

VILLAGE OF YELLOW SPRINGS  
PLANNING COMMISSION  
AGENDA

The Village of Yellow Springs Planning Commission will meet in regular session on Monday, March 8, 2010 at 7:00 PM in Village Council Chambers on the Second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

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7:00 CALL TO ORDER  
ROLL CALL

7:02 REVIEW OF AGENDA

7:05 REVIEW OF MINUTES – February 8, 2010

7:08 REPORTS

1. Council Update
2. Bike Enhancement Committee
3. Village Staff Report
4. Miami Township Zoning Commission Report

COMMUNICATIONS

7:20 CITIZENS' COMMENTS

7:30 OLD BUSINESS

- PUD Chapter Review

8:30 NEW BUSINESS

- 2010 Goals Review

8:55 AGENDA PLANNING

- Historic Preservation Ordinance Discussion – April 12, 2010

9:00 ADJOURNMENT

## PLANNING COMMISSION MINUTES

**In Council Chambers @ 7:00 P.M.**

**Monday, February 8, 2010**

### **CALL TO ORDER**

The meeting was called to order by John Struewing, Chairperson, at 7:02 P.M.

### **ROLL CALL**

John Struewing, Bill Bebko, Tim Tobey, Matt Reed and Lori Askeland were present, as was the Village Manager Mark Cundiff.

### **REVIEW OF AGENDA**

There were no changes to the agenda.

### **REVIEW OF MINUTES**

As the January meeting of PC was cancelled, the December 14, 2009 PC meeting minutes were reviewed with one typographical error noted. Bebko MOVED and Tobey SECONDED a MOTION to approve the December 14, 2009 minutes as amended. The MOTION PASSED UNANIMOUSLY.

### **REPORTS**

**Council Update** – Askeland reported that an evaluation of the Village Manager was done and Council was very pleased with Mark's performance. Askeland indicated the Clerk of Council search is moving forward. A 5-hour executive session was held Sunday to interview the five finalists. Council also hired Rachel McKinley as the new Treasurer. McKinley is a YS resident with lots of experience in this area. Council passed an increase to the Village's water rates. A potassium permanganate pilot test was implemented at the water plant with disappointing results. The question of what to do is now before Council. Askeland indicated Council passed a meeting notification ordinance with strict guidelines for adhering to Sunshine Laws. Council also gave support for the Northern Gateway grant. Matching funds are being explored. The Dog Park at Ellis Pond is back on the agenda for the next meeting. Council heard from the Tecumseh Land Trust regarding green space fund for a conservation easement. Council Budget Sessions have been scheduled for Tuesday, February 9<sup>th</sup> and 23<sup>rd</sup>, and Saturday, March 6<sup>th</sup>.

Struewing asked about the PC openings. Askeland indicated the openings are being advertised. Any potential candidates will be interviewed and then a decision will be made. Cundiff indicated that the Village's Law Director said PC members with expired terms remain members until Council decides otherwise. A decision is expected before the next PC meeting. Swinger explained the Charter's requirements for PC terms, which resulted in two expired terms (Struewing's – the Miami Twp. representative and Bebko's – community-at-large member).

**Bike Enhancement Committee** – Tobey reported the Safe Routes to Schools project is underway and following a specific timeline. The BEC is planning their annual Bike event in May. Signs are up letting motorists know that bikes have full-lane rights. This did create a few letters to the editor in the YS News. However, sidewalks aren't made for both pedestrian and bike traffic. The next meeting of the BEC will be this Wednesday, February 10<sup>th</sup>, 2010 at 7:30 P.M in the Miami Township Firehouse.

Struewing mentioned that the sweet spots on State Route 343 are already deteriorating. Cundiff said that unfortunately the paint used is not as durable as the old lead-based paints.

**Village Staff Report – Potassium Permanganate Pilot Project** - Cundiff discussed further the potassium permanganate pilot project at the water plant. He indicated they were trying to treat the manganese and at first it was working really well as the top of the sand filters were visible. Unfortunately, the iron levels started increasing as a result of adding the potassium permanganate, and he wasn't sure why. When working on High Pump Line Service #2, they found the manganese became a thick consistency and was clogging it. Reed and Bebko indicated that potassium permanganate not only oxidizes the manganese, but also the iron. Cundiff indicated he is examining options to present to Council, and hopes to have a study implemented for the security of our long-term water supply and recommendations for the Village's 40-plus year old water plant.

**CBE Update** – Jacobs Engineering provided three alternatives at the end of the year. Village Staff, CR representatives and others met with Jacobs on January 20<sup>th</sup> to discuss them. Work continues on the annexation of the roadway ROW. Both the annexation and the plat with the roadway locations will be coming before PC.

**Visioning/Planning Project** –The second public input session, the Goals and Values Workshop, was held on December 12<sup>th</sup>. The results of this workshop, Goal Statements for the various topics, have been refined once by the Consultant and reviewed and commented upon by the Steering Committee. The Consultant will present the goal statements again at the February 17<sup>th</sup> Steering Committee meeting. Additionally, the Consultant will be meeting with Village Council and the Township Trustees in a special joint meeting on February 22<sup>nd</sup>.

**Northern Gateway Project** – The Village submitted a grant application to the Ohio Department of Natural Resources (ODNR) Recreational Trails Program for the Village's Northern Gateway Project, entitled "Yellow Springs Trailhead Improvements/Bikeway Connector." The total estimated cost of the project is \$425,000. The Village has already been awarded a Congestion Mitigation and Air Quality (CMAQ) Improvement Program grant in the amount of \$275,275. This leaves a funding gap of \$149,725. The Village will be requesting \$101,000 from ODNR's Recreational Trails Program. If our application is funded, the local share would be \$48,725. Cundiff indicated we are cautiously optimistic. Ed Amrhein went to ODNR and met with them to see what we could do to strengthen our grant application. ODNR explained that the time-line for receiving MVRPC's CMAQ grant is not in sync with ODNR's. Due to miscommunication, the two funding agencies kept modifying a potential award date based on each other's changes.

