

**Planning Commission
Regular Meeting Minutes**

Minutes of March 11, 2019 Regular Meeting

Council Chambers 7:00pm

Monday, March 11, 2019

CALL TO ORDER

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

ROLL CALL

Planning Commission members present were Frank Doden, Chair, Council Representative Marianne MacQueen, AJ Williams, Susan Stiles and Ted Donnell. Also present was Denise Swinger, Zoning Administrator.

REVIEW OF AGENDA

Doden reviewed the agenda. There were no changes made.

REVIEW OF MINUTES

Minutes of March 11, 2019 Regular Meeting. Doden MOVED and Stiles SECONDED a MOTION TO ADOPT the Minutes as written. The MOTION PASSED 5-0 on a voice vote.

COMMUNICATIONS

There were no communications.

COUNCIL REPORT

MacQueen reported that Council passed the PUD for Millworks upon its second reading and public hearing. MacQueen noted that the Electric Utility text amendments were given a first reading.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS:

There were no public hearings.

OLD BUSINESS

Review of Planning Code Subdivision Regulations (Chapter 1226).

We have had a presentation from the public works director on the state of our infrastructure and his concerns, especially with the increased infill of housing and storm water run-off issues. We are aware of two large properties expected to come before the Planning Commission for subdivision review, the Kinney property and the Glass Farm property. Because these two properties are located next to each other in the northwest section of the Village, staff believes it is important to take a look at the Village's major subdivision regulations which were last amended in 1991.

Over the past two years, the Planning Commission has amended the zoning code to allow for emerging development trends, such as pocket neighborhoods and infill housing. We should make sure our subdivision regulations align with these trends to ensure the Village's utilities infrastructure, storm water management and pedestrian and vehicular access is designed to meet the density of any future subdivisions of land, whether they are major or minor.

Our subdivision regulations require that we follow the Ohio Revised Code, specifically section 711. Staff suggests that if we pursue this review, we have our Village solicitor provide us with the information that is expressly required to be in our regulations from other entities, such as the county or state. We should also have a Village appointed civil engineer to assist us. In reviewing other subdivision regulations, there are planning codes that have detailed regulations on the management of storm water and what needs to be in a storm water management plan to control run-off before receiving final approval of a subdivision. Our planning code's subdivision regulations rely on Greene County's subdivision regulations and Greene County's run-off control/sediment abatement resolution which are also outdated. Devon Shoemaker, the executive director of Greene County's Regional Planning and Coordinating Commission is in the process of updating theirs.

The group discussed potential updates to subdivision standards.

Stiles asked how to include the desire for more affordable housing stock in this section.

MacQueen noted that this is something she is working on, and will be contained in the Housing Plan for the Village.

Conard commented that this is properly contained in the Comprehensive Plan as a mandate to Planning Commission that guides their actions.

Swinger asked that PC members asked that members e-mail her their thoughts and edits, and she will return with a recommendation to PC.

Donnell asked that incentives to development be carefully considered, particularly with regard to new urban design, focus on the pedestrian and cyclist rather than motor vehicles. He asked that intent in welcoming a developer be made clear.

Donnell iterated the following points: That the Planning Code does not reflect the values and community standards contained in the zoning code, and should. He asked that major and minor subdivisions be more clearly defined.

Conard commented that the ORC has changed in this regard, and should be reviewed for any need to update the Village code.

Review of Planning Commission Duties in Planning Code. Swinger explained the matter as follows:

At the last Board of Zoning Appeals (BZA) hearing, there were a total of three members in attendance. When the vote was taken, two members voted in favor and one member voted against. It was decided at the meeting that staff and the Village's solicitor would need to review the BZA's code against the charter to see if the case passed or failed.

In the zoning code for both the Planning Commission and the BZA, it states that the concurring vote of three members shall be necessary. In the charter for BZA it says that appeals shall be decided by a vote of the majority of the quorum. The charter also says that three BZA members constitute a quorum. The charter is silent on the Planning Commission's voting process. After reviewing the zoning code and the charter, the solicitor determined that the motion to approve the variance passed. As a result of this, it was suggested Planning Commission review the voting process.

Staff suggests a couple of options for the Planning Commission to consider. You can recommend to Council that we align our voting process for BZA in the zoning code with the charter. You can recommend that our voting process for Planning Commission in the zoning code be the same as the BZA in the charter, or you can recommend an amendment to the charter that aligns with the BZA and the Planning Commission's voting process as written in the zoning code. Council does intend to put forth ballot language to amend the charter this year. After this one, staff doesn't foresee another charter review for at least five years as the charter can only be amended by a vote of the people.

Attached with this memo are four sections in the codified ordinances for your review. I've highlighted the text that relates specifically to the process for voting. The sections include:

- Exhibit A – Article VII of the Charter – Planning Commission and Zoning Board of Appeals
- Exhibit B – Chapter 1276 of the zoning code – Planning Commission and Village Council
- Exhibit C – Chapter 1278 of the zoning code – Board of Zoning Appeals
- Exhibit D – Chapter 1220 of the planning code – Planning Commission

Please review the materials and be prepared to make any recommendations on amending these codified ordinances. Staff will bring back any suggested amendments to the next Planning Commission meeting for further review and a public hearing. If text amendment changes are recommended, it will then go to Council for a first and second reading of an ordinance to amend the zoning code.

