

**Planning Commission
Regular Meeting Minutes**

Council Chambers 7:00pm

Monday, December 11, 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 Representative Gerald Simms, Susan Stiles Rose Pelzl and Frank Doden. Also present were Denise Swinger, Zoning Administrator, and Jessica Walker, Village Solicitor.

REVIEW OF AGENDA

Reed approved moving the Transient Guest Lodging Fee matter ahead of the site plan review so that Doden could then recuse for the second hearing.

REVIEW OF MINUTES

Minutes of November 11, 2017 were reviewed. Stiles MOVED to APPROVE THE MINUTES AS WRITTEN. Simms SECONDED and the MOTION PASSED 4-0 with Pelzl abstaining due to late arrival at that meeting.

COMMUNICATIONS

The Clerk will receive and file:

Luke Dennis re: Support of Conditional Use
Katharina Seidl re: Support of Conditional Use
David and Sheryll Kent re: Opposition to Conditional Use
Krista Magaw re: Support for Conditional Use

COUNCIL REPORT

Simms noted that the Utility Dispute Resolution Committee was reconfigured. He noted that Melissa Dodd has updated the website to address the questions and needs of those seeking to operate or file taxes for transient guest lodgings.

Simms spoke a farewell to the Commission members, encouraging them to stay true to their values and to speak up.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS:

1. Text Amendment to Fee Schedule - The Village of Yellow Springs is submitting a text amendment to the Zoning Code's Appendix A's Fee Schedule to establish a fee for the new Transient Guest Lodging permit.

Swinger explained that at Council's September 5th meeting, they passed the second reading of an ordinance creating a lodging tax in the Village. The tax impacts operators of transient guest lodging establishments defined as rentals of properties for fewer than thirty days. The Village of Yellow Springs Council recently amended the zoning code to allow Transient Guest Lodging as a permitted use.

As part of the approval process, owners of Transient Guest Lodging establishments will complete an application form. Attached with the application form are a list of Frequently Asked Questions the Finance Director Melissa Dodd developed. Staff is suggesting an amendment to the fee schedule allowing for a Transient Guest Lodging zoning permit fee of \$25. This fee will help offset the cost of processing the application by both the Zoning Administrator and the Finance Director. Once approved by zoning, a copy of the permit will be kept in the Planning & Zoning address files, and a copy will be given to the Finance Director to set up the collection of taxes.

Reed asked whether Council had discussed any fee during their hearing on Transient Guest Lodging, and was told that they did not, but that the recommendation will go back to Council.

Reed OPENED THE PUBLIC HEARING.

There being no comment, Reed CLOSED THE PUBLIC HEARING.

Swinger noted that the forms are now on the website, and once submitted and reviewed by Swinger, she will contact the petitioner and obtain the fee and issue the permit.

Stiles MOVED TO APPROVE a text amendment to establish a Transient Guest Lodging permit fee at a rate of \$25.00 per permit. Doden SECONDED, and the MOTION PASSED 5-0 on a roll call vote.

2. Conditional Use Application and Site Plan Review ó B-2, General Business District óThe Yellow Springs Brewery has submitted a conditional use application for the purpose of establishing a brewpub for private events, including a retail area for merchandise, an outdoor patio and a storage area for their craft beers at 1475 Xenia Avenue. Parcel ID #s F19000100060009000; F19000100060009100

Swinger explained that the applicant is requesting a conditional use permit to allow for a special events brew pub and has provided additional information to support their application. The Yellow Springs Brewery has grown rapidly since it began operations just four years ago. The owners have already expanded their operations at the Millworks location since they first opened and now intend to separate their special event customers from their general brewery customers to lessen the impact on their original location.

In purchasing the building at 1475 Xenia Avenue, their plan is to use the space for private party and special events, and for the production and cold storage of their craft beers. There will be a retail area for the sale of merchandise and products (craft beers), a rooftop and ground level patio, and an outdoor fire pit.