Struewing asked what the project's scope currently is as this has been a project that has changed over time. He knows the bridge cost was underestimated and the project was changed so the grant could still be used, but he doesn't really know what happened from that point. Tobey saw a drawing showing the proposed parking lot on Cemetery Street. Swinger recollects that instead of the foot bridge, it was decided to widen the sidewalk on U.S. 68 (west side). Tobey mentioned a separate project would align State Route 343 with Cemetery Street and add a bike lane along 343. Cundiff indicated that construction of a bikeway spur will run from Cemetery Street, parallel along U.S. 68 in front of the Bryan Center, and will connect with the bike path where the handicapped accessible sidewalk is by the Bryan Center parking lot. The handicapped accessible sidewalk will be changed. Bebko asked Askeland if Council would like to have an update on this project. Askeland thinks this would be a good idea since the scope of the

project has changed and predates the current Council. It was decided to have Ed Amrhein make a brief presentation to both PC and Council in April.

**Miami Township Zoning Commission Report** – Struewing indicated their Comprehensive Land Use Plan is still being worked on. He explained that a couple of years ago the Township hired a consultant to help craft the document, but it was the consultant’s plan and not the Township’s so they started over. Bebko commented that writing a comprehensive land use plan is hard to do the first time around. Cundiff suggested the Township ask Ed Amrhein if he would like to be involved. Cundiff also volunteered to offer assistance with the plan if the Township so desires as YS is a part of the Township. Struewing said there will be an inclusive process and he plans to ask for Cundiff’s input.

## COMMUNICATIONS

The winter 2010 edition of the Planning Commissioner’s Journal had two articles well worth reading. Members briefly mentioned the articles on contentious meetings and conceptual plan reviews.

## CITIZENS’ COMMENTS

There were no comments from the floor.

## OLD BUSINESS

**Historic Preservation Ordinance Discussion** – Cundiff reviewed the revised draft of the proposed Historic Preservation Ordinance that has been discussed over the past several months. It reflects some proposed amendments as a result of a meeting he had with Ellen Hoover, Laura Carlson, and Sandy Love. Hoover had reviewed the document and provided some written comments. The comments and Cundiff’s responses follow:

- **Do the proposed listings of districts and individual structures go through a public process, such as plan board?** Yes, the proposed districts would be overlay zoning districts. Therefore, they would need to go through the same process as a rezoning, with a review before the Planning Commission and subsequently a recommendation to Village Council. Council would approve by the adoption of the Ordinance.
- **Is Bill Bebko's survey going to be used?** Cundiff indicated Bill’s survey would be used as a starting point for the development of the first overlay zone. Cundiff is not clear on how this first district overlay would be established and asked PC if the intent is to have it established with or without 75% of property owners in agreement.
- **Does the term *destruction or alteration of all or part of a property under (d)(1)A* mean such things as fences, signs, fountains, etc even if the building is not coming down?** Yes, if the fence was architecturally or historically significant. Some deletions were made in the definition of “Appurtenance” on a few items Cundiff felt were not significant, such as bike racks, display signs and vending machines.
- **Does the term *destruction or alteration of all or part of a property under (d)(1)A* mean alterations to a historic property will be governed also with a certificate application?** It is Cundiff’s understanding that the Ordinance would not apply to alterations and therefore he deleted the reference to alterations from the draft.

- **Will this cover historic interiors that are public space? Definition of “Architectural Feature” is the architectural treatment and general arrangement of such portion of the exterior of a property as is designed to be exposed to public view and/or the publicly accessible interior of any Listed Property which was listed in part, or in whole, because of the interior's historic or architectural significance.** This was a mistake Cundiff made. He doesn't want to see this ordinance get involved in the interior of any structure. The draft has been amended to reflect the deletion of this reference.
- **How would the inventory be done? Ellen's concern is that the listings need a fresh review of what is on and what is *eligible* to be on the National Register. Old surveys were done in the late 1980-early '90's utilizing college students and some of the districts and buildings may now be altered beyond eligibility. Hoover hopes the criteria for the listing is also credentialed; using OHPO guidance and staff and a thorough review done before a list is made into a district.** Cundiff isn't sure how the inventory should be done.
- **Is it correct that the first district established will not have to have 75% of the property owners in the district consenting to the establishment of the district?** Cundiff already reviewed this, but his understanding is that this first district would be established without needing the consent of 75% of the property owners. However, this is something the Commission will want to discuss and make a decision about.
- **"Demolition by Neglect" - She didn't see how this ordinance stops this type of demo by adding to what is now being used. There is a section at C (k)(1) that states *"This provision shall be in addition to all other applicable code provisions. The Zoning Administrator shall gather evidence of a violation hereof and shall initiate appropriate action thereon"*. But she can't find other tasks a property owner has to go through to make this work before there's a need for demolition.** This is something the Planning Commission should discuss more fully.
- **Penalties: Hoover suggested a minor penalty be added.** Cundiff added the same penalty language that is already in the Zoning Code.
- **Hoover suggested adding to Section (h)(2)(A)(1) that a certified engineer or architect could also validate safety issues with structures, not just the Chief Building Official. She feels it is best to let the owner have the choice of which to go to for that validation, which in her experience the building code folks often required for voluntary demos anyway.** Cundiff's thinking is that the Chief Building Official, not a paid consultant of the property owner who wants to be able to demolish the building, would be better suited to make this determination. He suggests a demolition permit be required first before anything further can be done.
- **Is the last sentence of Section (h)(2)(A)(3) missing some language?** Yes, the end of the sentence was dropped off. This additional language has been added to the draft.
- **Hoover suggests that there be a section added regarding permit fees.** This was left out, but is something needed. Cundiff indicated he has provided some proposed fee language in the document.

