open space without knowledge of the size of the property or the nature of the development seems odd.

Pelzl asked whether density is actually increased if the open space is required.

Stiles commented that it is difficult to know if the proposal will actually work.

Swinger noted that most of the examples she had provided have open/common space requirements.

Stiles suggested stating the requirement that there be 200 feet of contiguous open space provided per unit, and leaving the requirement at that.

This was generally agreed-upon.

Pelzl asked that the requirement of no dimension less than 10 feet be retained in the condition.

Swinger read through the condition as amended, as follows:

A minimum of 200 square feet of contiguous usable common open space is required per dwelling unit with no dimension less than 10 feet. 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.

This was agreed upon by all present.

Swinger raised the issue of parking, and PC discussed this requirement as follows: *A question was raised about parking spaces being close enough to the units since garages will not be attached. Dwelling units must be within 60 feet of common open space, but there is no such requirement for parking. How many feet in walking distance should the parking spaces be? If we are not allowing accessory structures then should we state that a row of garages or carports are allowed in the parking area?*

Stiles wondered about loading and unloading of groceries and other items, particularly for senior citizens, stating that older citizens would be likely to want proximity.

Hempfling raised the possibility of a common carport, and the possibility of pulling into the common space if necessary.

The group determined that they wanted this left open, to be determined by the Planning Commission.

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 Planning and Zoning codes. Parking areas are excluded from the calculations of common open space.

Planning Commission decided to let the language stand as written.

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 either two-family dwellings and/or single-family attached.

In other codes, a second cluster of homes can be added if the first cluster exceeds 12 units) in order to keep a neighborly feel to the common area. Typically, they do not exceed 2 clusters. If we add this, should we keep the definition of "cluster" housing?

Planning Commission discussed how this would look in practical terms, and decided to leave this section as is.

Accessory structures and accessory dwelling units are not allowed.

Should we say, unless it is a storage area attached to a dwelling unit or garages/carports in designated parking areas, or a storage area, community room or swimming pool under the control of the HOA?

The group discussed the above concept, noting that this does not eliminate the ability of the developer to provide common storage or even common guest areas.

Swinger suggested adding the language privately held as a clarifying prefix to the sentence. This was agreed-upon.

Planning Commission discussed the addition suggested below by Swinger, agreeing not to add additional language.

Homeowner's Association (HOA). A draft of the conditions, covenants and restrictions (CC&Rs) shall be provided to the Planning Commission during the Level B site plan review meeting, with final approval of the CC&R by staff. Once approved, the CC&Rs shall be recorded with Greene County. The CC&Rs must create a homeowner's association that will provide for maintenance of all common areas in the PND.

Swinger asked for input on the statement below, explaining the concern expressed by Council that the rental units could be purchased for the purpose of running AirBnB type establishments.

The dwelling units may be individually owned or rented with no more than 50 percent rentals.

Stiles suggested that the HOA would control this possibility.

Pelzl commented that if there is one owner for the property, they could control this language and thus the use of the rentals.

Hempfling asked whether PC could set conditions upon the HOA such that this use would not be permitted.

Pelzl suggested adding this language now.

Stiles commented that an AirBnB is antithetical to the notion of a PND.

Reed countered, noting that this could be used as a tool by owners to assist in affordability.

Hempfling commented that the matter may be addressed but that it is still trying to be figured out.

Pelzl stated that PC needs a definition of short term so that they can regulate it properly.

Reed commented that Council needs to address the issue Village-wide.

The topic was discussed generally.

Pelzl commented that limiting a homeowner's ability to rent their own property is a stretch and stated that she needs a definition of short term so that this can be fairly addressed by Planning Commission.

Stiles commented that mortgage providers will often refuse coverage or increase the rate if a property is used as a rental.

Zurbuchen suggested that the section be left as is and this was agreed-to.

Swinger suggested the following language be added, and PC agreed:

Prior to the Planning Commission conditional use hearing, a preliminary meeting with utilities and

planning staff to review the project must be held.

Mailboxes shall follow the US Postal Service requirements for cluster box units (CBUs).

The above was added without further comment.

Reed OPENED THE PUBLIC HEARING.

Barbara Boetcher asked whether or not a homeowner of a unit in a PND owns the underlying land.

Swinger responded that the Greene County Engineer will create lot lines if the developer does not do so, for taxation purposes (meaning that the unit and land are owned by the property owner), and stated that common areas are then totaled and divided equally among the property owners for taxation purposes.

Pat Stempfily commented upon the complexity of the process and stated her opinion that PNDs will be a positive addition to the Village.

Reed CLOSED THE PUBLIC HEARING.

Zurbuchen received clarification that porches will not be part of a calculation of open space, private or public.

Swinger noted that number (8) covers landscaping and green belt concerns.

Stiles MOVED TO AMEND CHAPTER 1262.08 WITH AMENDMENTS MADE AS HERE LISTED. Pelzl SECONDED and the MOTION PASSED 4-0 ON A ROLL CALL VOTE. Hempfling Abstained for reasons of not feeling fully informed.

- 3) Amend Chapter 1284.03 Definitions: C-D ó modifying or removing the definition of cluster housing; adding the definition of common open space.

Swinger suggested a change to the Common Open Space definition as follows in italics and strikethrough:

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, street right-of-ways, exterior setbacks, driveways, required yards and utility easements, except for recreational structures, and which is outside of streams, wetlands and their buffers, and on slopes of 10 percent or less and developed and maintained so it is usable for active or passive recreation activities which is generally for the purpose of active or passive recreation.

Reed OPENED THE PUBLIC HEARING.

There being no comment, Reed CLOSED THE PUBLIC HEARING.

Stiles MOVED TO AMEND 1284.03 WITH STAFF-SUGGESTED CHANGES. SECONDED and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

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

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

Swinger noted that changes had been approved to both sections in a prior meeting, but that she had included them as reference.

OLD BUSINESS

Process for Comprehensive Land Use Plan. Swinger commented that Planning Commission has too much on its plate at present to devote the needed time to this item.

NEW BUSINESS

Housing Needs Assessment Review. Swinger explained that Councilperson MacQueen had asked that the draft HNA review be presented to PC for their comment and information, noting that this will appear in the Council packet on September 5th.

Zurbuchen commented that she had some questions regarding the HNA, particularly the budget.

Pelzl expressed interest in joining any Housing Needs committee which may be formed.

Zurbuchen commented that the HNA process may be a good way to finally determine how many short term rental units there are in the Village.

Hempfling commented that that information should be available prior to the HNA regarding short term rentals, given that the proposed lodging tax should determine that information.

Zurbuchen received confirmation that no steering committee has yet been formed. She commented that some of the information requested seems to be the purview and job of the Planning Commission. She commented that PC should be made use of.

Pelzl stated that she liked the idea of a steering committee for a short term project and as aid to the Planning Commission's work.

Swinger commented that the RFP provider is expected to utilize local resources.

AGENDA PLANNING

Swinger noted that the next meeting of planning Commission will be held on September 25th, so that the Commission can hear a Final Plan Phase One for a portion of the CBE property.

Cresco will be in attendance on September 25 for a site plan review for their property.

Swinger shared that state licensing has been somewhat delayed, and that at this point a licensing determination is not expected until late October or November 2017. She noted that those selected companies are expected to be producing by fall of 2018.

Swinger noted that short term rentals will return to Planning Commission once Council makes a decision regarding lodging tax.

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ADJOURNMENT

At 8:28pm, Zurbuchen MOVED and Simms SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 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.