

VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION: MEETING OF PLANNING COMMISSION
WITH COUNCIL PRESENT

AGENDA

The Village of Yellow Springs Planning Commission will meet with Council in regular session on Monday, February 11, 2013 at 7:00 PM in Village Council Chambers on the second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

7:05 REVIEW OF MINUTES

January 16, 2013 Minutes of Joint Meeting of Planning Commission and Council
January 23, 2013 Minutes of Special Meeting of Planning Commission

7:07 REPORTS

1. Council Update
2. Bike Enhancement Committee
3. Village Staff Report

COMMUNICATIONS

Ted Donnell re: Zoning Code Rewrite
Chris Till re: Zoning Code Changes
Reed and Curliss re: Response to Citizen Input

7:10 CITIZENS' COMMENTS

7:15 OLD BUSINESS

7:25 NEW BUSINESS/ PUBLIC HEARINGS

Request for Conditional use Permit for Yellow Springs Brewery, 305 N. Walnut St.
Public Hearing: Review of Draft Zoning Code

8:55 AGENDA PLANNING

Planning Commission 2013 Goals

9:00 ADJOURNMENT

**Council for the Village of Yellow Springs
Special Meeting Minutes
Planning Commission with Council**

Council Chambers 7-9pm

Wednesday, January 16, 2013,

CALL TO ORDER

The meeting was called to order at 7:04 P.M.

ROLL CALL

Planning Commission members present were Matt Reed, Chris Till, John Struewing, Lori Askeland and Bill Bebko. Tim Tobey was not in attendance. Present were Council members Hempfling, Wintrow, Walkey and Simms. Village Manager Laura Curliss was also present. Paul LeBlanc from LSL was present as the zoning code rewrite consultant. Stephen Anderson and Tamara Ennist, Village zoning administrators, were present.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Bebko MOVED and Till SECONDED a MOTION to APPROVE the Minutes of August 13, 2012 AS WRITTEN. The MOTION PASSED 5-0 ON A VOICE VOTE.

REPORTS

Council Update. Askeland reported briefly on the following Council business:

Council passed the 2013 budget.

Council entered into a contract with Greene County regional Planning Commission for zoning services. In addition to these services, Denise Swinger has been hired to staff the office and handle some permitting paperwork.

A ordinance prohibiting the drilling of wells in the Village, particularly in the area surrounding the Vernay site has been proposed.

Askeland noted that the Village is close to a final agreement on a policy governing art in public places.

Water sourcing will be on the agenda in the near future.

Bike Enhancement Committee. There was no report, owing to Tobey's absence.

Village Staff Report. Curliss reported on the following matters:

The Village will need to have non-infrastructure Safe Routes to School provisions in place by July.

Curliss mentioned the availability of free reflective school signs from ODOT which the Village will obtain.

NEW BUSINESS

Review of Draft Zoning Code. Reed noted that the session will begin with discussion among Planning Commission and Council, and then will open to public comment.

Reed began the discussion with section 1240. The group agreed to work through the document and to have LeBlanc present his comments within each section.

Hempfling referenced a letter and revised table she and Marianne MacQueen had submitted for consideration, stating that they are proposing more mixed use, and permitting businesses within neighborhoods. Hempfling asked that all areas be treated in similar ways regarding considerations of traffic and impact, questioning the fact that there are uses permitted by Millworks which are not considered permissible in the High Street neighborhood

LeBlanc addressed Hempfling's point, stating that his understanding was that the intention of permitting a neighborhood business area on High Street was to deal individually with the issue on High Street as opposed to providing an overall approach. LeBlanc pointed out that it is not generally good practice to create a district just to address a concern particular to that district. While he understands the concern regarding providing protection to the existing uses on High Street, LeBlanc commented, he would suggest adding to the non-conforming uses chapter which exempts those businesses from specific regarding provisions of expansion and vacation.

LeBlanc questioned how much commercial area a town of two square miles can support, commenting that creation of another business district increases the potential for pulling focus away from the CBD.

Till asked for clarification regarding the "unintended consequences" of spot zoning, stating that he doesn't see the current businesses on High Street as a threat to the CBD. Till expressed that that area should be formally recognized through zoning.

Simms expressed concern that the proposed B-3 area would expand further.

Wintrow spoke against expansion of the businesses on High Street, commenting that the Village has a shortage of housing as is. Business districts should not intrude into neighborhoods, she stated. While she is fine with the existing businesses, Wintrow noted, she would not like to see the area become more business oriented.

LeBlanc noted that the first priority in a residential neighborhood should be to protect the integrity of the residential neighborhood .

In response to a query from Bebko, LeBlanc stated that the adjustment would have to be to chapter 1282, and would amend the provisions of vacation and expansion.

Askland MOVED to ask LeBlanc to write this change into chapter 1282. Struewing SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

There were no changes made to the Conservation District.

Chapter 1248, Residential Districts, was discussed in depth. Reed summarized that TRC's goal had been that the zoning code encourage infill and accessory housing in this chapter.

Struewing brought up the issue of the Glass Farm, which has been proposed as R-A and also as Agricultural.

Hempfling stated that she does not want to encourage low density housing, suggesting that in a district zoned agricultural, any housing proposal would have to come before Planning Commission, and would do so without the appearance of sanctioning low density housing.

Reed pointed out that any development would need to go through Planning Commission regardless.

Richard Zopf, Township Zoning Administrator, commented that zoning should reflect the Comprehensive Plan, and should send the correct message. If, he stated, the area is zoned at the lowest density possible, it sends the message that the Village desires that type of development.

LeBlanc responded, noting that the area is isolated, and was the only area in the Village zoned agricultural. He noted that the R-A district permits agricultural uses, and the low density would require most uses to come before Planning Commission.

Wintrow commented that the Village does need some lower density housing, and that the lot requirement for R-A (7,000 square foot minimum per lot in R-A) is fairly dense in comparison to some other areas of Yellow Springs and to what is allowed in the current zoning code.

Struewing MOVED that the areas formerly zoned agriculture, located in the northwest quadrant of the Village (Kinney and Glass Farms), should be zoned as R-A. Bebko SECONDED. Reed CALLED THE VOTE, and the MOTION PASSED 5-0 on a VOICE VOTE.

Section 1254. The group discussed the Center for Business and Education. LeBlanc noted that at the time the CBE was developed, it was set up as a CEDA, and the restrictions thereof made it essentially a PUD. If at any point the developers wish to change the agreed-upon parameters, they would have to come before Planning Commission with a request.

1256. Overlay Districts. Hempfling noted that she and MacQueen questioned the necessity of the Gateway districts. Hempfling commented that the character of the Village has already been established, and that creating an overlay district puts an unnecessary burden upon potential development in those areas, and their recommendation is to eliminate the Gateway district.