- **Another suggestion was that when the ordinance uses the term "architectural features" the intent is to mean "HISTORICALLY SIGNIFICANT" architectural features. As an example, a deck that is not original to the structure and not significant should be allowed to be removed. But a front porch that is both original and significant should never be removed.** Cundiff indicated this makes more sense and PC will need to decide what would be the best way to incorporate this into the draft.

Cundiff explained that any deletions in the draft are shown lined out and any additions emboldened on the latest draft.

Struewing opened the floor for discussion. Ellen Hoover gave the PC her background with this document. She is disappointed with the ordinance because she believes that as it is written, it will not stop demolition by neglect. She owns a historic home (Birch House) at the corner of Dayton and Walnut Streets, which she has extensively remodeled. Hoover suggested that everything she did in this remodel would have been rejected if this ordinance had been in place. This ordinance could have inhibited her ability to increase her home's energy efficiency. Hoover further suggested since the ordinance calls for property owners to come before the PC, they should have a consultant available to make that determination as no one on PC has that type of background. She mentioned that there is a district in YS listed in the National Registry and wonders if it is still a valid listing. She believes owners should have a say as to whether they want to be a part of it or not. Hoover mentioned that in her comments to Cundiff regarding the document, she wasn't trying to bypass anybody with the suggestion that the property owner hire someone to determine if a building or structure can be torn down. She suggested this because the County Building official will still have to approve any demolition regardless.

Hoover also suggested leaving out the section regarding landscaping. She indicated that Springfield tried to regulate landscaping in an historic district and had to abandon the effort as it was too difficult to enforce. Hoover indicated that she wants to see the Village be subject to the same requirements as everyone else in this document. She mentioned that the VYS owns a significant amount of land, buildings, right of ways and public art. Most communities with this type of ordinance exempt themselves, but she doesn't think that is right.

Sam Young asked about the overlay district map, which Bebko indicated runs from the railroad tracks to Fairfield Road, down High Street to Herman. He raised concern over the proposed legislation as he feels in the effort to achieve common good, it will be costly to the property owners. He gave an example of designating an area for wetlands can cause property values to drop, yet the property owners pay for it. He also questioned the fairness of the 75% of property owners, asking if an owner of a major piece of land will only be entitled to one vote. Young asked what happens if an owner is regulated to maintain their property and they can't afford to. Struewing also questioned how that would be enforced. Ellen Hoover brought up the issue of staffing levels, and indicated that Cundiff already has a lot on his plate. She asked who would handle these types of issues if Cundiff is out of the office.

Sandy Love suggested that we don't need this heavy of legislation. She indicated that this legislation will keep someone who has a small home in an historic district from improving their property because they won't want to bother going through the process. She understands if the PC wants to do something about neglected properties, but not through a historic district designation. Sam Young further commented that he supervises a building in Dayton's Historic District. It needed new windows, but the regulations required the most expensive so they were not replaced and the building looks dilapidated.

Jean Payne said she has checked on what the historic designation means. She said it is about keeping older homes from being lost by neglect. This ordinance isn't about the color of paint or the type

of windows. She sees this legislation as mild and as simple as it can get. This will not take over control of our homes, but will allow for grants from the State of Ohio to save the homes that have historic value. She said that not all of the homes are going to be designated historic and should therefore not be subject to the same conditions. Paul Abendroth has property in this area. He recollects there are approximately five homes that need to be addressed. He thinks the district as it currently is designated, is too big. Abendroth said YS has a hard time enforcing these types of laws and they are usually done on a complaint basis. He mentioned that Council and Plan Board dealt with a noise issue for over a year from one complaint, and that was the same with the Junk Car Ordinance. He cautioned that whatever is done, the PC needs to make certain there is a mechanism to handle the complaints. Sam Young suggested incentives, rather than legislation.

Ted Donnell, a local architect and builder, suggested that this type of legislation will probably do more harm than good. It could make it difficult for a homeowner to hire a remodeler. He stated that if we can't take care of our sidewalks, brush and lights, he wonders how we plan to keep buildings from falling apart. He doesn't want to see this legislation be one more thing that doesn't get enforced. He believes we are trying to make a zoning code that is antiquated, work in YS. A complete overhaul of the zoning code that reflects our history is needed. We should define historic significance by the buildings, rather than zones. If YS is serious about rewriting our zoning code, then a survey of the neighborhoods needs to be done to recognize the historical perspective of a neighborhood. Donnell indicated there are no significant structures in Omar Circle, but Omar Circle has historical significance. He mentioned we have been talking a lot lately about infill development and density, but this type of legislation may not allow it to happen. Donnell said at one time YS had five neighborhood grocery stores, which probably meant there were five defined neighborhoods. He thinks a historical evaluation plan will help show the significance of those neighborhood grocery stores. He suggests what we are striving for is a cultural history more than a building structures history.

Struewing brought the comments back to PC and asked if we want to rethink our conclusions. Bebko said Hoover and Abendroth made good points. He raised concern regarding staffing levels and the ability to enforce the legislation, and wondered if this legislation is more than we can handle. Bebko mentioned Young's comment regarding the area being too large and agreed it is geographically large, but only some of the homes would have historic significance. He also agreed we will need outside help as the PC is not up-to-date on historic preservation identification. Bebko wondered if this legislation will bury the Village in legal issues.

Tobey indicated that we still need to have this type of legislation whether or not it is addressed in our zoning code. He has looked at many other villages and communities and they all have review boards with qualified volunteers serving and making recommendations to staff. He hopes that this legislation will help maintain the structures that we have so we don't lose them by neglect.

