

**Planning Commission  
Regular Meeting**

**Council Chambers 7:00pm**

**Monday, May 13, 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, Susan Stiles, AJ Williams, Alternate Dino Pallotta and Ted Donnell. Also present was Denise Swinger, Zoning Administrator and Solicitor Chris Conard.

**REVIEW OF AGENDA**

MacQueen asked to discuss permitting duplexes to be able to have ADUs, as a friend had been informed of the zoning restriction and had brought the matter to MacQueen, who agreed that she did not see reason for the restriction. Swinger stated her objection to this change, citing parking, metering and rental issues as significant.

MacQueen stated that she would write up the matter and Swinger stated that she would write up her objections to the suggestion. The discussion was deferred to the next meeting.

**REVIEW OF MINUTES**

Minutes of April 8, 2019 Regular Meeting. Stiles MOVED and Williams SECONDED a MOTION TO ADOPT the Minutes as written. The MOTION PASSED 4-0 on a voice vote, with MacQueen abstaining.

**COMMUNICATIONS**

There were no communications.

**COUNCIL REPORT**

MacQueen noted that the new Village Manager will begin duties Monday, June 17<sup>th</sup>. She made note of an upcoming Village Policing forum set for May 21, which will use the process of Appreciative Inquiry.

MacQueen noted that she had recused from the discussion at the time but had read the minutes, and was disappointed that Planning Commission had not considered other aspects of TGL. She went on to list issues she believed needed to be discussed by Planning Commission regarding TGL, stating that she had gone over these issues with Council President Housh.

MacQueen stated that she is suggesting to Council that they suggest to PC that they consider implementing Voluntary Inclusionary Zoning. She called this an "Incentive Based Inclusionary Housing Policy". She noted that this proposal will be put before Council at their meeting on May 20<sup>th</sup>, with the assumption that it would then return to PC.

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS:**

**Text Amendments** -The Village of Yellow Springs is applying for amendments to the zoning code for transient guest lodging and to the planning and zoning code on voting processes for the Planning Commission and Board of Zoning Appeals.

MacQueen and Donnell recused themselves for potential conflict of interest, and left Chambers.

Pallotta joined PC as the alternate.

Swinger introduced the topic as follows:

At the last meeting PC explored 1) returning transient guest lodging to a conditional use, 2) only allowing transient guest lodging where the owner lives on site, 3) limiting the number of TGL establishments, and 4) limiting TGL to permanent residents.

After much discussion, we were advised by the solicitor to not limit it to permanent residents due to one's constitutional rights. There was general disinterest in limiting it to only owner-occupied. However, there was general agreement to make future TGL applications a conditional use and staff was asked to bring back what the PC had previously proposed to Council in 2017. There was also discussion regarding capping the total number allowed, but nothing specific was decided. Staff was asked to bring a map showing the locations of the current TGL establishments.

PC discussed the matter in general terms.

Pallotta asked for advice from the Solicitor as to whether non-residents should be discouraged from owning such properties.

Conard suggested that the easiest way to do this might be to limit the overall number of permits. He added that in lieu of the latter, PC might impose conditions upon the conditional uses so that those owners can be defacto limited.

Conard noted that balancing the issues is necessary and difficult.

Conard noted that the law on the subject is evolving to permit some latitude for what is best for the community. He argued that it might be best to be restrictive but not overly restrictive. He acknowledged the affordable housing issue as a factor.

In answer to a question regarding owner-occupied units, Conard stated that he would need to research the matter further.

Pallotta stated that he would have an issue allowing investors to purchase homes for the purpose of turning it into a TGL investment.

Swinger stated that several current TGL owners who attended the TGL forum would not be permitted to own those homes if the current changes were made.

Conard asked PC to determine what it is they wish to accomplish, and that this would help drive what legislation or policies are passed.

Conard expressed a concern regarding limitation to property ownership, stating that the limitations could bring up issues of discrimination.

Conard noted the strength of the conditional use criteria as a tool.

Pallotta commented on the matter, stating that he had heard from a customer with young children who felt he needed to be a little more vigilant living in proximity to a TGL, given the turnaround of "strangers".

Conard suggested layering in issues of density of the units as a factor. He suggested starting with high level concepts and moving from there.

Conard asked PC members whether they wanted to start with the conditional use.

Stiles stated that she would like the overall number limited.

Conard noted that there can be a preamble to the conditions which highlights affordability as a factor in the overall decision.

Pallotta commented on the tax revenue these businesses are bringing in as an important factor.

Swinger noted that the participants in the TGL Forum had commented repeatedly that they felt that Council was reacting to a problem that does not exist. She cautioned against over reacting.

Swinger noted that when the conditional use was lifted, many residents came in and requested TGL permits, opining that re-imposing the conditional use requirement may in and of itself slow the growth of the use.

Conard expressed that the zoning code establishes the criteria for consideration. It puts people on notice of what will be looked at when one is requesting a TGL permit.