Bebko identified the three proposed gateway districts as US 68 South, US 68 North, and the western edge of Dayton-Yellow Springs Road.

Askeland noted that a primary rationale for the gateway districts was walk-ability and-bike-ability, and that in these areas (particularly US 68 South), “eclecticism” and pedestrian safety are at odds.

Wintrow brought up the issue of Internet Cafes and Sexually Oriented Businesses, which are zoned for I-1 and B-2, noting that locating these only on the entrance arterials is not ideal.

At this point, the group went through LeBlanc’s memo of January 3rd, regarding accessory uses. LeBlanc noted that he disagreed with the request to add corporate offices located on the property and incidental to the principle use be included as a principle use. LeBlanc noted his disagreement with this suggestion, stating that if one has an industrial property in an industrial district, one can add corporate offices. LeBlanc noted that one could re-zone if needed.

Retail incidental to the manufacture be added to the B-2 district. LeBlanc commented that permitting minimal retail sales from a counter should be permitted in I-1, but that it does not make sense to add to B-2, which is already a retail district.

Walkey commented that the goal is increased mixed use and stated that adding light industrial uses within the B-2 district helps achieve the goal of increasing mixed use.

LeBlanc questioned permitting as many uses in each district as possible, in that it detracts from the purpose of a zoning code. LeBlanc suggested rezoning the area as industrial.

Curliss commented that industrial uses should not be permitted along arteries, in that those are generally reserved for “walk-in” type businesses. LeBlanc agreed that this is generally the case.

Wintrow commented that she is not certain that adding more retail in the B-2 district will be of use.

Reed suggested moving the discussion into a small group setting. Askeland agreed, stating that if anyone wishes to make a proposal regarding uses in the B-2 should bring that to the next Planning Commission meeting.

Wintrow agreed to look at B-2 again prior to the next meeting.

LeBlanc noted that aside from building material manufacturing and metal stamping, uses listed in I-2 should be permitted by right.

LeBlanc brought up the suggestion made to add research development and manufacturing facilities as permitted uses to the B-2 district, and as conditional uses in B-1, asking whether the Village wished to take the limited space devoted to retail and service and devote it to research laboratories. LeBlanc noted that I-1, I-2 and E-1 contain ample space for these uses.

Reed noted that the above uses were listed as conditional so that any such uses would need to come before Planning Commission so that issues of runoff or pollutants could be reviewed.

LeBlanc noted that any such business would require a site plan approval even for a permitted use. At this information, those at the table agreed to LeBlanc’s suggestion to permit research development and manufacturing facilities as permitted uses to the B-2 district, and as conditional uses in B-1.

Curliss brought up the information that the Water Reclamation Facility is not certified to handle industrial waste. Given this information, the group agreed that all industrial uses must be conditional rather than permitted.

Chapter 1262, Conditional Uses. Reed asked at what point building and fire and other state Requirements go into effect, given the number of uses being permitted conditionally. Reed asked that the group be mindful of running contrary to any state requirements.

LeBlanc reminded the group that building codes and zoning codes are two different areas of law. To establish use, he clarified, any use permitted by the zoning code must then get a building permit, the conditions of which are set by state law.

Curliss sought clarification of home occupations, regarding the number of visits by clients permitted per day, suggesting the limit be set at eight client visits per day, for a total of 40 per week.

Resident Anna McClure received assurance that numbers need not be precise, but that flagrant or frequent violations would be noted.

Till brought up the phrase in the definition section banning clinics and client based home occupations. LeBlanc agreed that with the stated limitations of eight per day/40 per week, the client based home occupations can be permitted.

1268. Site Plan Review. Reed referenced a letter from Jerry Papania asking that noise be one of the criteria for site plan review. Askeland noted that she will pass the information on to LeBlanc.

1272. Administration and Enforcement. Reed brought up the matter of code enforcement, and Struewing asked for the rationale behind the amounts attached to violations for first and second offenses.

LeBlanc noted that his intention was to provide greater incentive for citizens to regard the ordinance.

The matter was discussed, and the group decided to gather more input on this aspect of the code.

Reed OPENED THE FLOOR for discussion.

Sam Young, Millworks principle, asked that the new code change warehousing, distribution and wholesale to permitted uses. He asked, if the uses are not changed, to receive an explanation for their being categorized as conditional uses.

LeBlanc explained that the code's definition of warehousing and distribution is along the lines of a UPS distribution center, and asked whether the process would be better served by finding a definition for warehousing and distribution that would more closely fit the use taking place at Millworks.

Young argued that to attract those kinds of businesses, the code needed to permit these uses.

Hempfling noted that the traffic is coming out into a residential area, and thus needs oversight.

Curliss added that mixing retail and truck traffic is something that needs to be carefully reviewed.

Resident Jerry Papania asked that single-and-two family dwellings be included in the site review process due to potential issues of stormwater drainage and setback.

Curliss noted that any person building a home must obtain a building permit.

Papania reiterated that he wanted storm water runoff a part of the vetting process.

Marianne MacQueen addressed the map, specifically the Kinney Farm, objecting to zoning the area R A, since Kinney believes it is currently zoned R-B. MacQueen noted several minor errors on the map.

MacQueen noted that there is one lot in the downtown area which is zoned B-1. Curliss stated that the Village intends to zone that lot (Norah's) as commercial.

Citizen Becky Campbell raised objection to zoning the north side of Brookside Drive as R-B. This was discovered to be an error, and was corrected to R-A.

Resident Dan Reyes brought up the issue of golf courses, noting that it is a conditional use in the Education District, and objecting to this status.

Paul Abendroth related the comments he has submitted to both TRC and Planning Commission, and asked what the review process is or will be for such citizen input.

Reed responded that all such comments are discussed at meetings, and many are incorporated.

Curliss noted that she and LeBlanc had spent three hours going through his comments and making changes to the draft.

Citizen Anna McClure asked whether re-zoning her home was possible, and was told that any citizen can bring a request to Planning Commission.

Stephen Anderson noted that he will submit his edits directly to Curliss and LeBlanc.

Zopf questioned the communication around submission of comments. Askeland noted that there are several more public hearings ahead, and that he is welcome to continue to participate.

Emily Seibel of Home, Inc. asked for more clarity around when specific issues will be discussed, and asked that meetings be announced.

Planning Commission agreed to meet again on January 23rd at 7pm to continue the discussion. LeBlanc agreed to be present for that meeting.

Bebko MOVED and Till SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Matt Reed, 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.

**Council for the Village of Yellow Springs
Special Meeting Minutes
Planning Commission with Council**

Council Chambers 7-9pm

Wednesday, January 23, 2013,

CALL TO ORDER

The meeting was called to order at 7:05 P.M.