Reed said the "devil is in the details" and that originally the intent was to keep homes from being demolished by neglect. He thought this would be an avenue to address the issue. He stated that our inventory is inadequate and will need to be professionally done in a way that is both historically and culturally significant. The overlay doesn't effectively reflect that. Reed mentioned that state funding is available, but you have to have a state approved program. We will need to have at least the minimum requirements. Donnell mentioned you can't get state funding without it being in a program that mandates everything down to the door knobs you use. Payne disagreed stating that all we need is one ordinance to be qualified as a certified government and that will make us eligible for grant funding. She also indicated there are surveys online from the state to help us do an inventory.

Askeland indicated this legislation was to stop demolition by neglect, not alterations. We don't want to pass legislation that does more than what we want it to do. Struewing thought this was fairly

benign. Even though it looks like we want to govern all these other things, all we want to do is prohibit demolition by neglect. Donnell suggested a nuisance and neglect ordinance, as it can address everything in it. Struewing indicated that sometimes because of the historic significance of a structure, it stands before the property owner's rights. Proactive enforcement of neglected properties will go a long way in helping historic properties be saved, but the historic significance can't be missed. Cundiff indicated we don't require a demolition permit, yet we need to know if it is happening in order to make certain the electric, water and gas utilities are shut off. A demolition permit can require the owner to come before PC with their intent. Cundiff thought that all structures in an overlay district will have to go through the same process, regardless of their historical significance. He understands that this community isn't interested in having government regulate the mowing of grass or fixing a broken window. This becomes a policy issue and a staffing issue, but the VYS can become more proactive. Hoover suggested looking into the certified local governments program at the OHPO (Ohio Historic Preservation) as they might provide consultants or grant funds to help. Donnell indicated the significance of the Lapedes' house on Limestone, a historic home with a modern design that will be historically significant in 50 years. This legislation would have prohibited him from doing this remodel.

Cundiff questioned if this ordinance will save those buildings we want to protect. Struewing said maybe he needs to read through this again and wondered if the PC needs to slow down because this is about more than neglect. It's also about protecting historic sites. He isn't interested in trends, but protecting the historic buildings so they will stay that way down through time. Reed suggested breaking the ordinance down and reviewing the details, such as staff overload and provisions for emergency repairs. All the PC members agreed we should continue working on this. Bebko mentioned the Village has three structures on the National Register. He questioned if they had not received revitalization funds, would the Village have done anything to save them. Tobey indicated we need to proceed, and the ordinance should go hand-in-hand with the zoning legislation. Cundiff indicated he hasn't reviewed all the codes in detail but it would probably be addressed in the nuisance code regarding dangerous buildings. Askeland sees the inventory as important, and educating the community about historic preservation. She doesn't want legislation that makes people's lives harder. She wants more time to consider this. Struewing agreed more time is needed. Tobey indicated neglect needs to be inclusive to all structures. That's what we want to get at, what maintains property values and make our neighborhoods look better. Cundiff suggested reviewing this again in April since Woolpert is coming in March regarding the PUD review. The PC members agreed. Struewing invited Hoover and Donnell to also make suggestions. Hoover said she could support a nuisance ordinance.

## **NEW BUSINESS**

2010 Goals Review – Due to the lateness of the hour, the 2010 Goals Review was postponed until the March 8, 2010 meeting of the Planning Commission.

## **AGENDA PLANNING**

The Planning Commission added the 2010 Goals Review and the PUD Chapter Review to the March 8<sup>th</sup> agenda. A continued discussion on the Historic Preservation Ordinance is scheduled for the April 12, 2010 meeting of the PC. The interim Clerk Denise Swinger suggested members email her in advance of the next meeting any 2010 goals they have. She will compile these for review at the March 8<sup>th</sup> meeting. Swinger announced the Clerk of Council's email address is now [clerk@yso.com](mailto:clerk@yso.com).

## **ADJOURNMENT**

There being no further business, Bebko MOVED and Askeland SECONDED a MOTION to adjourn the meeting. The MOTION PASSED UNANIMOUSLY at 9:02 P.M.

# MEMORANDUM

**DATE:** March 5, 2010  
**TO:** Yellow Springs Planning Commission  
**FROM:** Mark Cundiff, Village Manager  
**SUBJECT:** PUD/Subdivision Regulations Review

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At the September Planning Commission meeting, a report by Woolpert Consultants, our Planning consultants, regarding their review of the Planned Urban Developments (PUD) Ordinance was discussed by the Commission. As a result of this review, the Commission asked if Woolpert could develop some ordinance language which would incorporate their suggestions/recommendations from their report and attend a future Planning Commission meeting to discuss these possible changes. This discussion occurred at the December 2009 meeting. Another discussion was scheduled for the February meeting, but when the January meeting was cancelled due to quorum issues, this discussion was pushed to March.

The attached draft with proposed changes is a result of all of the discussions that have taken place over the past few months. Commission members may wish to bring related material that was in previous agenda packets.

Brad Schwab of Woolpert is expected to be at the meeting to discuss the attached information.

I am looking forward to what I hope will be a fruitful and interesting discussion.



# Memo

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**To:** Planning Commission

**Copy:** Mark Cundiff

**From:** Brad Schwab, AICP

**Date:** December 28, 2009

**Subject:** Proposed Amendments for Chapter 1264 Planned Unit Development

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A revised draft is attached for your review with the Concept Plan option added as directed by Planning Commission at its December meeting.

Section 1264.06 Procedural Requirements was modified to clearly define Concept Plan as an “optional” review step. A new section, Section 1264.08 Concept Plan, was added that includes related review procedures and data requirements.

Other minor edits and formatting adjustments were made. Please let me know if Planning Commission desires any additional revisions made prior to the February meeting. I look forward to seeing you then.

