

**Planning Commission
Regular Meeting**

Council Chambers 7:00pm

Tuesday, December 10, 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 Liaison Marianne MacQueen, Susan Stiles, and Alternate Dino Pallotta. Also present was Denise Swinger, Zoning Administrator.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of November 12, 2019 Regular Meeting. Doden MOVED and MacQueen SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 4-0 on a voice vote.

COMMUNICATIONS

A late communication from Rose Mary Shaw who runs a business located on the property neighboring the Calypso Grill was acknowledged.

Doden commented that the author had expressed concern regarding overflow parking if the patio is approved.

COUNCIL REPORT

MacQueen reported on a Village meeting held to educate citizens further regarding the Vernay clean-up situation. She noted that the Village will be reassessing the Source Water Protection document since the north perimeter of the watershed abuts the perimeter of the Vernay plume.

MacQueen noted Council approval of the Planning Commission recommendation to grant the Home, Inc./St. Mary's request for a one-year extension of their Preliminary PUD site plan approval.

MacQueen noted passage at Council table of the seven text amendments related to junk cars and weeds passed by Planning Commission in October.

MacQueen related her experience in attending the annual MVRPC APA workshop.

CITIZEN COMMENTS

There were no comments made.

PUBLIC HEARINGS:

- 1. Conditional Use Application and Site Plan Review – B-1, Central Business District – Jake Brummett** has submitted a conditional use application for a re-approval of his application for establishing a brewpub at 101 Corry Street per zoning code Chapter 1250 Business Districts; Chapter 1258 Schedule of District Uses; Chapter 1260.05 Other Provisions; Chapter 1262 Conditional Use Requirements; Chapter 1264.02 General Requirements – Parking; Chapter 1264.04 Off-Street Loading Requirements and Chapter 1268 Site Plan Review. Greene County Parcel ID# F19000100100005100

Swinger explained that Mr. Brummett is seeking re-approval of his conditional use application from Planning Commission. He plans to brew 100 to 200 gallons of beer weekly to be served only on the premises. Although he originally planned to serve Mexican-themed food, he is now planning to serve small plates of a variety of shareable foods, and no full entrees as originally proposed. Mr. Brummett still plans to be open seven days a week from 11:00AM to 10:00 PM.

Since Mr. Brummett's hearing in February 2018, the property at 101 Corry Street has undergone extensive remodeling, including but not limited to new plumbing, electrical wiring, a new kitchen with a new custom built walk-in cooler, and fully remodeled restrooms, bar and dining areas. As the remodeling process has gone on, there have been some changes made to the site plan as required by Greene County Building Regulations.

Swinger noted that Brummett has essentially had to bring the building up to code, and this has resulted in delays. She noted that it has now been two years since the original approval was given, and he now needs to gain re-approval from Planning Commission.

Brummett described the work he has done on the building, commenting that “about everything but the bricks is new”. He has had to rewire the entire building, remodel the bathrooms, put in a ramp, re-plumb, put in new flooring and re-configure the site plan.

Brummett stated that he is scheduled for County inspection this weekend, and hopes to open in March of 2020.

Stiles received verification that the kitchen will be used.

Swinger noted the steps Brummett will have to go through prior to opening, and read through the staff recommendations regarding conditions as follows:

- Obtain an occupancy permit from Greene County Building Regulations
- Obtain approval from Greene County Public Health
- Hours of operation are approved as 11am-10pm seven days per week
- Add bicycle racks
- Obtain a Change of Use permit from the Village of Yellow Springs

Brummett indicated is agreement with these conditions, noting that he has plans for installation of a bike rack and of a handicap compliant parking spot. He noted also that the spent grain resulting from his brew operation will be taken to a farm and used as pig fodder.

MacQueen MOVED TO APPROVE the CONDITIONAL USE REQUEST WITH THE STAFF CONDITIONS PROVIDED. Pallotta SECONDED and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Doden realized that he had called a vote prior to opening a public hearing, so he then OPENED THE PUBLIC HEARING.

There being no comment, Doden CLOSED THE PUBLIC HEARING.

MacQueen again MOVED TO APPROVE the CONDITIONAL USE REQUEST WITH THE STAFF CONDITIONS PROVIDED. Pallotta SECONDED and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

- 2. Conditional Use Application - B-2, General Business District –1535 Xenia Avenue – Property Owner:** Antonio Avalos. Brian Rainey of the Calypso Grill has submitted an application for outdoor patio seating in conjunction with a permitted restaurant per zoning code Table 150.02 Schedule of Uses: Business Districts; Chapter 1258 Schedule of District Uses and Chapter 1262 Conditional Use Requirements. Greene County Parcel ID # F19000100060009900.

Swinger stated that in August, Mr. Rainey did restriping to reconfigure the spaces using the dimensional standards for parking required by the zoning code. This reconfiguration provided an additional 5 spaces from the previous 17. This includes one barrier free parking space. With the requirement of one parking space per 50 square feet for restaurants serving liquor, 22 parking spaces are needed (870sf for building and 242sf for outdoor patio equals 1,112sf divided by 50sf = 22.24 or 22 parking spaces. The parking lot as it is currently configured will meet the parking requirement with the addition of the outdoor patio.

