

**Planning Commission
Regular Meeting**

Virtual Meeting @ 7:00pm

Tuesday, February 9, 2021

CALL TO ORDER

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

ROLL CALL

Planning Commission members present via zoom were Frank Doden, Chair, Council Liaison Laura Curliss, Sarah Amend and Stephen Green. Alternate Matt Kirk (who entered the meeting after the Council Report) served for Dino Pallotta, who was unable to attend. Also present were Denise Swinger, Zoning Administrator, Village Manager Josue Salmeron and Village Solicitor Breanne Parcels.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes of January 12, 2021 Regular Meeting. Doden MOVED and Curliss SECONDED a MOTION TO APPROVE the Minutes as written. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

COMMUNICATIONS

COUNCIL REPORT

Curliss commented that she had attended a Greene County Regional Planning Meeting, and noted that the body is contemplating earlier submission of Plat plans for subdivisions. The draft Greene County Trails plan is now up on the website, she noted.

CITIZEN COMMENTS

There were no Citizen Comments.

PUBLIC HEARINGS

- 1) Conditional Use Application – R-B, Moderate Density Residential District –Tim and Brittany Baum of 417 Yellow Springs-Fairfield Road have submitted a conditional use application for an Accessory Dwelling Unit (ADU) in their existing garage. They are also requesting its use as a transient guest lodging establishment. Chapter 1248 Residential Districts, Chapter 1262.08 Conditional Use –Specific Requirements – 1262.08 (e) (1) Accessory Dwelling Units and 1262.08 (e) (7) Transient Guest Lodging. Greene County Parcel ID#F19000100110010400; F19000100110031700.

Swinger reviewed the application, noting that the only condition staff recommended was that a fire inspection be obtained through Miami Township.

Swinger noted a phone communication from a neighbor who was concerned that there might be windows built in the ADU overlooking their home.

Doden opened the floor, and Green posed a question regarding parking.

Brittany Baum responded that there is ample parking on the property to accommodate needed parking for the ADU. She continued, stating that there will not be any windows on the side facing the neighboring property due to the pitch of the roof. She stated that she has shared this information with the concerned neighbor.

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

Curliss MOVED TO APPROVE THE APPLICATION FOR AN ADU AND TGL with the condition that the applicant obtain and provide to the Zoning Administrator an inspection report from Miami Township Fire & Rescue prior to its use as a transient guest lodging. Amend SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

- 2) Amend Chapter 1264 Off-Street Parking and Loading regarding parking minimums in the B-1, Central Business District.

Swinger explained that when the concept of parking minimums was introduced to Council, They expressed hesitation to removing parking minimums in the B-1, Central Business District because of concern over impact on the downtown area. Staff agreed that the language regarding the submission of a parking plan could be stronger and is bringing it back again for PC review.

Staff suggested to Council completion of a parking audit to determine the number of on street parking spaces and publicly accessed parking facilities in and/or near downtown. Most of the businesses downtown are retail and are a permitted use, which means they do not have to come before the Planning Commission for approval and many of these businesses have been in place prior to the zoning code update in 2013. The Village could then develop a parking map that shows available on street parking spaces close to downtown since we will soon have wayfinding signs installed with a business directory and the location of our four municipal lots downtown.

Swinger noted that the parking study should wait until after the pandemic, or the results would likely be skewed.

Swinger was hesitant to enact a measure that might have a chilling effect upon downtown businesses, suggesting that requiring a parking plan up front might prevent delay in decision-making on the part of PC.

Doden, who had attended the Council meeting, agreed with Swinger's assessment.

Kirk wondered if existing structures could be grandfathered in.

Swinger commented that changes-of-use needs to come before PC, because those changes can alter the parking picture.

Doden commented that a parking plan should note duration and time of day parking would be needed should be included in a parking plan.

Curliss and Kirk agreed to work with Swinger in amending the parking minimums.

Amend suggested a fee-in-lieu for parking.

Swinger agreed that the idea is interesting and had been previously suggested.

Amend stressed the value of government-provided parking.

Amend stated that she would try to find information on fees-in-lieu to send to Swinger.

- 3) Amend Chapter 674 Weeds regarding noxious weeds, invasive plant species and managed natural landscapes.

Swinger noted that during the November 10, 2020 Planning Commission meeting, members reviewed extensive amendments to *Chapter 674 - Weeds*. The Environmental Commission had previously reviewed the chapter and set out to amend it to establish more ecologically sensitive rules surrounding not only the management and removal of weeds and invasive species, but also the requirements for Managed Natural Landscapes. After reviewing these amendments, the Planning Commission decided to form a sub group to continue the work on the amendments.

On November 16, 2020 the sub group, consisting of Chair Frank Doden and Council Liaison Laura Curliss of the Planning Commission, along with Nadia Malarkey and Catherine Zimmerman of the Environmental Commission, met with staff on these revisions. Staff met one additional time with Mrs. Malarkey to continue the revisions, and have been communicating by phone and by email over the course of December working on the best way to have the text meet the environmentally conscious goals of the Village, while also not being punitive or placing undue hardship on homeowners.

Nadia Malarkey sought additional feedback from the Community Resource and Policy Director at Beyond Pesticides and the response to the proposed amendments was that the text was "draconian." At Mrs. Malarkey's request, staff has pulled the text amendments to *Chapter 674 - Weeds* from the agenda for now.

Malarkey introduced the topic by placing it into the context of global climate change, stressing the urgency of implementing environmentally aware measures.

Malarkey began walking PC through the document. She noted the addition of a definition of "noxious weeds". She stated that an appendix with illustrations as to how to properly remove these weeds would be added.