Attachment

**CHAPTER 1264**  
**Planned Unit Development**

**1264.01 PURPOSES**

This Chapter is intended to permit the creation of a Planned Unit Development District in order to:

- (a) Facilitate the implementation of the Village Comprehensive Plan;
- (b) Take advantage of advances in technology, architectural design and functional land use design;
- (c) Deviate from the rigid established patterns of land use, controlled by defined policies, standards and objectives;
- (d) Produce a comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development;
- (e) Permit flexibility of design in the placement, height and uses of buildings and open space, circulation facilities and off-street parking areas;
- (f) More efficiently utilize potentials of a site characterized by special features of geography, topography, size or shape;
- (g) Encourage a mixture of residential and non-residential development in a responsible and creative manner; and
- (h) Encourage innovations in residential development so that demands for housing at all economic levels may be met by greater variety in type, design and citing of dwellings, and by conservation through more efficient use of land in such developments.

**1264.02 AUTHORITY TO VARY REGULATIONS**

In connection with approving a Planned Unit Development, the Planning Commission and Council shall have the authority to approve a Planned Unit Development that varies from the provisions of this Zoning Code or of the Subdivision Ordinance provided, however, such variation:

- (a) Will achieve the purposes for which Planned Unit Developments may be approved pursuant to the requirements of this Chapter;
- (b) Will not violate the general purposes, goals, and objectives of the Zoning Code and the Village's Comprehensive Plan;
- (c) Will not unduly burden adjacent roadways; and
- (d) Will result in a development providing compensating amenities to the Village.

**1264.03 BASE ZONING DISTRICT REGULATIONS APPLY**

- (a) The height and bulk regulations, parking and lighting requirements, and accessory use/structure regulations and others of this Zoning Code for the district in which the tract or parcel is located shall be applicable to the Planned Unit Development. The Planning Commission may, however, modify the applicable regulations and requirements consistent with Section 1264.02 above.

- (b) Mixed use Planned Unit Developments shall comply with the regulations applicable for each individual use. The Planning Commission shall determine the most appropriate zoning regulations that apply when proposed land uses are not permitted in the underlying Zoning District. If such determination cannot be made or if the regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply. Mixed use Planned Unit Developments should not be used to circumvent zoning regulations or Comprehensive Plan policies.

#### **1264.04 ELIGIBILITY AND GENERAL STANDARDS**

- (a) **Minimum Size of PUD.** Planned Unit Development shall be recognized as a floating, permissive zoning classification throughout Yellow Springs. Where this option is requested as the development vehicle, a one (1) acre contiguous minimum tract size shall qualify the development for PUD review.

For the purposes of this Zoning Code, “contiguous” shall mean where parcels or properties directly abut each other or where parcels or properties are directly across a street, stream or right-of-way from each other.

- (b) **Permitted Uses.** Any use permitted in this zoning ordinance may be permitted in the Planned Unit Development district provided that it is consistent with the overall purpose of the PUD district and is compatible with the adjacent uses. Planning Commission reserves the right to prohibit certain uses which it may find objectionable for the reason that such uses are not consistent with the intent of this Zoning Code or with the policies of the Comprehensive Plan.
- (c) **Common Open Space Requirements.** A minimum of twenty percent (20%) of the PUD shall be set aside as common open space in compliance with the following regulations:
  - (1) Open space areas shall be suitable and usable for the functions intended, including maintenance.
  - (2) A minimum of ten (10%) percent of the required common open space shall be usable open space. Any common open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Planning Commission. Where deemed appropriate by the Planning Commission, recreation areas shall be provided with sufficient parking and appropriate access and buffering from adjacent residential uses.
  - (3) No more than 50% of the required open space area may be covered by wetland, water or muck that is not a suitable environment for walking or similar passive leisure pursuits.
  - (4) **Acceptable Types of Common Open Space.** Common open spaces may be fully accessible by the residents and/or owners of the PUD and/or by the general public. The following types of common open spaces may be considered, either alone or in combination, to satisfy open space requirements of the PUD:
    - A. Woodlands;
    - B. Floodplains;
    - C. Wetlands;

- D. Riparian Areas;
  - E. Agricultural Uses;
  - F. Retention and detention pond areas provided such facilities are accessible by residents or tenants and have a passive or active recreational use;
  - G. Public Access Open Space; and
  - H. Unimproved paths or trails including pedestrian trails, bicycle trails, hiking trails and horse trails.
- (5) Land area devoted to the following shall not be included as meeting the common open space requirement:
- A. Public streets rights-of-way, private roads, and parking areas;
  - B. Required setbacks between buildings, parking areas, and project boundaries and between buildings and public streets unless the required setback is contiguous to and part of a larger area of open space;
  - C. Required spacing between buildings and between buildings and parking areas;
  - D. Private yards;
  - E. The land area within fifteen (15) feet of all dwelling units.
- (6) Planning Commission shall have the authority to modify common open space requirements if the PUD site is less than two (2) acres in size and if exceptional design, significant landscaping elements or other amenities are provided for in the development and are identified as such by the Planning Commission.
- (7) Common open space shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Solicitor and duly recorded in Recorder's Office of Greene County.

#### **1264.05 SPECIFIC STANDARDS**

The standards, which follow, shall be in addition to other applicable standards provided for in this Chapter.

- (a) **Density.** The number of dwelling units allowable within Planned Unit Development project shall be determined through review of a parallel plan prepared by the applicant. The parallel design for the project shall be consistent with the Village's requirements and design criteria for a preliminary plat. The parallel plan shall meet all standards for lot size, lot width and setbacks as normally required under this Zoning Ordinance and the Village's Subdivision Regulations, public road and utility improvements, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting regulated wetlands or 100 year floodplains.

The Planning Commission shall review the design and determine the number of lots that can be constructed following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the Planned Unit Development project. The Planning Commission may grant a density bonus for exemplary projects as provided in Section 1264.05(b) below.

