

**Planning Commission
Regular Meeting**

Council Chambers 6:00pm

Tuesday, November 12, 2019

CALL TO ORDER

The meeting was called to order at 6:00 P.M.

ROLL CALL

Planning Commission members present were Frank Doden, Chair, Council Liaison Marianne MacQueen, Alternate Dino Pallotta and AJ Williams. Also present were Denise Swinger, Zoning Administrator, Alternate Council Representative Lisa Kreeger and Solicitor Chris Conard.

REVIEW OF AGENDA

The Home, Inc. PUD extension request was taken off of Public Hearings and placed in New Business, since it is not a Public Hearing unless PC determines the changes to the preliminary plan to be major. Should that occur, the matter will become a Public Hearing and proceed from that point.

REVIEW OF MINUTES

Minutes of October 15, 2019 Regular Meeting. Doden MOVED and Pallotta SECONDED a MOTION TO APPROVE the Minutes as amended. The MOTION PASSED 4-0 on a voice vote.

COMMUNICATIONS

Laura Curliss re: Remarks Concerning Preliminary PUD Plan Extension Request

COUNCIL REPORT

MacQueen reported that discussion regarding a Dog Park is occurring at Council table due to a request and funding from a citizen.

MacQueen noted that the Temporary Transportation Plan at Walnut/Short and Limestone Streets is now complete, and comment will continue to be gathered until November 23rd.

MacQueen reported that a series of meetings with the EPA on October 31 were well-attended and informative, and that the Village will follow these up with a Village hosted information session on November 21st.

CITIZEN COMMENTS

There were no comments made.

PUBLIC HEARINGS:

Conditional Use Application and Site Plan Review B-2, General Business District –The Yellow Springs Brewery is requesting re-approval of their application for establishing a space for private events involving tastings of their craft beers, a brewing and storage area at 1475 Xenia Avenue per Yellow Springs Zoning Ordinance Table 1250.02 Schedule of Uses - Business Districts, Table 1258.01 Schedule of Uses by District, Chapter 1262 Conditional Use Requirements, and Chapter 1268 Site Plan Review. Greene County Parcel ID #: F19000100060009000; F19000100060009100; F19000100060009200.

Swinger initiated the discussion by providing the following information:

In December, 2017 the 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.*” Ted Donnell has submitted a conditional use application with a revised site plan (Exhibit 2), a proposed floor plan (Exhibit 3), and the proposed exterior building sections (Exhibit 4) for re-approval of YS Brewery’s application for establishing a space for private events involving tastings of their craft beers, and a brewing and storage area. The previous approval was based under the conditional use of brew pubs and similar establishments. This approval expired twelve months following that date, and no letter requesting an extension of time was submitted.

The YS Brewery has submitted a second conditional use application requesting approval for mobile vending (food trucks).

Since the original plan was brought to Planning Commission there have been notable changes. Exuma Properties, LLC was successful in purchasing the southerly abutting lot (F19000100060009200) on June 20, 2018 and now own all three lots.

In the new proposal, the number of parking spaces is reduced from 48 spaces to 25 with two of these for ADA parking. The 13 pull through parking spaces on the original site plan have been eliminated, and the lot identified in Exhibit 1 as Lot #3 is not being used for parking in this site plan.

The roof terrace has been removed. Although Mr. Donnell indicates a bicycle parking area shall be provided, it is not referenced on the site plan. An outdoor patio and outdoor deck have also been removed, and there will be no expansion of the building for retail space. Two outdoor coolers proposed in the 2017 site plan have also been removed, and the cooler storage is now inside in the area formerly identified as the warehouse. This is also the location of a future brew area.

Doden OPENED THE PUBLIC HEARING. There being no comment, Doden CLOSED THE PUBLIC HEARING.

Pallotta MOVED to REAPPROVE THE CONDITIONAL USE AND SITE PLAN FOR 1475 XENIA AVENUE. Doden CALLED THE VOTE, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Conditional Use Application B-2, General Business District –The Yellow Springs Brewery is requesting approval of their application for mobile vending at 1475 Xenia Avenue per Yellow Springs Zoning Ordinance Table 1250.02 Schedule of Uses - Business Districts, Table 1258.01 Schedule of Uses by District, Chapter 1262 Conditional Use Requirements. Greene County Parcel ID #: F19000100060009000; F19000100060009100; F19000100060009200.

