Planning Commission
Regular Meeting Minutes

Council Chambers 7:00pm **Monday, January 23, 2017**

CALL TO ORDER
The meeting was called to order at 7:02 P.M.

ROLL CALL
Planning Commission members present were Gerald Simms, Council Representative, Matt Reed, Chair, Susan Stiles, Rose Pelzl and Chris Zurbuchen, sitting in for Adam Abraham, who was absent. Also present were Denise Swinger, Zoning Administrator, and Jessica Brockman, Village Solicitor.

REVIEW OF AGENDA
There were no changes made.

REVIEW OF MINUTES
Stiles Moved and Simms Seconded a Motion to adopt the Minutes of November 14, 2016 as amended. The MOTION PASSED 3-0 on a voice vote with Pelzl abstaining due to absence from that meeting.

COMMUNICATIONS
There were no communications.

COUNCIL REPORT
Simms reported that Council has been focused primarily on policing issues. The Clerk added that a matter concerning a parking area at the Glass Farm wetland area had come up for discussion at the last Council meeting, and that Council had voted to allow the construction of the 30 X 60 foot parking lot on the site. They had, however, asked for more information regarding the Conservation Easement which is required as a part of the grant, and had discussed the possibility of having Planning Commission look at the Glass Farm for the purpose of developing a master plan.

Reed commented that portions of the Glass farm are being approved for different uses without any overall plan.

Simms commented that the Economic Sustainability Commission is looking at the area as well, with an eye to strategic initiatives.

CITIZEN COMMENTS
There were no comments made.

PUBLIC HEARINGS:

1. **Conditional Use Application - Eric Johnson, property owner at 401 S. High Street, is seeking approval for an accessory dwelling unit in the R-B, Moderate-Density Residential District. Parcel ID # F19000100090000500.**

Swinger introduced the hearing as follows:

Mr. Johnson has submitted an application for a conditional use hearing to build a carport and an accessory dwelling unit (ADU) at the southeast corner of his property. The application was submitted by Green Generation builder Alex Melamed. The plan proposes to use what is currently an abandoned alleyway for entrance to this garage and ADU.

Swinger noted that the accessory structure is set back 5 feet from the side property line which is in compliance with the requirements of the zoning code. The carport is located next to the property line abutting the alley (see Site Plan (Exhibit 3). This is allowed under 1260.04 (a) (4) (see italicized section - page 2) as this is a publicly dedicated alley, although this section, being abandoned, is not ñcommonly used.ò The accessory dwelling unit will be a gabled, one bedroom dwelling with a maximum height of 18 feet, which also meets the zoning requirements.

Staff discussed this abandoned alley with the Superintendent of Streets, Jason Hamby. He indicated he does not want to install or maintain this alley. He also does not want the alley to access Limestone Street for safety reasons. Staff agrees with his position, as there is also an accessory structure at the back of 402 Stafford Street that encroaches on the alley, and access to the proposed ADU off of Limestone Street is not necessary to its use.

Swinger presented two scenarios for accessing the proposed dwelling from the alley side, one by entering the ñExit Onlyò (this is a sign posted by church officials and is not a Village sign) end of the alley at the church off of Davis Street, and one by entering off of Stafford Street.

Pelzl commented that without the approval of church officials, entrance into the church parking lot is not a viable option. She asked whether the church is permitted to post an ñexit onlyò sign, and was told that permission was not given to post the sign, but it has existed for some time without comment from the Village.

Pelzl determined that Johnson would only need to improve a small portion of the alley to gain access to the proposed structure.

There was some discussion regarding the accessory structure now encroaching some way into the alley.

Pelzl asked whether the PC needs to determine whether there is adequate parking to support an accessory structure.

Swinger opined that if PC is inclined to find that the property owner can access the alley, it makes sense to allow for parking for the accessory dwelling unit (ADU) off the alley.

Reed commented that there is no question as to the ability to use the alley, but it is a matter of placing any needed parameters around that use.

Melamed commented that the alley is contiguous, and continued use of the alley seems logical.

Swinger addressed a question regarding alley maintenance, stating that it is the adjacent property ownersô responsibility to maintain the alley to the center line.

