

**Planning Commission
Regular Meeting**

Virtual Meeting @ 7:00pm

Tuesday, October 13, 2020

CALL TO ORDER

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

ROLL CALL

Planning Commission members present via zoom were Frank Doden, Chair, Council Liaison Laura Curliss, AJ Williams, Dino Pallotta and Stephen Green. Also present were Denise Swinger, Zoning Administrator, Johnnie Burns, Public Works Director, Village Manager Josue Salmeron and Village Solicitor Breanne Parcels.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of September 15, 2020 Regular Meeting. Doden MOVED and Pallotta SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 5-0 on a voice vote.

COMMUNICATIONS

Lee Oesterling re: Pagosa Way Conditional Use.

COUNCIL REPORT

Curliss noted that Council had heard the first reading of the ordinance to approve the Comprehensive Land Use Plan, and had made the amendment to the plan to include Village properties located outside of the village to be included as considered for annexation on the future land use map.

Swinger noted that the motion to add either Medium density or conservation development to the Glass Farm did pass.

Salmeron explained further about the Village owned properties outside of the municipal limits being added to the future land use map, noting that these are all high-value Village assets.

CITIZEN COMMENTS

There were no public comments.

PUBLIC HEARINGS

1) Conditional Use Application — R-A, Low Density Residential District –Jeremiah and Alice Gaddy have submitted a conditional use application for an Accessory Dwelling Unit at 1415 Pagosa Way per Ch. 1248.02 Schedule of Uses: Residential Districts; Ch. 1258 Schedule of District Uses; Ch. 1262 Conditional Use Requirements and Ch. 1262.08 Specific Requirements - Property owners: James and Melissa Johnson. Greene County Parcel ID# F19000100170009000.

Swinger explained that the applicants want to construct an accessory dwelling unit as part of their plan for a single-family home on the lot addressed as 1415 Pagosa Way. The covenants in Birch III No. 14 do not allow outbuildings or garages to be used as a residence. Although the ADU will be located over the garage, it is within 10 feet of the main house (4.6 feet) attached by a covered breezeway, making the ADU part of an addition to the home and not part of an accessory structure.

Swinger explained that the stairs up to the proposed unit have been moved to the side of the house rather than the rear, per revised drawings.

Swinger noted the restrictions listed in the covenants, noting that in the absence of the matter being addressed specifically, it defers to the Village zoning code, where the use is conditionally permitted.

Swinger noted that if the petitioners wish to use the structure for Transient Guest Lodging rather than as an ADU, they will have to return to PC for permission. She also noted that the Birch III Development is supposed to have a Homeowners Association, which has not yet occurred. Once this body is formed, they may make amendments to the covenants, she said.

In response to questions from several PC members, Swinger stated that the zoning permit has not yet been requested for the property. She stated that she did not see issues with stormwater runoff.

Jeremiah and Alice Gaddy related that they have spoken to the neighbors who have expressed concern about the ADU, and plan to put up trees as screening, and to create a planted covering on the landing for the ADU.

Alice Gaddy stated that the dwelling is contemplated as a living space for family visitors at present, and would not be contemplated as an ADU until much in the future.

Jeremiah Gaddy stated that the couple had communicated with the entirety of Birch III to ensure that neighbors were aware of their plans. He stated that so far the only feedback had been positive.

Curliss pointed out covenant #14, which prevents garages from being used as any form of dwelling unit.

Parcels indicated that from the Village zoning code perspective, the structure contemplated is an ADU over a garage, and is not itself a garage.

Parcels commented further that it would be up to residents of the neighborhood to stated that they wish to interpret their covenants in a more restrictive manner than the Village zoning code; otherwise, and in the absence of a HOA, she has to use the Village code in enforcing zoning.

Doden OPENED THE PUBLIC HEARING.

Patti Bates, a neighbor, commented in favor of the application, stating that she agreed with Swinger's interpretation of the use as conditionally permitted as an ADU, and not as a garage. She commented that this structure is "an ADU built above a garage, and is not a conversion of the garage to an ADU."

Lee Oesterling, another neighbor, stated that he had spoken with the Gaddys regarding their concern with the stairs and the upstairs landing. He stated that Gaddys had agreed to upstairs screening, and stated that he prefers the current location of the stairs.