ROLL CALL

Planning Commission members present were Matt Reed, Tim Tobey, John Struewing, Lori Askeland, Bill Bebko, and Chris Till, Alternate. Present in the audience were Council members Hempfling, Wintrow, Walkey and Simms. Village Manager Laura Curliss was also present. Paul LeBlanc from LSL was present as the zoning code rewrite consultant. Stephen Anderson and Tamara Ennist, Village zoning administrators, were present.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

There was no review of minutes.

REPORTS

There were no Reports.

NEW BUSINESS

Review of Draft Zoning Code. Reed introduced the process, noting that the next meeting of Planning Commission will take place on February 11.

1258. Schedule of Uses. Till commented that under Commercial Services, AC Service is a conditional use, although it would not be permitted were it not already an existing business.

Reed noted that due to space and the need for trucks in and out throughout the day, the location within the CBD is not generally a good one for a service oriented business.

Map. Reed pointed out that B-2 should be extended North one lot to include an existing doctor's office, per a memo from Karen Wintrow.

Businesses now located along High Street will remain as non-conforming uses.

A map of overlay districts and flood zones was requested.

Residential Districts. Reed brought up a suggestion made by Walkey, suggesting for a 300 square foot minimum with an additional 100 square foot for each additional bedroom in R-A, R-B and R-C.

The group discussed this concept, and LeBlanc offered his opinion on the "small footprint" concept. LeBlanc stated that the rationale is to provide a minimum standard for livability and maintaining property values. He recalled that there was not strong feeling regarding the minimum floor area.

LeBlanc responded to a question from Askeland, stating that any code he could think of does set a minimum.

Till related the issue to affordable housing, but noted that 300 square feet is extremely small.

Reed asked where the accessory dwelling issue fit into the discussion. Askeland here pointed out that maximums were set here, not minimums.

Villager Richard Zopf pointed out that building codes have requirements which would supercede those of the zoning code. He asked why there is a different standard for apartments than for freestanding structures, and answered his own question by stating that it has more to do with the look or feel of a neighborhood.

Askeland suggested setting the minimum at 300 square feet.

Reed asked for the opportunity to gather more information before making any change, and the group agreed to this.

LeBlanc responded to a query from Reed, stating that the provision adding a caretaker, employee or owner to the I-1 district as a conditional accessory use opens the possibility for residential units in the I-1. LeBlanc cautioned against this degree of latitude, noting that “caretaker” might cover a night watchperson, but that the other terms are much broader. LeBlanc encouraged the group to maintain the integrity of I-1 as a mixed use business district.

Reed noted that the suggestion referred specifically to permitting a live-work situation, and suggested limiting the occupation to one person.

The group decided to leave the matter for a later decision.

Till referred to Chapter 1250, asking for more permitted uses in the B-2 district as a means of increasing commercial viability for that district.

Struewing disagreed, stating that Planning Commission has never turned down a conditional use, but has used the process to add conditions which assist the business in fitting into the neighborhood.

Till disagreed, characterizing the process as inhibiting.

Curliss noted that Yellow Springs is small, and commercial areas exist in close proximity to residential areas.

The group left the uses as conditional.

PUD. Planning Commission addressed a question related to Part D modification requirements. The question is whether meeting four of the eight stated criterion is too high a bar for modification requirements.

Reed stated that he is comfortable with the requirement, given that the standard is an effort to direct the modifications to Village standards.

Struewing and Bebko agreed.

Anderson noted that he would have a difficult time administering the standards as they are written, and asked that they be more specifically written, leaving the administrator and Planning Commission more latitude.

LeBlanc stated that that is the one area of the code where language is broad and general because PUD is a negotiation process, and the latitude is useful. If the language is made more specific, he noted, both Planning Commission and any developer are more restricted in their ability to negotiate. He stated that he is not troubled by the broad language.

Anderson asked for greater clarity regarding, for example, “significant natural features” to eliminate guesswork on the part of the developer.

Askeland, Struewing and Reed agreed to leave the language as is, and to address needed changes as they arise. Bebko noted that there is no way to add clarity without tightening the parameters unduly. Tobey agreed with Bebko in preferring to err on the side of greater room for negotiation.

Planning Commission addressed a question regarding Section E, density bonuses, specifically cool roof technology and solar panels, and agreed that the language here should be made more general to incorporate changes in technology.

Reed raised a suggestion made by MacQueen and Hempfling which asks that the requirement that 20% of PUD housing be made affordable be reduced to 10%, but that that 10% be made permanently affordable.

MacQueen explained that permanently affordable units are the only way to assure an ongoing housing

stock of affordable homes. Due to the concern that requiring 20% affordable units might be prohibitive, MacQueen stated, dropping the number but adding the condition of permanent affordability seemed a reasonable middle ground.

MacQueen noted that only a developer who wants to select the condition of affordable units will be interested in addressing the matter.

Struewing questioned the ability to keep a unit “affordable” without subsidizing it, commenting that 20% affordable, is more doable than 10% permanently affordable.

MacQueen stated that there is no way to provide an affordable home without subsidy. The difference between permanent affordability and one-time affordability is that the subsidy leaves with the first buyer in the latter case.

Bebko noted that affordable housing is only one of three options necessary to qualify for a density bonus, stating that the contractor can choose other options. He questioned any bank issuing a loan for a land trust.

Emily Seibel, Director of Home, Inc. stated that her organization is able to obtain loans readily. She commented in favor of permanently affordable homes or for specifying a time limit (such as 55 years). She noted that she had asked that the definitions section more clearly define “affordable”.

Askeland deferred to those with knowledge of the affordable housing market in agreeing to the 10% permanently affordable language and to more clearly defining “affordable”.

LeBlanc advised against lowering the number to 10%, and suggested changing the language such that if a developer meets 20% permanently affordable housing in a PUD, s/he then only needs to meet one other of the six criteria to qualify for density bonus.

Struewing suggested adding both 10% permanently affordable and 20% affordable and letting the developer decide.

Till raised the difficulty of monitoring affordability, suggesting that asking a developer to partner with a non-profit agency might be problematic.

MacQueen explained that developers do not generally mind working with non-profit agencies in that those organizations have access to a number of funding sources.

Askeland suggested adopting the 10% language. All agreed.

Reed OPENED THE FLOOR FOR PUBLIC COMMENT.

Ellen Hoover addressed the Millworks request that warehousing, distribution and retail be permitted in I-1. She noted ongoing delays when having to work through issues with Planning Commission in desiring that these uses be permitted.

Hoover noted that they currently have only one truck a month, and daily UPS and FedEx deliveries in asking that these be permitted.

Sam Young of Millworks referenced the referred-to residences, stating that they have neighbors only on one side, and that they have freely chosen to live in an industrial district. He stated that because of their relatively small size, they will not ever house a distribution center.