Simms commented that the property owner does not need to speak with church officials regarding alley use in that the Church has taken over maintenance of the alley without any permission from the Village.

Johnson commented that the ñexitò sign placed by church officials makes sense in that there is angle parking in the lot, which would place entering cars in a poor position upon entering the parking area. He responded to a question from Reed, stating that outside of Sunday services and funerals, there is not a congestion issue in the area. Johnson commented that parking a single car off the alley would not create any issue for church clientele, in his opinion.

Zurbuchen clarified that Johnsonôs intent is to extend the alley just far enough to gain access to the accessory dwelling unit.

Johnson affirmed that this had been Swingerôs suggestion and that he is in agreement with that suggestion.

Zurbuchen commented that traffic on Limestone is brisk, opining that while clearing a walkway through to the Limestone Street side would be ñdelightfulò, she saw no need to approve anything further than clearing the alley to the ADU.

There was a discussion regarding visual impediments to exiting from the alley onto Limestone, with note taken of honeysuckle and brush as well as an accessory structure which encroaches into the alley at the exit point.

Reed OPENED THE PUBLIC HEARING.

There being no comment made, Reed CLOSED THE PUBLIC HEARING.

Reed commented that he did not think that Planning Commission needs to assign conditions to an approval relative to the alley improvement. He stated that these should be determined by Village staff and/or through the permitting process.

Simms opined that the fifth of Swingerôs suggested conditions (the alley will be maintained by the property owner) could likewise be omitted as repetitive of an existing ordinance.

Zurbuchen noted that where the alley now deadends into the overgrown area is currently used as a parking spot for the church, and that this spot will be lost for that use if the conditional use application is approved.

PC then read through Swingerôs recommendations, responding to each:

1) The abandoned alley will not be accessed via Limestone Street.

Zurbuchen asked whether this recommendation will apply only to the property owner.

Pelzl questioned whether this condition could reasonably be enforced.

In response to questions from the group, Brockman stated that the alley is abandoned, but is not vacated, and thus the language in the condition is correct.

Ultimately the group decided to leave the language as stated (above).

2) The alleyôs road will be installed by the property owner. The property owner shall contact Jason Hamby, the Villageôs Superintendent of Streets, for the Villageôs requirements to build this access road.

   Reed suggested that the requirement be amended so that the requirement is merely that the owner obtain a permit for working in the Right of Way and communicate with Jason Hamby as to when he will be making the improvements (as below).

3) The property owner shall contact the Villageôs zoning office for a permit to Work in the Right-Of-Way.

4) The alley will be maintained by the property owner.

   This was discussed briefly, with the group being reminded that it is required by ordinance that abutting property owners maintain the alley to the center line.

   Planning Commission agreed to strike both number four and number five.

5) The property owner contact Central Chapel AME Church to explain the project and to work out the ingress/egress to the ADU. The church has a parking lot next to their building which is accessed by Stafford Street. Members enter off Stafford Street and exit via Davis Street.

   Swinger clarified that this is more of a ñgood neighborò request.

   Simms questioned whether church officials have any grounds to require anything with regard to directionality of the alley.

   Pelzl received confirmation that a mailing regarding the conditional use hearing was sent to church officials.

   In response to a question from Stiles, Johnson stated that the plan is to use the structure for either an Air BnB or an apartment.

   Zurbuchen pointed out that the church will lose one parking spot once the conditional use request is granted.

6) Allow the carport to be located next to the rear property line as it is a dedicated alley, even though this section of the alley is abandoned and therefore, not commonly used.

   Zurbuchen MOVED to APPROVE the conditional use application with the following conditions:

   1. The abandoned alley will not be accessed via Limestone Street.
   2. The alleyôs road will be installed by the property owner. The property owner shall contact Jason Hamby, the Villageôs Superintendent of Streets, to notify the Village as to the timing of the alley improvements.
   3. The property owner shall contact the Villageôs zoning office for a permit to Work in the Right-Of-Way.
   4. Allow the carport to be located next to the rear property line as it is a dedicated alley, even though this section of the alley is abandoned and therefore, not commonly used.