PC discussed changing the wording of "owner and/or occupant" further to define "occupant".

Curliss stated that she prefers the term "person in control", and suggested this change.

Doden suggested addressing the "noxious weeds" section first.

Amend expressed objection to making the harboring of noxious weeds a misdemeanor offence.

The objection set off a lengthy debate on the matter of misdemeanor offenses, enforcement, and how best to address the serious nature of invasive species without being punitive.

Parcels pointed out that all of the noxious weeds violations are currently criminal violations under the Ohio Revised Code, so that if there is no local ordinance, any violation would go directly to Xenia Municipal Court. She pointed out that sending an offender to local Mayor's Court is "softening the blow".

Malarkey stressed that the goal is education, and that effort is currently in discussion with the Environmental Commission, but that there needs to be an enforcement mechanism.

Curliss stressed that the ultimate goal is compliance.

Several suggestions were made, but no motions followed.

Amend remained adamant in her refusal to accept any criminalization of the matter.

PC agreed to move through the remainder of the document.

Regarding Invasive Plant Species, PC discussed the section, noting that the language has been changed to not planting invasives, rather than requiring removal of invasives.

Green asked for clarification of "substandard structure" in the section.

Curliss MOVED to REMOVE THE WORDS "SUBSTANDARD STRUCTURE" from SECTION (d) 674.02. Doden SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Regarding Managed Natural Landscapes, Malarkey spoke to the importance of the section and what it covers, noting that visibility and containment on the property are stressed, and that this is a high standard to meet, with the operative term being "managed".

PC addressed a letter from Miller asking that no area of the lawn interfere with visibility. The Clerk pointed out that the language is already in the ordinance, and PC agreed that the matter is addressed as written.

Curliss MOVED to REPLACE THE WORD "from" with "adjacent to" IN SECTION 674.03 (a) 1. Doden SECONDED, and the MOTION PASSED 4-0 on a ROLL CALL VOTE.

PC discussed whether a one-foot border at the edge of the yard should be required, with Malarkey stating that this is unnecessary if the landscape is properly managed and would create a hardship to the property owner in implementing a Managed Natural Landscape.

Curliss MOVED to ORDER THE DEFINITIONS SECTION ALPHABETICALLY. Doden SECONDED, and the MOTION PASSED 4-0 on a ROLL CALL VOTE.

The debate regarding compliance and enforcement resurfaced and continued for several minutes.

Curliss and Doden suggested replacing Owner/Occupant with "person in control".

Parcels suggested that the wording be "owner, operator or lessee, an employee of any owner, operator or lessee, an occupant, and any person in direct control of any property".

Curliss MOVED to CHANGE CURRENT SECTION (c) of 674.03 to SECTION 674.04 AND ADD THE LANGUAGE FOR OWNER/OCCUPANT to (3) and THE LANGUAGE FOR TURF GRASS to NUMBER (4). Doden SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Curliss added that she would like the enforcement language to remain at the end of each section.

Doden OPENED THE PUBLIC HEARING.

Mitzie Miller commented on aspects of her letter. She advocated again for a buffer between a Managed Natural Landscape and sidewalks and driveways. She opined that the buffer would reduce rodents and insects and general hazards.

Doden CLOSED THE PUBLIC HEARING.

Malarkey commented that it is opinion and not fact that natural landscapes increase unwanted rodents or insects, noting that these species tend to self-regulate in a natural, ecologically balanced area. She noted a bias against Managed Natural Landscapes, with concomitant assumptions, pointing out again that the issues are dealt with in the ordinance language.

Malarkey noted that the original language requiring a buffer zone has proven to be a barrier to the installation of managed natural landscapes, and that it was “to appease neighbors with differing aesthetics” rather than a proven best practice.

Curliss MOVED TO PASS THE ORDINANCE ON TO COUNCIL AS AMENDED.

Amend asked that all the pictures and descriptions in the appendix be included before passage to Council.

Swinger commented that these could be later added to the ordinance as an amendment to the appendix.

Parcels commented that she would like to add in the language regarding assessing cost for invasive removal to taxes if needed before the ordinance moves on to Council.

Curliss suggested that this could be done at the Council level.

Parcels advised that the ordinance should be in “substantially final form” before going to Council, and noted that there are some key areas that need to be resolved.

Swinger noted that one of the reasons that assessment to taxes is not a current option is that the Village lacks the resources to take care of problem properties, and has had a great deal of difficulty in finding companies capable of this in the past.

Malarkey urged that the ordinance move forward, stating that “the environment always has to wait” asking what harm there might be in moving forward and making amendments if there are problems.

Curliss CALLED THE QUESTION.

Green SECONDED CURLISS’ MOTION, and the MOTION PASSED 3-1 with Amend voting against.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

Presentation on Phase II of Free Public Wifi Project
Presentation on the ATP and SRTS Projects
2020 Annual Planning and Zoning Report

Salmeron presented briefly on the WiFi project and on the Active Transportation Project and Safe Routes To Schools projects.

Parcels noted a case of platting out of the City of Troy in which that municipality was found out of compliance for putting off platting hearings. She noted that the ORC statute requires that a hearing take place within 30 days of the request being made. Given Village noticing requirements, Village platting hearings would then be out of compliance. The problem is solved, Parcels said, if the Village simply asks each petitioner to agree that the 30-day clock begins once Planning Commission has received all required materials.

AGENDA PLANNING

Transient Guest Lodging-one request
Parking Minimums

ADJOURNMENT

At 9:12pm, Doden MOVED and Curliss SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 ON A ROLL CALL 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.