- (b) Residential Density Bonus. Dwelling unit densities should not exceed the density which would be permitted by the Zoning District which has been changed to a Planned Unit Development. A density bonus of up to fifteen (15%) may be permitted at a rate of one percent (1%) of additional density for every one percent (1%) of additional open space provided over the minimum open space requirement of 20%. (Example, a project which has 25% open space may be permitted a density bonus of 5%). In each phase of construction, the average density of dwelling units shall not be greater than 125% of the average allowable for the total site.
- (c) Utilities. All electrical and telephone facilities, street light wiring and other wiring conduits and similar facilities shall be placed underground by the developer, unless waived by the Planning Commission (subject to Section 1264.16, Financial Responsibility).
- (d) Site Design. All housing shall be sited to preserve privacy and to ensure optimal utilization of natural light. Lot widths may be varied to permit a variety of structural designs. It is also recommended that setbacks be varied. A clustering of dwellings is encouraged to allow housing units to abut common open space.
- (e) Spacing of Buildings and Structures. A minimum of thirty-five (35) feet shall be maintained between principal residential and principal non-residential structures unless waived by the Planning Commission based on the buffering provided between the residential and non-residential uses. Preferably, residential and non-residential uses are separated by common open space.
- (f) Mixed Use Buildings and Structures.
  - (1) Any building incorporating residential and commercial and/or office uses shall limit the non-residential use to the lowest two (2) floors of the building or structure.
  - (2) Where residential and non-residential uses are located within the same building or structure, there shall be separate exterior entrances for the two uses.
- (g) Setback and Screening. The amount of setback and/or screening may be increased at the discretion of the Planning Commission based on the location, shape, size, topography or adjacent uses. Residential developments located adjacent to commercial or industrial zones shall be provided with screening comprised of landscaping, walls, fences, etc., which will provide suitable protection to the residential development as recommended by the Planning Commission and approved by Council. Commercial and industrial developments shall provide minimum screening per requirements in commercial and industrial zoning districts. Screening facilities shall not obscure traffic visibility within fifty (50) feet of an intersection.

- (h) Parking Requirements. See Chapter 1268. However, the Planning Commission, upon request of the applicant, may reduce the minimum number of on site spaces if collective parking is available within the PUD.
- (i) Signs. See Chapter 1276.
- (j) Pedestrian Circulation. The Planned Unit Development plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system. The Planned Unit Development shall be designed with a sidewalk network to accommodate safe pedestrian circulation throughout and along the perimeter of the site, without interference from vehicular traffic. Pedestrian passage in a form of a access easement is strongly recommended between dead-end streets, including cul-de-sacs, and adjacent thoroughfares and developments.
- (k) Pedestrian Amenities. Pedestrian amenities include any element that further enhances the visual appeal of the development and community and benefits residents, guests, employees or patrons of the development. Examples include, but are not limited to public assembly areas including: plazas, formal gardens, patios, playgrounds and courtyards; decorative and natural looking water features and fountains; and pedestrian walkways (paths) and sidewalks made of decorative materials and colors. Each area shall provide benches and other amenities designed to attract pedestrians as a place to rest, congregate and socialize. Each planned development shall have a minimum of two of the above mentioned or other amenity landscaping.

**1264.06 PROCEDURAL REQUIREMENTS; REQUIRED CHARGES**

- (a) It is the purpose of sections 1264.06 through 1264.10 to establish procedures, supplementary to those applicable in the standard zoning districts created by this Zoning Ordinance, under which an applicant may prepare development plans particularly designed to meet the objectives for a Planned Unit Development. Procedures are also established for professional review of such development plans, action thereon by the village and the implementation thereof.
- (b) The complete review and approval process for a Planned Unit Development (PUD) consists of the following:
  - (1) Optional Steps
    - A. A recommended pre-application conference with Village staff (See Section 1264.07);
    - B. A recommended Concept Plan review by Planning Commission (See Section 1264.08).
  - (2) Required Steps
    - A. Preliminary Plan review and recommendation by the Planning Commission (See Section 1264.08);
    - B. Preliminary Plan review and approval by Council (See Section 1264.09);
    - C. Final Development Plan review and approval by the Planning Commission (See Section 1264.10). The Final Development Plan may be reviewed concurrently with the Preliminary Plan when

subdivision plat approval is not required and the data requirements of Section 1264.09 and 1264.10 are provided.

D. A preliminary plan and final plat for any PUD requiring subdivision plat approval shall be submitted simultaneously with the Preliminary and Final Development Plan for concurrent approval.

- (c) The applicant shall be responsible for the reasonable expenses incurred by the village in reviewing the plan or any modifications to the plan. Such expenses may include items such as the cost of professional and review services, including expenses and legal fees in connection with reviewing the plan and prepared reports, the publication and mailing of public notice in connection therewith and any other reasonable expenses directly attributable thereon.

At the time of submitting the preliminary plan to the Planning Commission for consideration, the applicant shall make a deposit in the office of the clerk in an amount equal to the estimated cost of the village's expense. This deposit shall not exceed two thousand five hundred dollars (\$2,500) at any time. When this deposit has been depleted to thirty-three percent (33%), another deposit will be requested.

#### **1264.07 PRE-APPLICATION CONFERENCE**

- (a) Prior to filing a formal application for approval of a Planned Unit Development, the applicant is strongly encouraged to request a pre-application conference with the Zoning Administrator.
- (b) During the pre-application conference, the applicant shall be prepared to present a general concept of the proposed development prior to preparation of detailed plans. For this purpose, the pre-application conference shall include, but not be limited to the following:
- (1) A location map;
  - (2) A topographic sketch;
  - (3) Sketch plans and ideas regarding land use, general locations of uses, open space, dwelling types and density, street and lot arrangement and tentative lot sizes;
  - (4) Tentative proposals regarding water supply, sewage disposal, surface drainage and stormwater management and street improvements.
- (c) The Zoning Administrator shall advise the developer of the zoning requirements and Village plans which might affect the proposed development, as well as the procedural steps for approval.
- (d) No statement or representation by the Zoning Administrator during the pre-application conference shall be binding on either the Planning Commission or Council.