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

2. Text Amendment: Revision of Chapter 1248 Section 1284.03 SPATIAL REQUIREMENTS Table 1248.03 Lot & Width Requirements: Residential Districts - regarding the spatial requirements for certain dwelling units.

Swinger introduced the matter, reminding them that recently, two development projects were brought to the Planning & Zoning Office for consideration. Staff noted that the current density regulations in residential districts of a maximum six units per acre in R-A, eight units per acre in R-B and 14 units per acre in R-C, coupled with square foot requirements for two-family and single-family attached, caused confusion in the interpretation of the code. After a hearing before the Board of Zoning Appeals for these two cases, the BZA recommended the Planning Commission review this section of the zoning code for possible amendments.

One interpretation was that if 14 units are allowed in R-C per acre than one quarter acre should be 3.5 units. Another interpretation is that if up to 14 units are allowed per acre than the setbacks and lot coverage requirements will dictate the total number and if all other requirements were met, the number of units is insignificant as long as it doesnôt exceed the total per acre.

Historically, it should be noted that in February 2013, The Planning Commission (PC) voted to put in minimum dwelling size requirements for R-A and R-B of 900 square feet and let R-C default to the state requirements. At that time, the PC directed the zoning consultant to clarify 1248.03(a) footnote #5. However, in the adopted zoning code there is no #5 and no minimum requirements for the size of dwelling units.

The current code states that two-family and attached single-family dwellings shall provide 4,500 square feet of property per unit in R-B and 4,000 square feet of property per unit in R-C.

Because there are no minimum requirements for the size of a dwelling unit in the zoning code, and there are specific requirements for the maximum number of units per acre, staff is suggesting the elimination of the square feet per unit requirement for two-family and single-family attached dwellings, instead allowing the setback requirements in that zoning district, along with the lot coverage requirements, dictate the total number allowed.

Reed OPENED THE PUBLIC HEARING.

There being no comment made, Reed CLOSED THE PUBLIC HEARING.

Reed CALLED THE MOTION.

Stiles MOVED TO APPROVE THE RECOMMENDED CHANGES TO Chapter 1248 Section 1284.03 of the zoning code. (Elimination of the square feet per unit requirement for two-family and single-family attached dwellings, instead allowing the setback requirements in that zoning district, along with the lot coverage requirements, dictate the total number allowed.) Pelzl SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

3. Text Amendment: Revision of Chapter 1262.08(e) (6) SHORT-TERM RENTALS – regarding specific conditional use requirements for property owners of short-term rental units.

Swinger explained that at the previous meeting of the Planning Commission, short-term rentals was clarified by approving the addition of the underlined words to the definition of a short-term rental:

Short-term rental unit. A dwelling unit <u>or room in a dwelling unit</u> that is rented or leased to one person, family or entity on a daily, weekly or monthly basis, but typically less than one year.

Planning Commission requested that staff research further language to add to the specific requirements for short-term rentals. Following review, Swinger proposed the following additions (as underlined) to Chapter 1262.08:

1262.08 SPECIFIC REQUIREMENTS.

(e) (6) <u>Short-term rentals</u>.

A. <u>Permit</u>. Upon approval of the conditional use, the owner shall submit to the Zoning Administrator the name and emergency contact information for the owner or property manager who can be contacted and will respond within a reasonable time period to any complaints, violations, emergencies or other concerns related to the short-term rental property or tenants.

B. <u>Location</u>. The Planning Commission shall consider the proposed location relative to its proximity to other such uses in the vicinity in order to avoid an undue concentration that could have a negative effect on the surrounding neighborhood. <u>A short-term rental unit may be located in a principal single-family detached dwelling, a room within a principal single-family detached dwelling, or a detached accessory dwelling unit on the same lot as a principal dwelling, but no more than one short-term rental unit per lot is allowed. If an accessory dwelling unit (ADU) already exists on the lot, no additional short-term rentals are allowed.</u>

C. Maximum occupancy. The maximum number of tenants permitted shall be determined by applicable Health Department requirements. If the short-term rental is located in an accessory dwelling unit (ADU) no more than two adults shall occupy the accessory dwelling unit.