Councilman Walkey commented on the map, asking whether Norah, of “Norah’s” had requested to be included in the CBD, and questioning the change in status of the CBE as a PUD, stating that it does not qualify as PUD under any existing definition of PUD. He asked that the latter be reconsidered.

Curliss asked about zoning it as a commercial PUD.

LeBlanc stated that it “makes no sense” to create a separate district for one area of the Village. He clarified that as with a PUD, the CEDA was required to meet specific guidelines, and that if any changes to those agreed-upon conditions are desired, the group must come before Planning Commission to request a

change. In that sense, LeBlanc stated, the CBE fulfills the criteria of a PUD.

Askeland stated that under the stated purpose of PUD in the current code, the CBE fits the definition. She noted that under the “recognizable benefit” section, however, she cannot make three of the qualifying conditions “fit”.

Citizen Richard Zopf pointed out that PUD is not a single zone, but that each PUD is in and of itself a zone, created by the establishing criteria.

MacQueen commented on the suggestions she and Hempfling had submitted, opining that “not everything in the current code should be thrown out.” She stated that under the proposed code, the Park Meadows development would not have met the criteria. She asked that conditions which currently exist will be permitted to continue, and gave AC Service as an example.

MacQueen referred to the request that work-live units be permitted in I-1, commenting that the situation currently exists, and asking why, therefore, would one negatively impact economic development by eliminating an existing condition.

LeBlanc responded that the wording of the draft code is different, but that the criteria are substantially similar to the current code.

Paul Abendroth referred to the suggestions he had made regarding the draft code, and stated that the process is not working for him in that he does not know how what has or has not been addressed.

Emily Seibel referenced a letter she sent to Planning Commission asking that qualifying conditions be revisited. She commented that some are vague and some are irrelevant, while others are meaningful. She stated that delays and uncertainty create risk and can cost money. She asked that Planning Commission look again at PUD sections 1254-A, D and E.

Regarding density bonuses, Seibel asked that PC get the opinion of Energy Board on language for energy efficiency. She added that she agrees with LeBlanc regarding building in design trade-offs with regard to density bonuses.

She suggested a definition of an affordable housing unit, and stated that she will send that language to Planning Commission.

Abendroth requested that Planning Commission more clearly define “permanently” in the requirement for “permanently affordable”.

Resident Dan Reyes noted that a challenge of the PUD is to determine the intention of the Village and of the Planning Commission. He noted the desire for PUD standards to define the Village’s goals, and suggested that these policies might be better supported in the variance process.

Askeland asked that the definition of “affordable” be changed to the definition provided by Seibel.

Struewing asked that Planning Commission have more time to look at the definition more closely before making a decision.

The group decided to meet again to get through the document. Reed suggested making assignments so that the next meeting can move more efficiently. Reed noted questions remaining regarding the overlay district, on general provisions, and a number of conditional use questions.

Reed suggested that the group meet as scheduled on February 11.

Curliss noted that she and LeBlanc had gone through Abendroth’s list, and that she would like to meet to go through those and make a decision as to which comments are worth addressing.

Reed asked for volunteers to work with Curliss and LeBlanc to vet the list of suggestions and comments. He commented that PC may be ready to hold the official public meeting at the end of February.

Reed commented that he will also try to develop a plan to respond more transparently to the comments and suggestions made by citizens.

Reed asked that Planning Commission members delve further into the issues raised around the topics of live-work units, minimum square footage, and I-1 permitted uses and come to the next meeting prepared to make final decisions.

Curliss noted that she had received an article on live-work units from Emily Seibel, and would share that with the rest of the group. She commented that the possibility of children eventually residing with adults in the live-work units needed to be considered when looking at the live-work option, and the article makes some suggestions in that regard.

Curliss stated that she will meet with Al Kuzma to follow up on building code standards regarding minimum square footage.

Reed asked that all further familiarize themselves with general provisions, conditional uses, and the overlay district.

LeBlanc agreed to attend the meeting on February 11th.

At 9pm, Bebko MOVED and Struewing SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Matt Reed, Chair

Attest: Judy Kintner, Clerk

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PLANNING COMMISSION

MEETING DATE: January 11, 2013

STAFF REPORT: Tamara Ennist, Village Zoning Administrator

LOCATION: The Brewery at 305 N. Walnut Street

APPLICANT: Lisa Wolters & Nate Cornett; Property Owner: Millworks Development Corp.

REQUESTED ACTION: Request for a conditional use permit to allow their micro brewery to provide a tasting room with limited retail sales of products produced on-site.

HEARING NOTICE: *“Lisa Wolters and Nate Cornett, acting with acknowledgement of the property owner, Millworks Development Corp., have requested a conditional use permit to incorporate a limited amount of retail use to their Yellow Springs Brewery business which occupies a structure located at 305 N. Walnut Street. The property is located within the ‘Light Industry’ zoning district which permits limited retail sales of products produced on site as a conditional use. Applicable Yellow Springs Zoning Code sections are: Sec. 1240.09(28); 1242.05(e); 1242.05(f); 1242.05(g); 1260.02(a); 1260.03(c); 1260.05.*

GREENE COUNTY PARCEL ID#: F19000100110025900.

EXISTING ZONING: Light Industrial

STAFF ANALYSIS OF THE APPLICATION: The applicant requests review of a conditional use application to allow ‘Accessory retail sales of goods produced on site’ for a micro brewery located within a Light Industrial District.

Property Information and analysis:

The business is located at 305 North Walnut Street. It is inside the Millworks Commerce Park. The Millworks Commerce Park is a 2.997 acre property with various business enterprises existing within its structures. It is surrounded on three sides by a residential area and backs up against the bike trail.

Conditional Use Criteria

Yellow Springs Zoning Ordinance, Section 1260.02(a) identifies ‘food processing’ as a principally permitted use in the Light Industry zoning district.

Yellow Springs Zoning Ordinance, Section 1260.03(c) states that ‘accessory retail sales of goods produced on-site is a conditionally permitted use. It further states, ‘no more than 10% of the ground floor area shall be used for retail sales’.

NOTE: On January 9, 2013, the applicant was granted a variance to allow the use of 30% of floor space for retail related manufacturing in the brewery conditioned upon the business owners receiving approval of a conditional use permit from the Village of Yellow Springs Planning Commission.

Pursuant to the requirements of Section 1272.01 of the Village Zoning Code, conditionally permitted uses typically represent more intensive or extensive land uses than are principally permitted in a given zoning district. The purpose of this chapter is to specify criteria against which to measure the proposal of a conditionally permitted development and, through such monitoring, to achieve compatible and diverse community development through a public and private project review partnership.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission review the conditional use and give attention to; location, traffic patterns into and out of the site, internal traffic flow, parking, lighting, hours of operation, and possible impacts to surrounding uses. Provided consideration is given to the aforementioned items, Staff has no concerns.