#### **1264.08 CONCEPT PLAN**

- (a) Presentation of a concept plan to the Planning Commission is voluntary. The applicant may elect to start at the Preliminary Plan phase. The Concept Plan phase is advisory only. Its purpose is to give the applicant and Planning Commission an opportunity to discuss the PUD before a formal PUD application is

submitted.

- (b) Application shall be made to the Zoning Administrator for transmittal to the Planning Commission. Ten (10) copies of all materials shall be required, including maps to scale, sketch plans and supporting narratives. The established fee for this phase shall be included with this application.
- (c) Application materials shall include, but not be limited to, the following:
  - (1) A letter of transmittal identifying all property owners within the proposed PUD and demonstrating tentative agreement of all owners to proceed with development according to plans and to bind their successors in title to abide by any final commitments;
  - (2) A location map identifying the proposed PUD and indicating the relation of the proposed PUD to the surrounding area showing locations and widths of contiguous streets, relation to surrounding walkway systems, the approximate locations, sizes and depths of existing public sanitary and storm sewers and the approximate location and size of nearby and existing water lines;
  - (3) A topographic sketch map, of the entire site, and surrounding the site a distance of one-hundred feet per acre of development not to exceed 200 feet, with contour lines at recommended intervals no greater than two (2) feet or at a contour interval readily available from the County;
  - (4) The general identification on a map of wooded areas, streams, lakes, marshes and any other physical conditions affecting the site.
  - (5) The specific location of proposed land uses within the Planned Unit Development. The amount of area dedicated to each type of land use shall be indicated. The types of uses and their extent, size and composition in terms of use, intensity and coverage of structures shall be specified. For residential developments, dwelling unit density in terms of dwelling units per gross acre and minimum lot sizes, frontages and setbacks shall be specified.
  - (6) The interior open space system and open space calculations.
  - (7) The conceptual circulation system, noting the primary roadway and pedestrian systems within the project and their connection to the existing network.
  - (8) All federally designated 100 year flood plain areas.
  - (9) The base zoning of the site and the existing zoning of all adjoining properties.

#### **1264.09 PRELIMINARY PLAN REVIEW AND ACTION**

- (a) The preliminary plan shall include the following information:
  - (1) A completed PUD Application provided by the Village submitted with required fee and ten (10) copies of a Preliminary Plan and report, with supporting artist's renderings and maps at an appropriate scale to accurately depict the project on a 24 x 36 inch sheet of paper and ten (10) copies on 11 x 17 inch paper. The Village reserves the right to request

additional copies of the preliminary plan for subsequent Planning Commission and Council meetings.

- (2) The boundary of the proposed Planned Unit Development with bearings and distances indicated for all proposed boundary lines. The total area of the proposed planned unit development should be indicated. Legal description of property.
- (3) A list containing the names and addresses of all property owners adjacent to and within 300 feet of the subject property printed on 2 sets of address labels.
- (4) The base zoning of the site and the existing zoning of all adjoining properties.
- (5) Existing features of the site within 100 feet including topography at 2 foot intervals or less, vegetation, trees with 8-inch caliper or greater, roadways, structures, permanent facilities, drainage courses and utilities.
- (6) All federally designated 100-year flood plain areas.
- (7) The general identification of wooded areas, streams, wetlands, lakes, marshes and any other physical conditions affecting the site.
- (8) Indications of subsurface conditions on the site, including the location and results of tests made to certain the condition of subsurface soil, rock and around water and the existing depth to ground water unless the applicant requests, for good cause shown, that the test and study is not necessary.
- (9) The specific location of proposed land uses within the Planned Unit Development. The amount of area dedicated to each type of land use shall be indicated. The types of uses and their extent, size and composition in terms of use, intensity and coverage of structures shall be specified. For residential developments, dwelling unit density in terms of dwelling units per gross acre and minimum lot sizes, frontages and setbacks shall be specified. Housing unit by type and number shall be specified.
- (10) A phasing plan for any development, which will require more than twenty-four (24) months to complete. The phasing plan shall indicate the order and timing of the development, and shall demonstrate that each stage, when completed, will complement any development completed earlier and will form a reasonably independent unit even though succeeding stages are delayed. The phasing plan shall indicate the amount and location of common open space to be provided at each stage.
- (11) The interior open space system including proposed civic uses, parks, playgrounds, pedestrian pathways includes open space area calculations.
- (12) Proposed vehicular, bicycle and pedestrian circulation patterns, including streets by type (major, collector or minor), width, public or private bicycle and pedestrian ways and their connection to the existing network including existing and proposed right-of-way widths. Existing or platted streets proposed to be vacated. A report shall be provided, if appropriate in a particular development, containing proposals for improvement and continuing maintenance and management of any private streets.