D. Utilities. The short-term rental unit shall share all public utilities (water/ sewer/electric) with the principal dwelling unit. Short-term rental units will not be separately metered.

E. Parking. A minimum of one off-street parking space shall be provided on the lot for the short-term rental unit in addition to the off-street parking spaces required for the principal dwelling unit.

F. Size. The short term rental unit shall be limited in size to a maximum of 66% of the total living area of the principal dwelling or 800 square feet ~~of the total living area of the principal dwelling~~ or 800 square feet, whichever is less.

G. Ingress/Egress. No new access points or driveways shall be created or installed for access to the short-term rental unit.

Planning Commission began with a discussion of the definition of ñshort termò, (Short-term rental unit. A dwelling unit or room in a dwelling unit that is rented or leased to one person, family or entity on a daily, weekly or monthly basis, but typically less than one year) with Pelzl asking how this differs significantly from the definition of a rental unit.

Swinger advised that there is no definition for rental property.

Pelzl argued that this definition does not make the phrase ñshort termò clear to her, and argued that only the phrases ñdaily and weeklyò remain.

Stiles noted that once a year-long lease is fulfilled, it generally reverts to a month-to-month arrangement.

Reed suggested that ñshort-termò be defined as ñfewer than 30 daysò.

The Clerk read back the amended definition as, ña dwelling unit or room in a dwelling unit that is rented or leased to one person, family or entity for fewer than 30 days.ò

Swinger asked whether the idea of short term rentals by non-residential owners was acceptable to Planning Commission.

Stiles received confirmation that property owners would need to receive permission from Planning Commission for this use.

Brockman interjected that while Planning Commission cannot determine on a case-by case basis whether there are too many short term rentals in a given neighborhood, they can determine a maximum number of said units per neighborhood.

Pelzl commented that she was comfortable limiting the number of units per lot.

Stiles expressed concern at the lack of ability to regulate the number of short term rentals by neighborhood.

Swinger noted that the ability to limit the number per lot is a way to address this concern.

Reed suggested that the last sentence of the paragraph be struck, that sentence reading, ñIf an accessory dwelling unit (ADU) already exists on the lot, no additional short-term rentals are allowedò

Swinger asked for PC input on the language limiting occupation to no more than two adults to an ADU. Section ñCò. PC agreed to this language, noting that the number of children cannot be limited.

PC discussed section ñDò, expressing general agreement with this condition as a preventive measure against de facto subdivision of a property.

Zurbuchen questioned the requirement for an additional parking space for an accessory dwelling unit (ADU).

Swinger commented that this condition is able to be varied upon request, and suggested it remain, given that flexibility.

Swinger stated that she would need to advertise a Public Hearing on the topic, since one of the sections had not been noticed. This will return as Old Business.

OLD BUSINESS

Pocket Neighborhood Ordinance Continued Discussion.

Swinger explained that at the October Planning Commission meeting, members reviewed the concept of a Pocket Neighborhood Development within either the Planned Unit Development or Residential section of the Village of Yellow Springs Zoning Code.

Swinger noted that she had spoken with Ted Donnell regarding various zoning code options, and following that discussion has prepared draft language for a Pocket Neighborhood Development (PND) as a Conditional Use in the Residential Districts of the zoning code for members to consider.

Swinger stated that if these are single family detached units on a single (not subdivided) lot, a homeownersô association (HOA) could be set up such that residents would own the structure but not the land.

Planning Commission discussed the proposal.

Zurbuchen raised the idea of Antioch Collegeôs small home proposal, wondering how it would fit in to this section of the zoning code.

Swinger stated that the College would have to rezone the area first, to either RC or to PUD.

Stiles asked why attached units are not permitted in this section.

Reed pointed out that two-family and multi-unit dwellings are not permitted in RA.

Swinger noted that adding PNDôs to the zoning code does not eliminate the possibility of using PUD as an option.