-Public Notice-
PUBLIC HEARING
YELLOW SPRINGS, OHIO
PLANNING COMMISSION

Notice is hereby given that:

Lisa Wolters and Nate Cornett, acting with acknowledgement of the property owner, Millworks Development Corp., have requested a conditional use permit to incorporate a limited amount of retail use to their Yellow Springs Brewery business which occupies a structure located at 305 N. Walnut Street. The property is located within the 'light industry' zoning district which permits limited retail sales of products produced on-site as a conditional use. Applicable Yellow Springs Zoning Code sections are: Sec. 1240.09(28); 1242.05(e); 1242.05(f); 1242.05(g); 1260.02(a); 1260.03(c); & 1260.05. Greene County Parcel ID #F19000100110025900. **A PUBLIC HEARING WILL BE HELD ON THIS PETITION: DATE:** Monday, February 11, 2013 **TIME:** 7:00 p.m. **LOCATION:** Council Chambers, 2nd Floor, Bryan Center, 100 Dayton Street, Yellow Springs, OH 45387

This notice provides you and every other interested party the opportunity to appear or have input at the hearing. You may come in person or have someone appear on your behalf. You may express your views in writing by providing a copy to the Clerk of Council for inclusion in the record of the hearing. The application, as prepared by the petitioners, may be examined at the office of the Village Planner on the 2nd floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387. Questions regarding the applications, zoning code or procedures may be directed to the Village Planner at the same address, or by calling 937-767-3702. Tamara Ennist, Planning Assistant.

Dear Village Planning Commission,

Please accept the following for your review regarding a request for a conditional use permit to allow retail sales for Yellow Springs Brewery at Millworks Development Center, 305 North Walnut Street, Suite B, known as the South Dock Building. Yellow Springs Brewery is currently in the build-out phase of a micro-brewery and was granted a Brewer's Notice from the Federal Government (Tobacco, Alcohol and Firearms Trade and Taxation Bureau) in December, 2012. The Brewery is now awaiting a final inspection from the State of Ohio to receive an A-1 alcohol permit. Current Ohio law allows for an A-1 (Production Brewery) alcohol permit holder to include a taproom on premise in order to sell beer manufactured by that particular brewery only.

You will find the following documentation included in this request:

1. Site Plan for Yellow Springs Brewery, South Dock Building
2. Site Plan for Millworks Development Corporation, including current tenant locations and surrounding area
3. Image of Yellow Springs Brewery signage
4. Overall Site Plan for Millworks with notations regarding vehicle parking, bicycle path traffic, landscaping, waste collection sites, storm drainage

In consultation with Millworks owners, careful consideration has been given to the following items:

PARKING: Parking is adequate for Brewery traffic impact. There are more than 100 parking spaces on the property as documented during recent Street Fairs. Yellow Springs Brewery installed a paved handicap space next to the entrance and retail parking will be located adjacent to that along the south edge of property. Yellow Springs Brewery has plans to install bicycle parking on the east side of the building adjacent to the bicycle path.

DELIVERIES: Yellow Springs Brewery anticipates one freight delivery per month at the overhead garage door available on the west side of the building. Freight traffic has access to the main entrance on Walnut Street as well as the second Millworks property entrance on Fairfield Pike.

TRAFFIC CIRCULATION: Freight traffic within Millworks is limited to an average of one delivery per month to another tenant. All other truck traffic is UPS/FedEx and mail delivery. There is ample turnaround space for all traffic. Auto traffic will use the Walnut Street main entrance. Pedestrian traffic will be from Walnut Street as well as from the bicycle path that runs parallel to the east side of the Brewery. Plans are to install an egress from the bicycle path into the taproom in the spring of 2013. Initial drawings have been approved by Greene County Building Department.

WASTE COLLECTION: Millwork tenants are required to place dumpsters in a specific location near the Fairfield Pike entrance out of public view.

STORM DRAINAGE: Millworks had complete onsite storm water grading done approximately three years ago with two twelve inch drainage tiles that run under the Brewery building. Millworks anticipates no storm water drainage impact with this project.

UTILITIES: No new utility hookups will impact the building in regards to the retail space. A new gas line and meter have already been installed for the Brewery manufacturing operations.

SIGNAGE: See photo included in packet for Walnut Street entrance signage (Signage permit received 10/11/12).

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Nate Cornett and Lisa Wolters". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Nate Cornett and Lisa Wolters
Yellow Springs Brewery