Swinger referenced provided renderings of the proposed space, noting an outdoor stairway and upper deck area.

Swinger noted that the conditional use requested is that of brew pub, which is conditionally permitted in the B-2 district.

Swinger noted that she had plotted in the setback requirements, and noted that some of the conditions are grandfathered in, due to the age of the structure. She noted that if the setback is 50% or less of the requirement, the owners are permitted to build an addition along the same plane of the original building.

With regard to parking, Swinger noted that there are several locations within the structure where customers can congregate, so the parking calculation has to be determined with regard to whether all locations are likely to be filled at any given time.

Stiles received confirmation that Swinger's calculation of 70 required spaces does take into consideration all possible areas of the space. She stated that this will need to be asked of the owners.

Swinger noted abutment of a residential district at the rear, stating that while the bulk of activity will be on the Xenia Avenue side of the structure, this abutment needs to be taken into consideration.

In the same vein, Swinger stated that there will be two coolers placed outside, and the potential noise level for these needs to be taken into account with regard to the neighboring properties.

Swinger made note of the storm swale design. She commented that because this is an existing site, where no more impervious surface will be added, she did not require a storm water mitigation plan.

At this point in the hearing, Doden recused himself for potential conflict of interest.

Ted Donnell, Architect representing the Brewery, addressed the Commission. He noted that the lot is currently 100% impervious, paved surface. He noted a lot 50 feet wide which is adjacent to the current Brewery property, and for which there is a purchase agreement pending. Donnell stated that this 50 foot lot will then become a part of the YS Brewery lot under consideration by the Planning Commission.

The most significant change to the Brewery lot, Donnell explained is to move the curb cut farther south to ease entry and egress for trucks, and to expand and improve the existing storm swale. Downspouts will be tied into this basin.

Donnell stated that what will be added to the site is in response to the high number of private events which are being held at the Brewery currently, and which are beginning to squeeze out regular casual patrons. The business will be named "YSB Private Party" and will accommodate events.

Donnell noted that if the space at Millworks would ever be lost, the location could then serve both options. He noted that the brewpub use is conditionally permitted in that area, and that all beer is made and sold onsite as an extension of the licenses held at the Millworks location.

With regard to parking, Donnell stated that he calculated maximum numbers of patrons based upon the maximums permitted by the Ohio Building Code. Donnell's total occupancy calculation was a total of 159.

Simms asked how many persons would be permitted on the rooftop and how that would be controlled.

Donnell responded that this would be done by headcount and consistent monitoring.

Responding to a question from Stiles, Donnell stated that the number of required parking spots he has calculated is a maximum of 46.

In answer to a question from Stiles, Donnell stated that there will be no parking lot lighting added. There will be lights on the building to direct persons to the patio area.

Simms commented upon a concern regarding patio noise expressed by a citizen.

Donnell noted that the patio is a meet and greet area which is fairly contained and should not pose a noise issue.

Donnell acknowledged that the more likely source of noise would derive from the rooftop patio, which he has designed with a popped up roof area meant to divert sound and alleviate roof drainage issues. Donnell noted that the rooftop patio would not make any more noise than that emanating from US 68. He noted that the Brewery has an excellent track record with regard to noise, having only two complaints since its inception, to which the owners responded readily.

Pelzl asked about use of the space for music venues and was told that there will not be live music outdoors, and that if there is live music indoors, it would be associated with an event.

Reed made note of Swinger's listing of the requested hours, commenting that because the intended space is for private rentals and special events, the Yellow Springs Brewery wishes to keep the hours flexible to accommodate customer desires. They have not determined the hours for the retail store, but intend to have it open during the private events. They anticipate most requests to be between the following hours, although it could differ according to some customer needs:

Mon-Thurs 5-11pm
Fri. 3pm-12am
Sat. 12pm-12am
Sun 12pm-10pm

Reed asked how these requested hours differ from those currently held by the Millworks location.