1. Table 1248.02 Schedule of Uses
2. Chapter 1248.03 Spatial Requirements.
3. Chapter 1260.04 Principal Uses per Lot.
4. Chapter 1262.08 Conditional Uses ï specific requirements.
5. Chapter 1264.02 Parking ï PNDs
6. Chapter 1284.03 Definitions: C-D
7. Chapter 1284.07 Definitions: O-P-Q

Swinger noted the changes made to each of the above sections to add Pocket Neighborhoods to the zoning code as a conditional use.

Pelzl asked why Swinger was suggesting a minimum number of units.

Reed explained that otherwise individuals could interpret this as permission to build separate, separately metered homes on their lots.

Planning Commission discussed the lot coverage requirement, deciding to have that figure correspond to the surrounding residential district.

Setback requirements were briefly discussed, and Swinger stated that she would add this to the PND section as conforming to the setback for the corresponding residential area.

Common Open Space was discussed, with Pelzl asking that the word ñcommonò be added to the open space requirement. Pelzl commented that where the space is located is too vague.

The Clerk asked whether PC wished to create setback requirements for each unit.

Pelzl commented that setbacks should be required, but that ñyard areaò can be common space, noting that setback area should not be calculated into common space. She asked that ñopen spaceò be clarified.

Reed concurred that some specific amount of common space should be required, and this concept was discussed.

Simms asked whether fences would then be disallowed, with Reed opining that this would likely be the decision of the HOA.

The notion of a shared space in the form of a structure was discussed, with Swinger agreeing to further research the concept.

Swinger suggested that minimums should be required for amount of open space.

Parking requirements were discussed. Swinger commented that PNDs will have parking lots rather than areas in proximity to each home.

Zurbuchen spoke up for a larger number of parking area per unit.

Planning Commission agreed to require 1.5 parking areas per home as a minimum.

Swinger suggested using the current zoning code requirements regarding landscaping of the parking lots.

Garages were noted as permitted.

Swinger noted the importance of fire vehicle access.

PC discussed whether it would be legal or advisable to require that a certain number of units per the total number be required to be ADA accessible.

Brockman stated that she would look into the legality of such a requirement.

Swinger noted that the zoning code does contain suggestions that affordable or ñgreenò construction receive incentives.

Swinger noted that she had removed the term ñcluster housingò from the definitions and replaced it with ñPocket Neighborhood.ò

Pocket Neighborhood was added in several areas of the definitions.

Swinger added language regarding ñindividually owned dwelling units on commonly owned landò to the definition of PNDs.

Simms raised a concern regarding the Homeowners Association.

Pelzl asked whether the homes can be rental units.

Swinger stated that her notion of a PND is individual ownership, not rental.

Pelzl argued for inclusion of rental units in the definition.

PC added the language permitting rental units as PNDs.

PC discussed the difference in character if the units are owned versus if they are rented.

Reed suggested that the nuances be further discussed.

Stiles noted that the number of younger persons who do not wish to own a home is growing.

PC discussed inclusion of a definition of the HOA, suggesting adding the language, ñunder the common control of the individual homeowners.ò

Swinger noted that part of the purpose of an HOA is distribution of taxes, since the land woner receives the tax bill, which is then paid by the HOA.

NEW BUSINESS

Comprehensive Land Use Plan: Discussion of Update Process. Reed reported that he, Swinger and Simms had met to discuss a process for updating the CLUP. He asked that PC members look through the document and advise as to which sections need to be updated or changed.

Reed commented that the two overarching goals are sustainability as a Village and affordability, noting that he does not believe these have changed significantly.

Simms noted that the challenges to these goals are significant.

Zurbuchen noted a concern of the section of the Comprehensive Plan regarding storm water management, which states that that the detention pond located on the Glass Farm ñwas not intended for or designed to accommodate any new development.ò Zurbuchen asked that the Village Manager and Council be informed of this so that any conservation easement placed upon the area accommodate the possibility of expansion of the detention pond.

This was discussed briefly, with Zurbuchen stressing the importance of not closing off any possibility for storm water mitigation, given the upcoming conservation easement proposed for the Glass Farm area.

AGENDA PLANNING

The next meeting of Planning Commission will take place on March 13th.

ADJOURNMENT

At 9:14 pm, Stiles MOVED and Simms SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

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Matt Reed, Chair

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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.