

**Planning Commission
Regular Meeting**

Virtual Meeting @ 7:00pm

Tuesday, April 12, 2022

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 Carmen Brown, Susan Stiles, Stephen Green and Gary Zaremsky. Also present were Denise Swinger, Zoning Administrator, and Village Solicitor Breanne Parcels. Scott Osterholm, Alternate, was present to step in as needed.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Stiles MOVED TO APPROVE the minutes of the March 15, 2022 Regular Planning Commission meeting. Doden SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

COMMUNICATIONS

The Clerk will receive and file:

- Kami Berkey re: Subdivision Request
- Betsy Fox/August Capiola re: Subdivision Request
- Paula Northway re: Subdivision Request
- Strain and Turnmire re: Subdivision Request
- Vickie Hennessey re: Subdivision Request
- Adamson/Seibel re: Subdivision Request

COUNCIL REPORT

Brown reported the following:

Council passed the first reading of Ordinance 2022-10 “Amending Subdivision Regulations”, based upon PC’s recommendation to accept the text amendments. This ordinance will receive a second reading/public hearing on April 18th, and will go into effect one month following passage.

Council also passed as an emergency an amendment to the deed restriction on the Union Schoolhouse property which prohibits structures in front of the principle structure. This amendment will allow for a chimney swift “chimney” to be built on the front lawn in an effort to re-home the swifts whose original home—the chimney on the Union Schoolhouse—is being removed in the rehabilitation of that structure.

Frank Doden gave the annual Planning and Zoning Report, compiled and put into a powerpoint by Denise, and this was well received.

Matt Raska, BZA member, presented a powerpoint on “Zoning Opportunities”. The presentation was forward focused and contained good ideas.

Finally, Council has agreed to return to in-person meeting, and will attempt a hybrid meeting style, with some zoom participation permitted. Meetings will continue to stream live, as they have for years.

The Village Manager, who was present via zoom, addressed a question from Green regarding grants received for infrastructure work.

CITIZEN COMMENTS

There were no Citizen Comments.

CONSENT AGENDA

Dewey Minor Subdivision: Replat of Lot 575A - 146 Marshall Street.

Doden MOVED and Stiles SECONDED a MOTION TO APPROVE the Consent Agenda. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

PUBLIC HEARINGS:

Conditional Use Application – B-1, Central Business District – Don Beard, owner of Peach’s Grill has submitted a conditional use application for an expansion to the outdoor patio area at 104 Xenia Avenue - Chapter

1250 Business Districts, Table 1250.02 Schedule of Uses: Business Districts, Chapter 1262 Conditional Uses. Greene County Parcel ID# F19000100100005400.

Swinger explained that, like several other outdoor patio requests recently, Peaches is seeking permission to permanently implement the patio concept, which was permitted without the hearing requirement during covid. That permission is now lifting, and the restaurant would like to continue the patio use.

Swinger noted that the request is fully compliant with the zoning code.

Green received details regarding the size of the area in question, and the plan was shown to provide clarity.

Stiles received clarification that the patio area will be roofed, and will be open on three sides, with the fourth side partially open.

Don Beard, Peachs owner, responded to a query from Green, stating that he expects the patio as a “two and a half season patio.” He noted that he has no plans to offer music or entertainment on the patio.

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

Stiles MOVED APPROVAL OF THE EXPANDED OUTDOOR PATIO SEATING IN CONJUNCTION WITH A PERMITTED RESTAURANT WITH NO SPECIFIC CONDITIONS. Brown SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

Preliminary Plat – R-B, Moderate Density Residential District – DDC Management of Miamisburg, OH has submitted an application for a review of a preliminary plat at 402 N Wright Street – Chapter 1226.02 Submission of and Action on Preliminary Plats, 1226.03 Contents of Preliminary Plats, consistent with the current zoning. Greene County Parcel ID #: F19000100020001600; F19000100020005600.

Swinger explained the preliminary plat request as follows:

The Kinney parcel **F19000100020001600** was annexed into the Village of Yellow Springs in 2000. A condition of the annexation was the requirement that 10 percent of the annexed property be preserved as open space. This requirement applies to the larger parcel consisting of 22.6820 acres which currently has a single-family dwelling with an attached garage and several accessory structures. The Village provides electric service, but does not provide water or sewer services.

F19000100020005600 is 0.3340 acres and has no existing structures. Both parcels combined account for a total acreage of 23.02. The plan proposes 90 buildable lots for single-family detached housing, all meeting the minimum requirements for R-B, Moderate Density Residential zoning. Proposed lots 91 and 92 are open space, a total of 3.45 acres (exceeding the minimum 2.268 acres required by Ord. 2000-15 as well as parkland dedication which would otherwise be required by the Subdivision Regulations—without Ordinance 2000-15, the required open space would have been 1.35 acres).