Lisa Wolters, YS Brewery co-owner, stated that current hours at Millworks are M-F 3-10pm; Saturday 1-10 and Sunday 1-8. She noted that she believes that the hours requested should accommodate any requests made.

In response to a query from Pelzl, Wolters stated that the business would like to be as responsive to requests as possible as they start up this aspect of their business.

Stiles asked whether the Sunday hours could be shortened to accommodate neighboring homes.

Wolters commented that while she is willing to adapt, she would like to be able to be as responsive as possible.

Stiles commented that she would like to see the business accommodate the need for children to go to bed at earlier times.

Pelzl commented that enforcement of the noise ordinance in those instances would be appropriate.

Donnell commented that the YSPD would be responsive to complaints.

Reed responded that this measure is far from perfect, given the difficulty of measuring sound.

Donnell argued that enforcement of noise ordinances is very difficult as is controlling ambient sound.

Reed commented that deck hours could be limited as a response to noise concerns.

Simms stated that the design of the deck would mitigate sound, and that he would oppose limiting deck hours, noting that this might take care of itself given the season, since the area would be more popular during summer hours when school is not in session.

Simms inquired as to a requirement for trees in the parking area, and was told that there are no requirements being imposed, given that it is an existing surface.

Reed asked about the noise reading on the outdoor coolers.

Donnell noted that there are currently two ground-mounted compressors which will service the coolers, so that noise is currently happening.

Swinger asked how casual walk in purchasers would be prevented from joining a private event.

Donnell responded that this would have to be self-regulating to an extent.

Reed asked what would need to occur if the YS Brewery wanted to convert the structure to a tap room.

Donnell noted that a brew pub is permitted with conditions in that area, and that by definition, the business would be permitted to make and sell beer on the premises. Permission to move forward with the brew pub will automatically permit future use as a taproom if that situation would arise.

Pelzl asked whether the PC could enact restrictions which could prevent use as a taproom.

Donnell responded that if Millworks were to close, and the Brewery needed to move operations, the owners should have the ability to move their operations to the Xenia Avenue location.

Pelzl raised the issue of food trucks, and Swinger stated that she needs to research this further to determine whether the omission of food trucks in any capacity in the B-2 is an error in the zoning code, or was done purposefully.

Pelzl sought clarification as to what things can be permitted or not permitted with regard to the application and based upon the concerns of the neighbors.

Donnell stated that it would need to be stated why the condition was being imposed, and that this could not be arbitrarily done based simply upon an unfounded concern.

Swinger noted that her parking calculation comes out nearly the same as Donnell's.

Reed OPENED THE PUBLIC HEARING.

David Kent, an adjoining neighbor to the Brewery, submitted a petition from residents concerned about potential noise. Kent described the current neighborhood setting and expressed his concern regarding hours going past 10pm and generating noise.

Kent stated that he has windows facing the patio area, and expressed further concern from patron talking and his ability to keep his windows open at night for that reason. He asked that the later hours be limited.

Sally Malone, a Lisa Lane resident, expressed concern regarding the outdoor patio, stating that it would generate excessive noise.

Malone commented that 49 parking spaces is too few, and wondered where food trucks would park if they are permitted.

Malone asked whether a fence would be erected on the alley, and asked where smokers would go.

Gary Bayard, a member of the neighborhood, noted that while the bowling alley/sports bar was located in the same location there was noise, but not to an excessive degree. He commented that the noise from passing motorcycles and trucks exceeded that of the establishment. Bayard commented that the design of the building should mitigate the noise effectively. He expressed approval for the use.

Sally Malone asked whether the residents would need to vote on a liquor license and asked whether patrons would be permitted to bring liquor in for events.

Donnell responded that the current license permits sale of beer brewed on the premises only, and that any expansion of that license would need to occur as a ballot initiative for residents of that area of town.