Swinger stated that she had reviewed the plan with Mr. Rainey and Public Works Director Johnnie Burns, who suggested concrete barriers in front of the patio area for extra security since cars will be backing out of the angled parking spots. Swinger suggested as a condition of approval that Mr. Rainey have an inspection done of the patio by the Public Works Director prior to completion of construction to ensure its safety.

Configuration of the entrances and exits was briefly discussed.

MacQueen noted concerns raised by Rose Shaw, a psychologist who works out of the neighboring property, having to do with overflow parking.

Rainey stressed that he had added parking spaces in order to be code compliant, but that he would speak with Shaw and could put up signage indicating that his lot was for Calypso Grill parking.

Doden asked whether Rainey had ever approached Dollar General to ask whether they might be willing to accommodate overflow parking.

This suggestion was discussed.

Swinger asked Rainey whether he has encountered the overflow problem, noting that she has not seen parking to be an issue for the restaurant, but that one situation referenced by Rose Shaw entailed a truck with a trailer which had pulled onto her property. This would have been an anomaly, Swinger stated.

Rainey contemplated the options available to him regarding parking, and opined that he can't control the occasional overcrowding of his parking lot, and that perhaps the best options would be an agreement with another business which is open during the day and not evenings.

The notion of parking was discussed generally.

Pallotta confirmed that the plan as submitted has the required number of parking spaces.

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

MacQueen stated that signage regarding parking should be required to indicated where Calypso customers can park.

Pallotta asserted that this would be addressing an issue that does not exist, since Rainey is in compliance with regard to the number of available parking spaces.

Swinger stated that because it is a conditional use, PC is able to take neighbor concerns into account.

Swinger received clarification that PC would be asking that Rainey provide signage directing customers to available Calypso Grill parking.

Stiles further clarified that the neighboring property owner (Shaw) would then need to provide her own signage.

Rainey stated that he would get in contact with Dollar General and the bank to ask about the potential for overflow parking in those locations.

Swinger clarified that asking Rainey to find overflow parking options would not be attached as a condition—only that Rainey provide signage.

Rainey stated that he could provide an iron fence between the two parking lots to clearly indicate their separation so that people would not be tempted to pull over the curbing and into the neighboring lot.

MacQueen again argued that Rainey is increasing the number of seats in the restaurant, and should therefore provide overflow parking.

Swinger clarified the content of Shaw's letter, stating that it appeared that a truck pulling a trailer had, on one occasion, driven over the curbing and parked in Shaw's parking lot. Again, she noted, this appears to have been an anomaly.

Rainey commented that he has complied with the zoning code in providing the needed number of parking spots, and that he cannot control the occasional unpredictable situation.

Pallotta stated that the neighbor needs to provide her own signage to keep any overflow vehicles off of her lot.

MacQueen MOVED to attach a condition that Rainey make a good faith effort to make sure that overflow parking does not enter the neighboring property.

The Clerk asked how this could be monitored.

MacQueen stated that this would become apparent if complaints were received.

Swinger commented that the neighboring property owner needs to provide her own signage.

MacQueen restated her motion. There was no second.

Pallotta MOVED TO APPROVE THE CONDITIONAL USE APPLICATION with the condition that the Public Works Director provide a safety inspection attesting to the safety of the concrete barriers surrounding the patio area prior to use. Doden SECONDED, and the MOTION PASSED 3-1, with MacQueen voting against.

Stiles encouraged Rainey to look into overflow parking.

Rainey asked about several options he has considered for overflow parking, and Swinger noted that the ideas would need to be discussed with her separately, since the areas in question are differently zoned.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

Sandwich Board Signs. Swinger raised the issue briefly, asking PC whether they would like her to bring a recommendation regarding a change to the zoning code to add sandwich board signs.

PC discussed the matter briefly, and asked that a recommendation be brought.

Swinger noted that Choice One will bring storm water regulations in January.

MacQueen asked about the storm water survey, and Swinger stated that she will ask that this information be provided to PC.

Swinger noted that the Glen Cottages Pocket Neighborhood Development may come forward in the first quarter of 2020.

MacQueen commented that she may have something related to “how we define ownership”, stating that it refers to community land trust models, “and others as well.”

Swinger pointed out that the issue of ownership of property is uniquely an issue for community land trusts, since it is clearly defined in all other forms of home ownership (co-op; PND, etc.).

Swinger then asked why the zoning code should be changed to address one model when any issues could be contractually resolved within the model by writing terms into their ground lease.

MacQueen disclosed that she has been “working with one of Home, Inc’s lawyers” on the issue, and stated that “a 99-year ground lease is considered tantamount to ownership.” The Village just needs to be able to go to the homeowner, she stated, when there are problems of property maintenance compliance.

Pallotta asked rhetorically who was liable if a tenant fails to care for a rental property’s land, noting that it is the responsibility of the landlord to bring the property into compliance.

MacQueen stated that the situation involving the 99-year ground lease is different and needs to be resolved.

AGENDA PLANNING

January 14: Choice One Presentation: Subdivision Regulations/Storm Water Management Solar Rights

ADJOURNMENT

At 8:09pm, Doden MOVED and Stiles SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 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.