Swinger commented that DDC is considering part of the retention pond to be open space, since it can be used for fishing. The pond will be managed by an HOA: the park areas and roads will be dedicated to the Village at a later point.

Swinger noted that the developer, DDC, plans to develop the infrastructure entirely at their cost, and then to sell off the lots to a builder.

Staff have met with DDC twice. Initially, DDC showed only one ingress/egress, off of Kenneth Hamilton Way. Staff requested a second ingress/egress, and DDC returned with a plan showing a second ingress/egress off of North Wright Street. Swinger noted that two separate access points are required by State law, which the Deputy Fire Chief communicated.

Swinger noted a concept plan which was included in the Village’s Comprehensive Land Use Plan (CLUP), and which is being followed in terms of location of the retention pond, walking paths, and buffers.

Swinger noted three properties which will not have a buffer between their properties and the proposed development.

An electric utility plan is not provided, but DDC has put in a request for this from Public Works for a final plat. All electric work will need to be done by DDC's contractor. The Village requires that all new developments have underground electric.

Swinger commented that the plan shows 90 single-family homes.

Swinger noted that a great deal more detail will be required for the final plan.

Green asked whether, if the development is sold, the buyer will have to follow the preliminary plat.

Parcels commented that the final plat will have to return to PC and then Council, and the final plat cannot vary from the preliminary plat in any significant manner. The preliminary plat approval is good for one year.

Parcels commented that there would be no Public Hearing, but would be an Administrative Hearing in which "testimony can be taken."

PC members reviewed the plat map and received clarification as to which areas are buffer areas relative to the areas identified by residents as natural areas.

Stiles suggested that the southwestern corner be left undeveloped so that wildlife can pass through the development.

Stiles commented that the stubbed end of the street that will be continued into the development is made up of affordable homes, and asked that the road either be outfitted with speed bumps or made as only for bikes.

Clayton Sears of DDC described his employer as a local developer, a branch of CESO, a local engineering firm. He stated that DDC would plat out the lots and infrastructure. They would then sell off the 90 lots to another developer who would construct the homes. If the preliminary plat is approved, they will engineer the roads and utilities and bring the final plat back for approval, after which they would proceed with road and infrastructure build-out.

Sears stated that DDC based its plan around the Glass Farm Concept Plan. He noted that a buffer is not required for this development, but in talking with neighbors, DDC will endeavor to create a buffer.

Sears stated that the development will have two entrances, the primary being off of Wright Street. Sears stated that the existing Kenneth Hamilton Way is narrower than a typical road, which will naturally slow traffic in and out of the development. He stated that speedbumps create a plowing "nightmare", but stated that DDC is open to looking at traffic calming options.

Sears stated that DDC will clear only enough to build.

Regarding drainage, Sears stated that all stormwater will be routed to the retention pond. He commented that any current drainage issues "will be alleviated by this retention pond."

Burns commented that the retention pond will alleviate the drainage issues identified by one neighbor who had commented concerns to the Village.

Stiles asked whether DDC would donate lots for affordable housing.

Sears stated that they cannot make that commitment prior to knowing costs and having identified buyers.

Salmeron stated that he would continue to engage DDC on this topic.

Zaremsky asked whether a group could purchase a parcel of lots and create affordable housing. He suggested pocket neighborhoods as an option.

Swinger responded that R-B does allow for different types of housing.

Sears responded that DDC is not partnering with any one homebuilder at present. What he is presenting today, he said, is what is going to be built.

Sears stated that DDC has no feel for what they may do in terms of sale of all or some of the lots.

Sears responded to a question from Parcels, stating that DDC's intention is to begin selling lots next fall for building beginning in 2023.

Green inquired regarding the stubbed area, and Sears responded that this is on the plan at the request of the Village.

Swinger confirmed this, since there are areas of the Glass Farm which may yet be developed.

Salmeron confirmed this as preparation for potential future development.

Swinger noted that Burns has had electric capacity set up off of the solar field to accommodate future use in that area.

Brown argued that Kenneth Hamilton Way (KHW) is used as an area to congregate, and that this development will affect that. She asked why this could not be used only for pedestrian and emergency vehicle use.

Burns responded that he has spoken with Kinney Farm landowners over the course of several years. He noted that the ROW extends 50 feet into what people consider their side yards. He asked one of the owners if she planned to develop the area, and she stated that KHW was always meant to serve as the entrance to future development. KHW is actually wider than Wright Street, Burns stated. He noted that the State law requiring two entrances is not only for emergency vehicles.