Doden CLOSED THE PUBLIC HEARING.

Curliss MOVED TO APPROVE THE CONDITIONAL USE APPLICATION with the conditions that the approval is based on the Village zoning code, and is not a comment upon the covenants and restrictions, and also that screening is provided on the landing area facing the neighboring property. Green SECONDED.

Swinger asked for clarification regarding the type of screening.

Pallotta received clarification that plants are permissible as a screening.

Doden CALLED THE VOTE, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- 2) Conditional Use Application - B-2, General Business District –1475 Xenia Avenue – Ted Donnell on behalf of Yellow Springs Brewery owners Nate Cornett and Lisa Wolters has submitted an application for an outdoor patio area at the brewpub's south location per zoning code Table 1250.02 Schedule of Uses: Business Districts; Ch. 1258 Schedule of District Uses and Ch. 1262 Conditional Use Requirements Greene County Parcel ID#F19000100060009200; F19000100060009100; F19000100060009900. Exuma Properties, LLC.

Swinger explained that in December 2017, Planning Commission reviewed plans submitted by Ted Donnell, the architect for the Yellow Springs Brewery. The conditional use hearing was for "*establishing a brewpub for private events, including a retail area for merchandise, an outdoor patio and a storage area for their craft beers.*" In November 2019, the applicants applied for an extension of their conditional use. Due to the changes to the original plan, Planning Commission reviewed the application in its entirety with a revised site plan, a floor plan, and exterior building changes. Planning Commission approved their application for establishing a space for private events involving tastings of their craft beers, and a brewing and storage area.

In the new proposal, the number of parking spaces is reduced from 48 spaces to 25, with two of these for ADA parking. They removed the 13 pull through parking spaces and use of their lot to the south (next to Dollar General). The roof terrace, the outdoor patio, deck, and the building expansion to the south for retail space was removed from the original plan.

What was once described as “bar area” on the 2017 drawings was labeled “quality control” in the 2019 plans, though the planned use was for private events. A portion of the seating area was replaced with designated barrel storage. Seating for 48 occupants was shown.

The brewery area on the 2017 drawing changed in 2019 to shipping and receiving, and two loading doors were shown on the drawings for the north side of the building instead of one. The south side of the building with the entrance to the “quality control” room was located in the same area as before with one overhead door for loading/unloading. The front west facing side of the building showed the entrance removed and relocated to the south side of the building. The curb cut and culvert remained in its current location unlike the 2017 plan, but with no change to the existing stormwater swale.

The existing building is located approximately 10 feet inside the setback area, 20 feet from the property line, and is grandfathered in for the existing portion of nonconformity (Ie, the building was conforming at the time of its construction). However, if the application is approved, the TOTAL outdoor patio area would be 26 feet inside the setback area of which 10 feet is grandfathered in, and would be located 4 feet from the property line.

Swinger stated that the proposed patio is not flat to the ground, but is raised, and so has to follow setback restrictions.

Ted Donnell presented for YS Brewery, as the architect. He made note of changes to the original design, noting a “control room” at the entry for the control of alcohol leaving the building.

Donnell touted the walkability of the building and the patio area. He noted that he would need to make the same argument before the BZA, regarding the setback variance.

In response to a question from Green, Donnell stated that the patio could not be on-ground due to the varied level of the building and the ground drop off.

Donnell noted that the patio would be located only on the west side of the building.

Pallotta asked about the location of the food truck as shown in the drawings.

Swinger commented uncertainty that the parking lot extends that far out to contain the truck.

Donnell stated that it does extend far enough to contain the truck. He stated that they have no intention of extending the asphalt area further.

Donnell commented that the patio will be about eight feet from the asphalt path, and four feet from the property line.

Doden OPENED THE PUBLIC HEARING.

There being no comment, Doden CLOSED THE PUBLIC HEARING.