YELLOW SPRINGS BREWERY

ALTERATIONS & CHANGE OF OCCUPANCY

305 NORTH WALNUT SUITE B YELLOW SPRINGS, OH 45387

THIS DRAWING IS FOR DESIGN INTENT ONLY

NOT FOR CONSTRUCTION

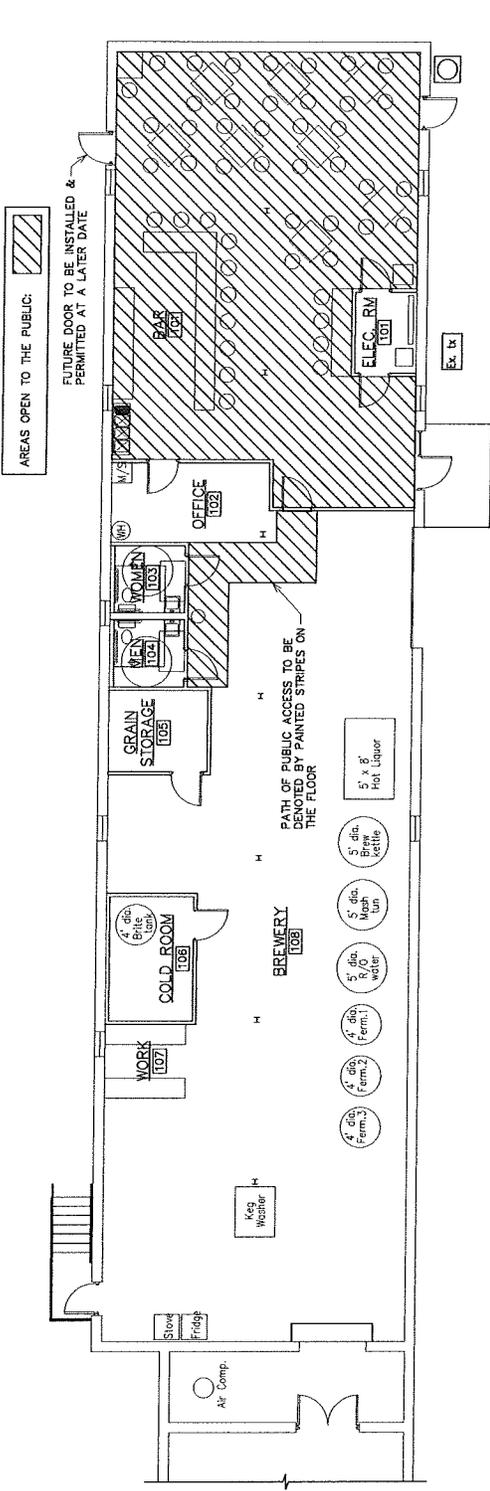
DATE: 09.10.12
JOB NO: 12-C05

SHEET TITLE: T.T.B. FLOOR PLANS

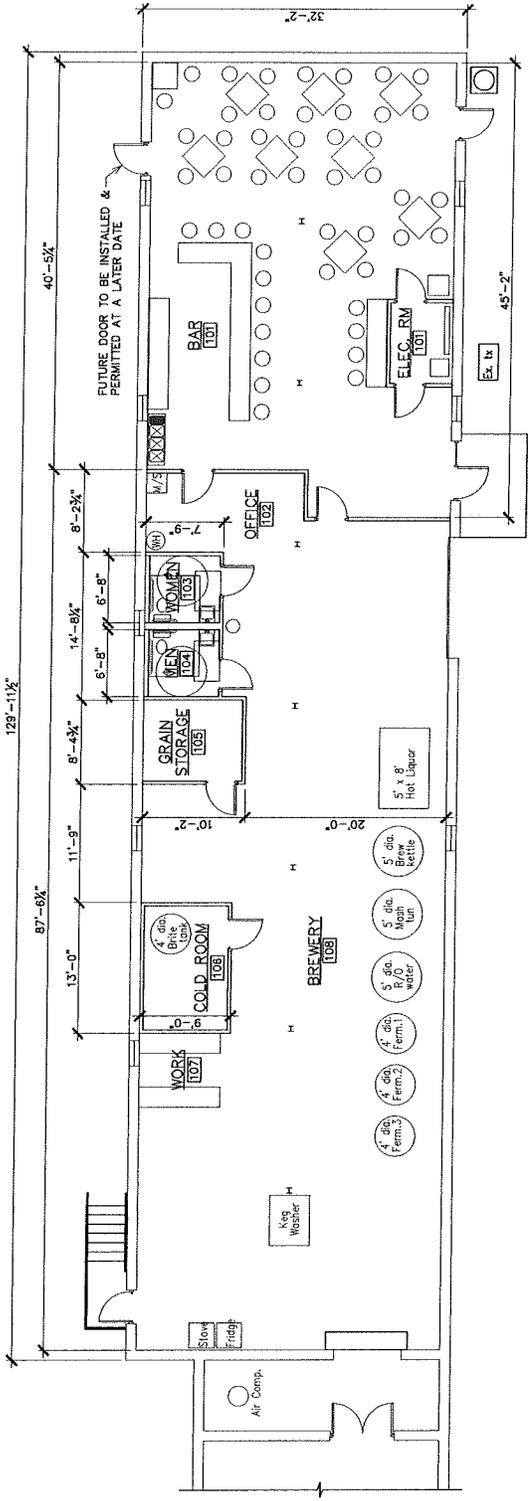
DRAWING NUMBER

A-1

DATE: REVIEW 08-31-12
TIB 08-10-12



2 FLOOR PLAN - AREAS OPEN TO THE PUBLIC
1/8" = 1'-0"



1 FLOOR PLAN - OVERALL CONCEPT
1/8" = 1'-0"

MEMO

TO: PLANNING COMMISSION

FR: MATT REED AND LAURA CURLISS

RE: REVIEW OF COMMENTS RECEIVED ON THE ZONING CODE
REVISION THROUGH 2.1.13.; LIST OF ISSUES FOR DECISION
BY PLANNING COMMISSION

DATE: FEBURARY 4, 2013

At the last Planning Commission meeting we were asked to go through the written citizen comments yet to be addressed. We did so on Feb. 1 and 3 (5 hours). We made enough progress to add some discussion items to the Planning Commission agenda for Feb. 11.

Comments were divided into three categories and were addressed in the following manner:

CATEGORY 1: Non-substantive Corrections - Typos, inconsistent language.

ACTION: Done. We made the changes.

CATEGORY 2: Somewhat substantive, low interest, low impact on Village life, not rising to the level of a discussion item.

ACTION: We made decisions to change or not to change as follows: 1) marked it to ask Paul LeBlanc for more information/clarification (e.g., how many parking spaces is a standard for a hospital? What makes sense?), 2) we recalled that a decision was already made by PC or TRC or the item seems to be settled (e.g., 20% affordable or 10% permanently affordable incentives for PUDs), or 3) we made a decision if we deemed that the item was not particularly substantive or of limited/low public interest or impact (public utility buildings, trade schools, training centers in an I-2; we allowed).

CATEGORY 3: Substantive, high interest, potential significant impact to Village life.

ACTION: Those issues are set forth below and require discussion and decision by public bodies (Planning Commission, Council).

Therefore, we recommend that Planning Commission address the following issues at its Feb. 11, 2013 meeting to move process forward. Here are the remaining key issues in no particular order:

ISSUE #1 Required Bicycle Parking in the Business, Industrial and Education Districts
Code/Page References: Table 1264.02. Page 1264-3.

Current language (p. 1264-3): 1264.02(i) – Bicycle Parking. Accommodation for bicycle parking is encouraged in all districts, but especially in the B-1, Central Business District and the E-1, Educational Institution District.

Reed/Curliss: This should be discussed. Immediately below section (i) is section (j) -- Required Off Street Parking Spaces. Should bicycle parking be treated in a similar manner? Require that a certain number of off-street, off-ROW (right-of-way) spaces be required for bicycle?

ISSUE #2

Minimum size for dwelling units (Minimum square footage requirement)

Code/Page References: Table 1248.03 (Residential Table); EI (Page 1246-2), 1262.08(e); Business – page 1250-2; Industrial

DWELLINGS

CURRENT LANGUAGE SETS THE MINIMUM S.F. REQUIREMENTS AT:

RA – 900 s.f. 1248.03¹

RB – 900 s.f. 1248.03

RC – 750 s.f. 1248.03

B-1 – Residential on upper floor (C); No s.f. listed. Also Single Family detached 1250-2.

B-2 -- No residential use.

I-1 (Caretaker Res - C) – No s.f. 1252.02

I-2 (Caretaker Res - C) – No s.f. 1252.02

E-1 (Caretaker Res. P, Dwellings – attached and detached single family, multi-family all P) - No s.f. p. 1246-2

Reed/Curliss: Accessory Buildings and Structures - Page 1260-3 and -4. Also see 1262.08(e) The s.f. is set at a maximum of 50% of the total living area of the principal dwelling to a maximum of 600 s.f. (650 in 1262.08(e) – not consistent). Maximum lot coverage 6%. There is no minimum size or floor space for an accessory use or structure.