Swinger explained that at the time of the initial granting of the Conditional Use, Food trucks were not listed as a Conditional Use in B-2. That omission was determined to be an error in the new zoning code, and the use was subsequently added to the B-2.

Previously, permission was not granted for use of a food truck because it was not an allowed use in B-2. Staff later researched why mobile vending was allowed in B-1, E-1, I-1 and I-2, and not in B-2, and requested an amendment to the zoning code to add the use to this business district. Planning Commission added mobile vending to B-2 at their meeting on February 18, 2018.

YS Brewery does plan to use a food truck for some events which will be parked in Lot #2. They indicated that the food trucks would be located in the parking lot area during normal business hours and that typical food truck hours are between 1:00PM and 9:00PM. YS Brewery did seek conditional use approval for their food trucks at their Millworks location and staff recommends allowing food trucks at this site as well. The owners of YS Brewery understand the requirements for the operation of a food truck.

Doden OPENED THE PUBLIC HEARING. There being no comment, Doden CLOSED THE PUBLIC HEARING.

MacQueen MOVED TO APPROVE MOBILE VENDING FOR THIS LOCATION. Doden SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Conditional Use Application R-B, Moderate Density Residential District – Mark Davenport and April Li have submitted a conditional use application for a Transient Guest Lodging (TGL) establishment at 131½ West North College Street per Yellow Springs Zoning Ordinance Chapter 1248 Residential Districts, Chapter 1258 Schedule of Uses by District, Chapter 1262 Conditional Use Requirements. Greene County Parcel ID #: F19000100090006500.

This hearing occurred after the Preliminary Plan PUD hearing, due to the late arrival of the applicant.

MacQueen recused herself for potential conflict of interest. Kreeger stepped in as the Council Alternate.

Swinger introduced the hearing as follows:

Mr. Davenport and Mrs. Li purchased this duplex in January of this year. The principal structure straddles two lots both deeded to Mr. Davenport and Mrs. Li (Exhibit A). Currently they lease to a long term tenant in the front unit addressed as 131 W. North College Street, and live part time (10-15 days a month) in the rear unit addressed as 131½ W. North College Street. They have submitted an application for a transient guest lodging conditional use hearing in order to list the rear unit of their duplex on AirBnB.com during times they are staying at one of their other two homes, located in Columbus and Dayton.

Swinger noted that the owner has had a fire inspection and received a permit from the MTRF.

Mr. Davenport stated that the operation is to assist them with affordability.

Kreeger asked whether the Davenports have discussed the matter with their long-term tenant.

Mr. Davenport stated that they had and that the tenant, whom he described as being older, and a disabled veteran, was, “kind of like sure, whatever.”

Doden OPENED THE PUBLIC HEARING. There being no comment, Doden CLOSED THE PUBLIC HEARING.

Pallotta asked whether there had been any negative response from neighbors other than the one provided by Swinger.

Davenport stated that he had spoken with the neighbor to the west who had some privacy concerns and he had agreed to assist her with repairing her fence to improve her privacy.

Doden MOVED TO APPROVE THE PETITION FOR TRANSIENT GUEST LODGING. Williams SECONDED, and the MOTION PASSED 3-1, with Kreeger voting against.

Stiles arrived at 6:48pm.

OLD BUSINESS

Preliminary Plan Application For PUD. Planned Unit Development (PUD) District. Yellow Springs Home, Inc. has requested a preliminary plan review for the purpose of constructing a senior apartments building on their property located between East Herman and East Marshall Streets per Yellow Springs Zoning Ordinance Chapter 1248 Residential Districts, Chapter 1254 PUD, Chapter 1258 Schedule of Uses by District, Chapter 1260 General Provisions, Chapter 1264 Off-Street Parking and Loading, Chapter 1266 Signs, Chapter 1268 Site Plan Review and Chapter 1270 Landscaping. Greene County Parcel ID #: F19000100080030300; F19000100080030200; F19000100080030100; F19000100080030000; F19000100080029900; F19000100080031500; F19000100080031600; F19000100080031700; F19000100080031800; F19000100080031900.