Curliss MOVED TO APPROVE THE PATIO AS DRAWN BY THE ARCHITECT WITH THE FOLLOWING CONDITIONS:

- Applicant must obtain a variance to the front yard setback from BZA
- Stormwater plan approved by the Public Works Director
- Bike racks added (not showing in plan but a condition of approval in 2019)
- If the Village determines a need for more parking, the applicants agree to resurface and stripe southerly lot.
- Add a lighting plan approved by staff, showing low emission lighting and 90 degree cutoff lighting

Pallotta SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

3) Amend Chapter 1242 Zoning Districts and Maps - Section 1242.06: Uses Not Listed.

In explaining the reason for the amendment, Swinger described several occasions where a use not listed in a particular zoning district was not allowed because it is specified in another zoning district. She noted that this has happened in areas such as R-C and I-1.

Swinger stated that although section (c) allows staff to refer the determination to the Planning Commission, it is not clear if that is only when a use is not specified, but similar. Swinger stated that she would like Planning Commission to be able to consider on a case-by-case basis the circumstances in the spirit of promoting businesses, rather than just saying no when the situation may have little or no effect on the surrounding properties.

Doden clarified that these could then be considered on a case-by-case basis, if the Zoning Administrator had to deny the use.

Parcels advocated for the amendment.

Doden OPENED THE PUBLIC HEARING.

There being no comment, DODEN CLOSED THE PUBLIC HEARING.

Curliss MOVED TO RECOMMEND THE AMENDMENT TO VILLAGE COUNCIL. Doden SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

OLD BUSINESS

Storm Water and Electric Study Results. Burns presented results of the storm water and electric studies conducted by Choice One and GBD Electrical, respectively.

With regard to storm water, Burns noted that staff are handling the smaller projects, but that the Village needs to look for grants for major improvements.

Burns made note of the areas needing significant improvement, and noted some stopgap measures the Village can undertake to help reduce storm water impacts in the meantime.

Swinger stated that the elimination of the Estate Street design, and the addition of stormwater regulations now working through Council will help a great deal in this regard.

Burns noted that GBD Engineering will report to Council on Monday. He noted that to “get to where they think we need to be” the cost would be about four million dollars.

Burns stated a number of homes that GBD estimated could be built and be served under the existing system. He noted the need for an engineering study from Dayton Power and Light, which would likely be the provider for additional energy.

Burns related the need for pole replacement and inspection to catch up from many years of neglect of this matter.

Burns noted the need for a loop completion for the East and West circuits. He stated that the Village has applied for a FEMA grant for this endeavor.

In response to a question from Green, Burns stated that the recommendation from GBD is to complete the loop project while DP&L conducts the engineering study to improve time efficiency.

Curliss asked whether the energy deficit could be resolved if more homes had solar capacity.

Burns acknowledged that this would help during peak load events, but would not resolve the overall situation. He noted that a business like Cresco uses the equivalent of about 200 homes worth of power.

A discussion of solar potential for the village ensued.

Burns stressed that the wire throughout town needs to be able to carry the correct level of load, which would be achieved through the loop completion.

Pallotta received confirmation that the Village currently has ample ability to serve the potential development proposed for the south end of town.

Salmeron noted, however, that the Village wants to be able to meet the power needs of any potential developers or businesses. He assured that with proper lead time the Village will be able to meet these potential needs.

Parking Minimums Discussion. Swinger introduced the topic, noting that she had discussed the matter with Aaron Sorrell of Community Planning Insights. She noted that she did not want to see parking minimums create a chilling effect on downtown businesses.

Swinger commented that she would like to see the minimums eliminated in the CBD.

Curliss noted that 69 parking spaces have been added to the downtown area in the past 6 years. She noted that the school Superintendent has said that she would “welcome” a conversation with Salmeron about possible use of Mills Lawn parking as an extension for special events.

Salmeron corrected the parking information, stating that 75 spaces have been added in the last year.

PC members agreed that Swinger should provide a staff report on this matter at the next Planning Commission meeting.

NEW BUSINESS

Parcels noted the ethics session she is hosting set for October 22nd.

AGENDA PLANNING

- Amend Weed Ordinance
- Transient Guest Lodging Application (Conditional Use)
- Parking Minimums
- Possible ROW Vacation.

ADJOURNMENT

At 8:41pm, Doden MOVED and Curliss SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A ROLL CALL 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.