Table 1248.03a sets forth the Minimum Floor Area Requirements for dwelling units in the R-A, R-B, and R-C. This table is internally inconsistent. The minimums in the table (900, 900, 750 s.f.) do not match what is set forth in Footnote 5 (“minimum required floor area shall be determined by the number of bedrooms, as follows: efficiency unit – 500, 1 bedroom – 700, 2 bedroom – 800, 3 bedroom- 900. An additional 100 s.f. shall be provided for each bedroom over 3.”). Further, this table does not cover all possible dwelling units (e.g., in B-2, I-1, I-2, E-1).

Accessory Dwelling Units. Per 1262.08(3)(1)(E), Accessory Dwelling units shall contain “a living area, one bath and a kitchenette (including a small refrigerator, microwave oven, stove and sink) and may contain not more than one bedroom.” One commentator asked why appliances are listed. Consider that “may” should be “shall” OR “not more” should be changed to “at least.”

By the Residential Code of Ohio, there are minimum floor space requirements based on room designations²: 120 s.f. base + 70 for other rooms. **Thus, the minimum accessory dwelling size**

¹ Rick Walkey suggests a minimum of 300 s.f. for dwellings.

² **SECTION 304 MINIMUM ROOM AREAS**

304.1 Minimum area.

Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11.2 m²) of gross floor area.

304.2 Other rooms.

Other habitable rooms shall have a floor area of not less than 70 square feet (6.5 m²).

Exception: Kitchens.

304.3 Minimum dimensions.

Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens.

per 1262.08(3)(1)(E) as written is 330 s.f. (with 70 for a kitchenette) and 260 if no s.f. added for a kitchenette per the RCO.

Laura will check these numbers with Al Kuzma at the Greene Co. Building Department.

ISSUE #3 Various Issues with Accessory Structures (including Accessory Dwellings)

Code/Page References: Sec. 1260.04(2) & (6) and Page 1260-4. Taable 1258.01 – Accessory structures permitted in all districts.

There are a few basic issues to be addressed with Accessory Structures in addition to the minimum s.f. issue set forth above.

ISSUE 3A. 1260.04(2) – No accessory structures shall be placed in front yards.

[NOTE: One issue is aesthetics, curb appeal, devaluing other properties in the neighborhood when curb appeal is negatively affected by an accessory structure in the front yard. Somewhat the same issue about front fences not being over 4 feet tall. People want to see the fronts of houses without a blocked view. Designers put time into creating attractive fronts of buildings. Realtors talk about the importance of “curb appeal” in the reselling of homes. Could someone build an attractive accessory structure? Of course, but the probability is that it will be a pre-made shed from Lowe’s. On the public safety side, the house number and entry (front or side) should always be visible from the front. Enables safety personnel to quickly know where to enter. This, perhaps, could be addressed with placement. The height of accessory structures is likely to be more than 4 feet tall – so why keep fences at 4 feet? Again, aesthetics is important here as well as visibility to the house number and entrance].

ISSUE 3B. 1260.04(3). “Accessory buildings and structures may be erected in a rear yard setback at least ten feet from the rear and five feet from th side property lines. In any case, accessory buildings and structures shall not occupy more than **30** percent of the required rear yard.”³

ISSUE 3C. 1260.04(6) – “Accessory structures shall not exceed 600 s.f. or a maximum lot coverage of 6%, whichever is greater.” [NOTE: keep in mind this category includes not just accessory dwellings]. Accessory dwellings are 650 s.f. minimum.

ISSUE 3D. 1260.04(7) – “An accessory building or accessory structure shall not be constructed or occupied on a lot before the principal building or use on the lot is

304.4 Height effect on room area.

Portions of a room with a sloping ceiling measuring less than 5 feet (1524 mm) or a furred ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required habitable area for that room.

³ Per Ted Donnell – “The Ohio Residential Code permits a residence to have 10% accessory use. Once you exceed that number, the OH Building Code goes into effect and the building must then comply to fire separation, ADA requirements, egress, ventilation etc. Keep at 10% (not 30).”

constructed.”

[NOTE: The concern here is that the principal building will never be constructed, therefore no “principal use” being conducted on the lot to which the building can be accessory. Not easily enforceable without a performance bond].

ISSUE #4

Short-Term Rentals – Where allowed, permitting

Code/Page References: Table 1258.01. Definition:

A dwelling unit that is rented or leased to one entity for 30 consecutive days or less. Page 1284-11.

Short-term rentals are currently allowed in RA, RB, RC, B-1, B-2 and EI as Conditional Uses, subject to 1262.08(e)(6). There are two issues:

ISSUE 4A – Should short-term rental units be allowed in RA?

Comment: The issue touches on the impact on neighborhoods. For every house turned into a short-term rental, there is one less long-term neighbor/family in the neighborhood. Transients become part of the neighborhood. Often, the smaller houses are turned into short-term rentals, turning more affordable housing into short-term housing units, rented at market rate prices. Also, when accessory structures are used for short-term rentals, more transients become part of the neighborhood – more traffic, more “strangers” in the neighborhood (this might be good, bad or indifferent). Some may believe that having transient housing in the neighborhood has a negative effect on property values, desirability.

ISSUE 4B – Whether permits should be required for short-term rentals.

Here is the text of 1262.08(e)(6) with comments footnoted:

- A. Permit. Upon the approval of the conditional use, the owner shall obtain a short-term rental permit from the zoning administrator which shall be valid for one year from the date of issuance and shall be renewed annually thereafter for as long as the short-term rental is operated.⁴
- B. Location. The planning commission shall consider the proposed location relative to its proximity to other such uses in the vicinity in order to avoid an undue concentration that could have a negative effect on the surrounding

⁴ Bob Swaney – “An annual permit should not be required. Permits are not required for any other rental business in town. It is common for reservations to be made months in advance. This could not be done if operation in the future cannot be assumed. The nature of a permit is that it might not be granted.” [NOTE: Maybe a longer period is appropriate – 3 yrs if no changes in business ownership or contact information.] “The property owner is a matter of public record.” [NOTE: Property owners may lease property to a tenant who then operates a short-term rental business. Not of record without a permit]. “The determination of appropriateness for the dwelling for short-term use is ascertained at approval of conditional use.” [Yes, but not the paperwork to update Village records after the Conditional Use is granted as time passes.].

neighborhood.

- C. Maximum occupancy. The maximum number of tenants permitted shall be determined by applicable health department requirements.⁵
- D. Responsible party. The annual application for permit renewal shall contain the name and emergency contact information for the owner or property manager who can be contacted and will respond within a reasonable time period to any complaints, violations, emergencies or other concerns related to the short-term rental property or tenants.⁶

.....

This ends our Issues presentation for now. We will continue to work through the comments and bring the next set of issues (hopefully the last!) to Planning Commission at the next meeting after the Feb. 11 meeting. Matt Reed and Laura Curliss.