Donnell clarified that the business would be a walking destination, which would mitigate the parking concerns expressed by Malone. He pointed out a smoking area on the premises, bicycle racks, and an area of the parking lot separate from the parking spaces which could be used for food trucks.

Donnell then noted that placement of the coolers will mitigate sound from the patio to some extent.

David Kent noted that there is a space between the cooler and the wall which would permit sound travel. He asked whether a fence could be requested, or some other sound barrier.

Donnell commented that the greater sound emanation would be from the rooftop area. He commented that visibility from and to the alley is a safety issue which he would not be comfortable changing through construction of a fence.

Reed CLOSED THE PUBLIC HEARING.

Stiles received confirmation that the decibel level is required to drop from a permitted 65 to a permitted 45 decibels after 10pm and before 7am.

Stiles noted that she did not hear a lack of support, only an expression of concern regarding sound.

The Commission discussed the parking concern, with Swinger explaining her calculation rationale.

Simms noted that the bicycle racks can affect the number of required parking spaces. He commented that he is satisfied with the number of parking spaces shown.

Reed polled PC members, with each expressing their approval of the number of spaces shown.

Stiles expressed her sympathy for the noise concerns, noting that it is burdensome to have to report these concerns in order for them to be addressed.

Simms commented that he did not think that events would run right up to the last minute, noting that the Brewery has been good about moving people along prior to closing time and was inclined to permit the requested hours.

Reed suggested limiting the hours to start, then increasing the hours if there have been no issues.

Wolters commented that the hours currently permitted the Brewery at the Millworks location are until midnight each day, but that she and her partner choose to close earlier because it suits their lifestyle. She asked again to have the options available. Wolters noted that she and her partner live on Brookside Drive, in that neighborhood, and are consequently very cognizant of noise issues.

Pelzl expressed discomfort in limiting the hours any more than they are currently limited at the Millworks location given that the business is in an area zoned for business.

Stiles commented that businesses that sell alcohol do generate more noise than businesses which do not, and that consideration should be given to the neighbors.

Bob Baldwin commented that he had run the bowling alley in that location in years past. Baldwin argued that there should be later hours on weekend nights, but should be 9pm on weeknights. He commented that the village has enough businesses serving alcohol currently.

Nate Cornett, YS Brewery owner asked for the later hours as an option, stating that the owners are not interested in being out late nightly. He commented that the louder areas face the highway, and that sound is mitigated to the greatest extent possible. Cornett stated that the owners would be responsible in communicating the need for restraint on the part of revelers after 10pm.

Pelzl and Simms communicated that they did not foresee a nightly noise issue, and suggested approving the requested hours.

Simms MOVED to APPROVE the hours as requested. Pelzl SECONDED, and the MOTION PASSED 3-1 on a roll call vote, with Stiles voting against. Those hours are as follows:

Mon-Thurs	5-11pm
Fri.	3pm-12am
Sat.	12pm-12am
Sun	12pm-10pm

PC discussed screening possibilities.

Donnell stated that a fence could be erected, but would cause blind spots in the alley and would likely do little to mitigate sound.

Swinger asked that sign off by Village staff on the storm water mitigation plan be one of the conditions.

Simms MOVED to APPROVE the conditional use for a special events brewpub and retail store as requested, with a minimum of 48 parking spaces as proposed and with a bike rack provided, and with the condition that Village Utility Superintendent must sign off on the storm swale design. Stiles SECONDED and the MOTION PASSED 4-0 on a roll call vote.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

Reed announced that he will be leaving Planning Commission as of February, and suggested that one of the sitting members consider taking the Chair position.

Swinger noted that this is Jessica Walker’s last meeting, as she will be leaving Coolidge Wall, and thanked Susan Gartner for her work with Channel 5.

AGENDA PLANNING

Stiles noted that she will not be available in January or February.

ADJOURNMENT

At 8:56pm, Stiles MOVED and Simms SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 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.