Swinger introduced the matter as follows:

Swinger commented that the initial request for continuation had indicated an increase in the footprint of 2,300sf. After discussing this with the architect, Swinger determined that what had been approved by Council last year in fact had a larger footprint than shown. The architect blamed the miscalculation on a failure to include the covered porches in the original footprint. Once those calculations were done (and assuming that the original approval stands despite the miscalculation), the increase in the footprint for the structure as currently designed is about 485sf.

Swinger noted that the fourth story has been removed, resulting in a three story building. The structure now extends nine feet into the front yard setback on Marshall Street.

Swinger noted that there is enough land to move the structure back, but this would place it closer to the residential street (Herman). That informed the decision to keep the structure closer to Marshall Street despite the encroachment into the setback.

Swinger noted that the Yellow Springs Planned Unit Development (PUD) zoning code has proven difficult to interpret and staff has taken a conservative approach when making decisions on its interpretation as we are mindful of the community’s concerns for this particular project. The PUD code allows for an extension of time which *may be granted by the Village Council for up to an additional 12 months if the request is submitted by the applicant, in writing, prior to the expiration of the original 12-month approval period.* The issue for staff in the YS Home, Inc. case is that the preliminary PUD plan previously submitted has changed. Because of this change, the question to resolve is whether the changes are minor or a major.

Swinger noted that minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval.

In response to a question from Pallotta, Swinger stated that she does not consider the reduction in height to be a part of the discussion regarding major or minor, since it constitutes a reduction in the height of the structure, which was controversial during the original hearing.

Rob Humason, ATA Architects, commented that the porches had not been included in the original footprint as approved, making the current request an actual increase of 485sf for the footprint. He noted that the overall square footage of the building has not changed significantly.

Humason commented that there is no change in the size or configuration of the apartments.

MacQueen reiterated the changes being considered as to whether they are major or minor, stating them as the setback variance and as the increase in footprint.

Conard cited 1254.07 (b), "Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval."

The Clerk added that also contained within the description of a "minor change" is the consideration that there is "movement of buildings and/or signs by no more than ten feet."

Swinger stated her opinion that the changes are minor since the building could be shifted back nine feet, but that this was not being considered due to the potential impact on a neighborhood. She noted also that the change in footprint is small, and that while the developer had been permitted a reduction in the required number of parking spaces, they were increasing the number from 42 up to 55.

Wes Young, St. Mary's Development, stated that the number of parking spots is 56.

Swinger noted that a variance is not required.

Conard suggested that the motion direct the Zoning Administrator to proceed.

Pallotta received confirmation that the developer will have to bring all of the issues back in the form of a final plan which PC will review in detail at that point.

Swinger asked that PC and/or the solicitor consider what the process will entail if Home, Inc./St. Mary's fails to receive funding again in 2020.

Williams MOVED TO DIRECT THE ZONING ADMINISTRATOR TO PROCESS THE APPLICATION AS A MINOR CHANGE DETERMINATION. Pallotta SECONDED.

Doden CALLED THE VOTE, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Swinger again asked what might happen if HI/SM fails to receive funding in 2020.

Conard opined that perhaps the approval from Council in 2019 could allow for the opportunity to extend the application for yet another year through application to Council, if any changes are minor.

Council discussed possible approaches should the Home, Inc. PUD again not receive funding in 2020.

Now jump to Public Hearings: Applicant arrived at 6:40.

NEW BUSINESS

There was no New Business

AGENDA PLANNING

December 10:	Calypso Grill Conditional Use Application Trail Town Brewery Conditional Use Application Jon Nieberding Transient Guest Lodging CU Application
January 14:	Update re: Subdivision Regulations Solar Rights Sandwich Board Signs

ADJOURNMENT

At 6:53pm, Williams MOVED and Doden 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.