⁵ Swaney – “Here we go again, adding other governmental rules related to zoning.” [NOTE: Other laws apply whether referenced or not. Perhaps a number could be inserted here for maximum occupancy.]

⁶ Swaney – “Zoning regulates rental term length?” [NOTE: Yes. The concern is that the short-term rental becomes a boarding house, a different use.]. “Understands that short-term rental is a transition between hotels and longer-term renting, but unclear why the code would mandate permits and responsible party registration for this sort of rental and not all rentals. What is the problem being solved.” [NOTE: Responsible party information, particularly for emergencies, is needed. Again, property owners are not necessarily the party operating the short-term rental business].

Ted Donnell
1204 Xenia Avenue
Yellow Springs, Ohio 45387

To Planning Commission Members:

I was unable to attend the last two Planning Commission meetings but I do have some input with regards to some of the recommendations made that I would like to share. These are as follows:

1. Minimum size residential floor area - I recommend that the minimum floor area should be different for each district; RA – 1000 SF; RB- 800 SF and RC- 600 SF. Property values are maintained when structures are of similar size to the surrounding neighborhood.

2. Accessory buildings - I do not promote the idea that an accessory structure should be permitted to be built before the primary structure - this will encourage building the accessory structure first and will most probably discourage the building of the primary structure. This would again defeat the purpose of promoting families and affect the property values.

3. Storm water management – Professional surveying and engineering would be required for Village Staff and Planning Commission to adequately evaluate whether a project was in compliance with this provision. The professional surveying and engineering, along with complex excavation and highly skilled residential trades required to comply with this provision would increase the cost of each residential project by \$5000-\$10000. If a site is designed properly the house sits high with slope away from the house on all four sides - natural topography will take the water to wherever it goes.

4. Work/live - the Ohio Residential Code permits a residence to have 10% accessory use. Once a building exceeds that percentage the Ohio Building Code takes effect. The building then must comply to fire separation, means of egress, ventilation and ADA requirements. This will certainly change the character and value of the neighborhood. I don't think we should change the 10%.

5. Affordability – I like the most recent suggestion to maintain the language of 20% affordable units with an additional incentive for 10% of the units to be permanently affordable. The requirement for a “permanently affordable developer” seems unnecessarily restrictive and limits opportunities for developers to use other options that might correspond to changing financial regulations. More options will better serve the affordable equation for the community.

6. Neighborhood Commerce Districts - I think this is counter to the intent to reduce the number of districts in the new Code. Also, ensuring that the downtown B1 district remains as the center for retail commerce has been strongly articulated in both the Comprehensive and Visioning Plans. An Overlay District could be a better tool to refine the uses within an area.

These are just a few of my comments.

Ted

From: Chris Till, Yellow Springs Planning Commission Alternate Member
To: Yellow Springs Planning Commission
Date: February 7, 2013

At our upcoming February 11, 2013 meeting, I would like to hold quick votes on these 11 issues. As most of the 11 issues have already been extensively discussed, I do not think that much more discussion is required. All of the issues have been previously raised by either Village Council members, Planning Commission members, or Villagers.

1. **Minimum floor area requirements** in RA, RB, and RC. “Table 1248.03a Dimensional Requirements: Residential Districts” on Page 1248-3 and Page 1248-3, Footnote 5.

I propose that the minimum floor area in all three residential zoning districts be 400 square feet.

2. **20% permanently affordable units in PUD density bonus.** “PUD Requirements,” 1254.03(e)(1), page 1254-3.

I propose that 1254(e)(1) be changed from “affordable units” to “permanently affordable units.”

3. **Accessory Buildings and Structures.** 1260.04(a), pages 1260-3 and 4.

In 1260.04(a)(6) and 1262.08(e)(1)(D), I propose that the maximum accessory structure be enlarged from 600 or 650 square feet to 750 square feet.

I propose that 1262.08(e)(1)(F), which prohibits a property owner from living in the accessory dwelling, be deleted.

4. **Home occupations.**

In Definitions 1284.05, “Home Occupations,” on page 1284-5, I propose that the second sentence, which bars client-based home occupations, be deleted.

Regarding the maximum number of employees, in 1262.08(e)(5)(B), I propose it be raised from one to three.

Regarding the limitations on floor space, in 1262.08(e)(5)(C), I propose that the second half of the sentence (“...and shall not utilize more than 20 percent of the usable floor area of the principal dwelling or its equivalent if conducted within an accessory building”) be deleted.

Regarding Table 1258.01/Accessory Uses/Home Occupations, Footnote 1, I propose that the second half of the sentence (“... subject to issuance of a permit ...”) be deleted.

5. **Plumbing businesses permitted in B-1, Central Business District.**

I propose that “Electric, plumbing supplies sales & service (not including showrooms)” be a permitted use in B-1. Table 1258.01 “Commercial Services,” page 1258-2.

6. **Additional permitted uses in B-2, General Business District.**

I propose that all “Commercial Services” be permitted in B-2, General Business District, except for “Petroleum Products Sales.” Table 1258.01 “Commercial Services,” page 1258-2.

7. Day care permitted in all residential districts.

I propose that “Day care” be permitted in all residential districts as an accessory use for up to six children. “Accessory Uses,” Table 1258.01.

8. South High Street Neighborhood Business District.

I propose that a new zoning district be created called “Neighborhood Business District” aka NBD. The NBD shall be a mixed residential and small-scale business district which reflects the current (and historical) mixed-use neighborhood on the west side of South High Street between Davis Street and West Center College Street. Of the 14 lots in that three block section, five are currently under business usage (Electroshield, Antique Power and Curves). A sixth lot historically had business usage (red brick building on southwest corner of High and Davis). The precise boundaries and uses of the NBD shall be determined later.

9. Garage Sale signs.

In “Signs Exempt from Permit,” Table 1266.03, page 1266-3, under “Garage and estate sale,” I propose that all language beginning with “provided the following” be deleted. Garage sales signs which become a nuisance are already barred under the Village’s littering ordinance, which bars the placing of unsightly paper. Village of Yellow Springs Municipal Ordinance 660.03(d)(2).

10. Enforcement; Penalty. 1272.05, pages 1272-3 and 4.

In 1272.05(a), I propose that the fine be lowered from “\$500” to “\$20 to \$100.”

In 1272.05(a), I propose that “Each day during which a violation occurs shall be a separate offense” be changed to “. . . may be a separate offense.”

In 1272.05(b)(1), I propose that the phrase “Upon complaint and/or credible information” be changed to “Upon Villager complaint.” Thus, the zoning code enforcement process would be triggered by Villager complaint only.

11. Warehouses and distribution centers permitted in I-1.

In Table 1258.01/Transportation and Warehousing, page 1258-5, I propose that Warehouses and Distribution Centers be a permitted use.