Review of BZA duties in Planning Code.

Review of Transient Guest Lodging Legislation. MacQueen asked whether she and Donnell should recuse from the discussion.

Conard opined that because both are engaged in TGL, they must both recuse.

Donnell and MacQueen recused and Donnell joined the audience, while MacQueen left the meeting. Pallota and Kreeger joined the discussion at Council table.

Kreeger stated that this is a growing issue nationally, and Council has discussed possibilities on several occasions without coming to any firm decisions. She stated that the input of PC would be helpful in directing Council actions.

IN response to a question from Stiles, Swinger noted the following: The village currently has 39 transient guest lodging applications on file. Of these, two have been sold and have not been renewed as a TGL establishment. This leaves 37 active applications. Of these 37, there are three that do not operate under the Airbnb business model. They are Glen Helen Outdoor Education Center, Mills Park Hotel and the Arthur Morgan B&B. Of the remaining 34 that are operating as Airbnb's, one application has two locations under one name with a total of four separate units. The other has one application under one name for both a house and an accessory dwelling unit on the property. Of the remaining 32 properties, eight have separate mailing addresses from the TGL location. Of those eight, three owners live within the corporate limits of Yellow Springs, one owner lives in Miami Township, one owner in Dayton, one owner in Blacklick, OH, one owner in Columbus, OH and one owner in Enon, OH.

Conard referenced a presentation he made to the Miami Valley . . . He noted that it is important to determine whether the issue is revenue, affordable housing, community considerations or economic impact. He suggested that the reason for any restriction should be housed in a clearly stated concern.

Swinger asked whether if the matter was a conditional use, neighbors could protest the use and PC could then deny the use, expressing that this was a concern for her.

Doden

Williams stated that he was in favor of a conditional use, and that the use could be denied for the reasons stated in the conditional uses.

Stiles stated that she would like to see minimal conditions imposed. She stated that she had attended the TGL meeting, and that what she had heard was that people were engaged in the business as a means of being able to afford to remain in town. She stated that there need to be fact-based reasons why conditions are imposed. She stated that the considerations should be objective.

Swinger noted that Council is attempting to get ahead of a growing problem in returning the matter to a conditional use.

Pallotta asked for a map of where the TGLs are now located.

Kreeger asked that TGL permits to be limited to permanent residents.

Conard opined that this would likely be in violation of . . . law.

In response to a question from Swinger, Conard stated that PC could ask that the total number of permits be limited, and that those limits be placed according to certain zoning areas.

Karen Wintrow commented that there are a number of visitors to town, and their lodging tax dollars will be lost if they stay elsewhere. She stated that she was not concerned about the numbers of TGL units, stating that the market will reach a saturation point naturally, and that it does not make sense for an investor to buy up a number of homes as an investment in the village because this is not the same kind of place which are reporting serious problems.

Wintrow asked that “real facts” be brought to the discussion, rather than anecdotal information.

Planning Commission requested additional requirements for this use when it was previously a conditional use. I’ve included those requested changes for your review below. Staff took the liberty of changing the name to reflect “transient guest lodging.” Planning Commission’s reason for the text amendments were to keep the same set of requirements as existed for accessory dwelling units.

Transient Guest Lodging.

A. Permit. 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 transient guest lodging property or tenants.

B. Location. 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. **A transient guest lodging 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 transient guest lodging unit per lot is allowed.**

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

D. Utilities. **The transient guest lodging unit shall share all public utilities (water/ sewer/electric) with the principal dwelling unit. Transient guest lodging units will not be separately metered.**

E. Parking. **A minimum of one off-street parking space shall be provided on the lot for the transient guest lodging unit in addition to the off-street parking spaces required for the principal dwelling unit.**

F. Size. **If the transient guest lodging unit is located in an accessory dwelling unit, it shall be limited in size to a maximum of 66% 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 transient guest lodging unit.**

Other Suggestions:

1) Return TGLs to Conditional Use

Planning Commission supports returning TGLs to a conditional use. This will enable the neighbors to be notified and their concerns raised. It will allow the Planning Commission to put conditions on the property owner in the hopes of alleviating concerns.

2) Only allow TGL where the owner lives on the property

If this were enacted, there would need to be flexibility. Yellow Springs has residents who go away for the winter time. They aren’t living in their home on a continual basis. This would have to be taken into consideration.

3) **Limit the number of TGL establishments**

Transient guest lodging establishments are allowed in all districts except for Industrial 1 and 2, and Conservation. There has been a suggestion to limit the number of TGLs within an area. The transient guest lodging certifications are non-transferable. If an owner sells the property, a new owner needs to comply with whatever the zoning requirements are at the time of application.

4) **Limit TGL permits to permanent residents**

Those residents who currently reside within the municipal limits would be able to have separate properties for TGLs (excludes hotels/B&Bs/boarding homes).

AGENDA PLANNING

Kinney subdivision work session/314 Dayton St work session. PC discussed potential dates to hold the work session.

Swinger asked whether 314 Dayton Street could be discussed at the same meeting to save time overall and maximize staff presence.

The afternoons of May 7; 8 and 9 were held for this session, and Doden will follow up with Swinger regarding his availability for those dates.

ADJOURNMENT

At 8:45pm, Stiles MOVED and Williams SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE 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.