PC is asking staff to start with the conditional use, to examine the use of placing a cap on the use and prepare information to this effect.

Stiles stressed the condition of owner occupied as a condition, and asked that further information be brought.

Conard stated that days of use are normally used as the method to enforce the "owner occupied" caveat.

Swinger responded to a question regarding owner occupation of a structure with an ADU, stating that there is nothing in the zoning code to limit renting out both units as a non-resident owner.

Swinger suggested caps only in the residential areas.

Conard stated that conditional use should be explored; the pros and cons of caps and any supporting data to recommend these; owner-occupied or days of use limitations.

Doden asked what safety features would be required, suggesting that these should be required.

Conard stated that the TGL operator is required to display their permit on the premises, and that part of the reason for this would be to address any unsafe conditions that might exist. He noted that occupancy permits would be issued by the county.

Conard stated that safety concerns could be discussed with Greene County and Miami Township FD.

General standards for safety were discussed.

PC decided to bring more research before attempting to engage in the public hearings, which will be brought back.

**Amend Chapter 1246.02 Schedule of Uses – Educational Institution Districts** – change transient guest lodging to a conditional use. This was deferred until Swinger can bring a revised recommendation.

**Amend Chapter 1248.02 Schedule of Uses – Residential Districts** – change transient guest lodging to a conditional use. This was deferred until Swinger can bring a revised recommendation.

**Amend Chapter 1250.02 Schedule of Uses – Business Districts** – change transient guest lodging to a conditional use. This was deferred until Swinger can bring a revised recommendation.

**Amend Chapter 1262.08(e)(7) Specific Requirements** – add specific requirements for transient guest lodging. This was deferred until Swinger can bring a revised recommendation.

**Amend Chapter 1258.01 District Uses Table** – change transient guest lodging to a conditional use in certain districts. This was deferred until Swinger can bring a revised recommendation.

**Amend Chapter 1220.01**—Adding additional language for alternate members’ preparation in voting. Swinger introduced the matter as follows:

Swinger read through the current language, opining that the requirement that alternates must alternate their presence at meetings seems unnecessary.

The Clerk agreed, commenting that this would disrupt continuity in the event of an ongoing matter or discussion and that there has not historically been a problem with alternates being or feeling underutilized.

PC then discussed changing the wording of a section to change “videotape” to “the available recorded copy”.

Swinger then explained the changes being proposed to the zoning code as regards the BZA quorum.

Doden OPENED THE PUBLIC HEARING for Chapter 1220.01. There being no comment from any present, Doden CLOSED THE PUBLIC HEARING.

Stiles MOVED to APPROVE THE AMENDMENT TO CHAPTER 1220.01 AS AMENDED. MacQueen SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Amend Chapter 1276.02** – clarify quorums and voting processes.

PC discussed the proposed change in language as here written: (The presence of three members shall constitute a quorum. The concurring vote of a majority of the quorum of the three Planning Commission members shall be necessary to take any action authorized by the code, unless otherwise specified within the code.

Doden OPENED THE PUBLIC HEARING for Chapter 1276.02. There being no comment from any present, Doden CLOSED THE PUBLIC HEARING.

MacQueen MOVED and Stiles SECONDED a MOTION TO APPROVE, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Amend Chapter 1278.01** – clarify quorums and voting processes. Swinger noted the changes suggested as follows:

“The presence of three members shall constitute a quorum. Appeals from decisions of the Village Manager in the administration of the planning and zoning codes shall be taken to the Board of Appeals where they shall be decided by a vote of a majority of the quorum of the Board.”

Doden OPENED THE PUBLIC HEARING for Chapter 1278.01. There being no comment from any present, Doden CLOSED THE PUBLIC HEARING.

Stiles MOVED to APPROVE THE AMENDMENT TO CHAPTER 1278.01 AS AMENDED. MacQueen SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**OLD BUSINESS**

Sunshine Info/Refresher. Sunshine Law requirements were discussed, with the Solicitor guiding the discussion, and warning PC members of potential pitfalls.

Donnell requested that staff convey to applicants that they are not to speak to PC members.

Conard cautioned against Ex Parte communications.

The Clerk commented that she tends to be more conservative in determining whether a member of the body should recuse, stating that it is critical to public perception to be perceived as fully fair and impartial on every matter.

Donnell stated that he used to ask his fellow Board members whether he should recuse when he served on the BZA.

**AGENDA PLANNING**

- Comprehensive Land Use Plan
- Accessory Dwelling Units in Duplexes
- Subdivision Regulations
- Chapter 1278.06
- Chapter 1246.02
- Chapter 1248.02
- Chapter 1250.02
- Chapter 1262.08(e)(7)
- Chapter 1258.01

**ADJOURNMENT**

At 8:43pm, Williams MOVED and Doden SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

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Frank Doden, 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.*