Brown asked whether residents have been made aware that KHW could be built out.

Green pointed out that on the Comprehensive Land Use Plan (CLUP) KHW is shown as a built-out street. He noted that “over half of the Village had input into the CLUP.”

Burns commented that the easements are needed for infrastructure connectivity, not just for pedestrians.

Jaime Adoff read a statement, observing that the KHW area has been in his family for generations. He stated that his grandfather was Kenneth Hamilton, who donated that strip of land to the Village. Adoff noted the kindness and generosity of his grandfather. He asked that the developer work with the Village in the spirit of his kind and generous grandfather.

Doden noted the options open for a motion.

Parcels responded to a question from Stiles, stating that PC can take testimony, pointing out that this is an Administrative Review.

Parcels cited language needed prior to testimony. She requested that all speakers swear or attest to the veracity of their testimony prior to speaking, and to limit testimony to the scope of PC’s consideration.

Doden called on speakers in the following order:

Betsey Fox and August Capiola each affirmed the veracity of their testimony. Fox asked for “minor concessions” to preserve the area ecology. She asked for preservation of the brush barrier to the north and east. Fox asked for preservation of the dead-end street as such and an overall minimization of traffic. She asked that portions of land be preserved.

Deb Strain and Erin Turnmeyer each affirmed the veracity of their testimony. Strain stated safety concerns for “her children and grandchildren” given the increase in traffic. She asked that the brush barrier be maintained.

Turnmeyer asked for a second entrance off of Enon, and was informed that that area does not belong to the Village.

Cheryl Smith affirmed veracity of her testimony. She argued for a walking path for KHW and advocated for space for nature.

Emily Seibel affirmed the veracity of her testimony. She stated her and her partner’s agreement with earlier comments and asked for other options. She asked that a buffer be created between her home and the development to preserve the “natural area”. She asked that “diverse housing options” be developed.

Sarah Amend affirmed the veracity of her testimony. She asked that KHW be left alone and two entrances be created off of Wright Street.

Swinger noted that any second entrance will impact a neighborhood, and the proposed entrances avoid the retention areas.

Amend proposed several entrance options.

The Clerk pointed out that the development cannot be modified by Planning Commission if it meets zoning code requirements.

Parcels affirmed this.

Doden brought the matter back to PC.

Stiles stated that she desired a motion to extend the vegetative buffer to the western corner of the property. She asked that speed bumps be placed on KHW.

Doden commented that speed bumps cannot be considered in a motion for the preliminary plat.

Parcels stated that the extension of the vegetative buffer can be considered under “preservation of natural areas”.

Zaremsky suggested “traffic calming features” for the final plat.

Stiles MOVED TO APPROVE THE PRELIMINARY PLAT WITH THE MODIFICATION THAT THE BUFFER BE EXTENDED TO THE SOUTHWESTERN CORNER OF THE PROPERTY. Green SECONDED.

Parcels commented that PC can determine whether it is in the public interest to designate more than one contiguous parcel for parkland dedication. If PC does not make this determination, she stated, the zoning code prioritizes one contiguous area.

Green MOVED THAT PC CONSIDER TWO SEPARATE PARKLAND AREAS AS BETTER ABLE TO PRESERVE EXISTING NATURAL FEATURES.

Stiles received confirmation that this area comprises part of lot #52.

Doden SECONDED.

At the suggestion of the Clerk, Doden, Green and Stiles agree to combine their two motions into a single motion. The Clerk received verbal confirmation from all PC members that they clearly understood the combined motion (which was not stated).

The Clerk CALLED THE ROLL ON THE MOTION TO APPROVE THE PRELIMINARY PLAT WITH THE MODIFICATION THAT THE BUFFER BE EXTENDED TO THE SOUTHWESTERN CORNER OF THE PROPERTY WITH THE UNDERSTANDING THAT TWO SEPARATE PARKLAND AREAS ARE BETTER ABLE TO PRESERVE EXISTING NATURAL FEATURES. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Salmeron asked whether the buffer on lot #52 will need to be carved out from the existing lot, or whether it can “exist as the side yard.”

Green opined that it will need to be carved out to assure its preservation.

Options such as a deed restriction were considered.

Swinger stated that this is meant to be open space, and as such would need to be carved out.

Zaremsky pointed out that lot #52 is larger than adjoining lots and should be able to accommodate the carve out.

Burns received clarification that the Village will have no responsibility for maintenance of the area. Swinger stated that this would be the responsibility of the HOA.

AGENDA PLANNING

Swinger noted an upcoming rezoning request, and two possible conditional uses.

ADJOURNMENT

At 8:42pm, Doden MOVED and Green 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.