- (13) Traffic impact statement and environmental impact statement that compares water and sewer needs at project build out with available capacities.
  - (14) Conceptual utility layout indicating approximate location of lines, easements, and connections.
  - (15) A vicinity map at a scale approved by the zoning administrator showing the property lines, streets, existing and proposed zoning, and such other items as the zoning administrator may require.
  - (16) Proposed grading plan that would substantially alter the topography.
  - (17) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development.
  - (18) The substance of covenants, grants or easements or other restrictions existing or proposed to be imposed upon the use of land and for buildings, structures and utilities.
  - (19) Conceptual renderings showing proposed architectural style and building materials of each building type proposed.
  - (20) Any other type of information that may be required by the Planning Commission.
- (b) Operational Standards for Review of Applications. The Planning Commission shall not approve a request for a Planned Unit Development unless it shall, in each specific case, make specific findings of fact, directly based upon the particular evidence presented to it, which support the conclusion that:
- (1) The Planned Unit Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.
  - (2) The site will be accessible from public roads that are adequate to carry the traffic, which will be imposed on them by the proposed development. The streets and bikeways on the site of the proposed development will be adequate to serve both the residents of the proposed development and the community at large. On-site and abutting thoroughfares shall be brought into conformity with the Yellow Springs Thoroughfare Plan.
  - (3) The development will not impose any undue burden on public facilities and services, such as fire and police protection.
  - (4) The development plan contains such proposed covenants, easements and other provisions relating to the proposed development as are reasonably required for the public health, safety and welfare.
  - (5) The location and arrangement of structures, parking areas, walks, lighting, signage and appurtenant facilities shall be compatible with the surrounding land uses.
  - (6) Natural features such as watercourses, trees and rock outcrops will be preserved, to the degree possible, so that they can be incorporated into the layout to enhance the overall design of the Planned Unit Development.

- (7) The layout is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services.
  - (8) The development pattern preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns.
  - (9) Identifiable negative environmental, social or economic effects on surrounding areas and on the community at large will be minimized.
  - (10) The PUD conforms to the goals and objectives set forth in the Yellow Springs Comprehensive Plan
- (c) Procedure for Consideration and Approval of Preliminary Plan.
- (1) Upon receipt of a preliminary development plan, the zoning administrator shall transmit a copy of the preliminary plan to the village planner, village engineer, fire chief and police chief for their review, report and recommendation. Written review comments shall be returned to the zoning administrator within fifteen (15) days, unless otherwise extended, to furnish the Planning Commission a report upon their respective jurisdiction.
  - (2) The Planning Commission shall study material received and shall confer with other agencies of government as appropriate in the case to determine general acceptability of the proposal as submitted. In the course of such preliminary considerations, the Planning Commission may request, and the applicant shall supply, additional material needed to make specific determinations.
  - (3) Following such study, the Planning Commission or its staff shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the Preliminary Plan and report. Recommendations of the Planning Commission to the applicant shall be in writing.
  - (4) Following any such conference, agreements between the applicant and the Planning Commission as to changes in the Preliminary Plan and report or other matters shall be recorded and acknowledged by the Commission and the applicant. On items on which no agreement is reached, or where there is specific disagreement, this fact shall be recorded, and the applicant may place in the record his or her reasons for any disagreement.
  - (5) When the Preliminary Plan and report have been approved in principle (as a whole or with reservations duly noted), or when the applicant indicates in writing that no further negotiations with the Planning Commission are desired before proceeding, the Commission shall, within forty-five (45) days, schedule the proposed plan for a public hearing and shall make its recommendations to Council thereafter.

Notice of such hearing shall be published in the newspaper at least ten (10) days in advance of the hearing. The notice shall set for the time and place of the public hearing, a general description of the planned unit development, and a statement that, after the public hearing and submission of a final development plan, the matter will be referred to the

Council for further determination.

Written notice of the hearing on the planned unit development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within 300 feet of a PUD boundary. Notices to individual property owners should contain the same information as required of notices published in the newspaper.

Planning Commission's written recommendations to Council shall indicate approval, approval with specific conditions or disapproval with reasons. With such recommendations, the Commission shall transmit to Council, and make available to the public, the latest draft of the preliminary plan and report submitted by the applicant, a record of agreements reached and matters on which there was no specific agreement, including any reasons recorded by the applicant for any such disagreement.

- (6) Council shall schedule a public hearing for the Preliminary Plan after receiving the proposal from the Planning Commission as per the notification requirements of the Village. Council shall approve the proposal, approve the proposal subject to conditions or deny the proposal within sixty (60) days after the close of the Public Hearing. Notice of such hearing shall be published in the newspaper at least thirty (30) days in advance of the hearing. Written notice of the hearing on the planned unit development shall be mailed by the clerk by first class mail, at least twenty (20) days before the date of the public hearing, to all owners of property located within 300 feet of a PUD boundary. If approved, the area of land marked shall be rezoned "Planned Unit Development" (PUD) and shall be used only in accordance with the uses and densities shown on the approved Preliminary Plan.

#### **1264.10 FINAL DEVELOPMENT PLAN APPROVAL PROCESS**

- (a) Submittal Requirements. The Final Development Plan shall conform substantially to the Preliminary Plan as approved, and shall be filed within six (6) months after approval by Council of the preliminary plan. Twelve (12) copies of such plan shall be filed with the zoning administrator along with a complete application including required review fee. The Zoning Administrator shall forward copies of the final plan to the Planning Commission.

Within sixty (60) days after submission of the final development plan, the Planning Commission shall recommend that the final development plan be approved as presented, approved with conditions, or disapproved.

If desired, the developer may submit the Final Development Plan in stages, with each stage reflecting a portion of the approved Preliminary Plan, which is proposed to be recorded and developed, provided, however, that such portion conforms to the requirements of these regulations.

- (b) Materials to be Submitted. Final Development Plans and reports shall include:
  - (1) The final plan shall contain and be accompanied by the following unless waived by planning commission as inapplicable:
    - A. Topography, at a two (2) foot contour interval, of the proposed development area, including property lines, easements, street right-of-way, existing structures, trees and landscape features existing

thereon, floodplains, wetlands, ravines, stream areas, ponds and lakes, and including a certificate, by a registered engineer or surveyor, of the gross area of the development area in acres and square feet.

- B. The vehicular and pedestrian traffic patterns, proposed location and design of public and private streets; the directional flow and location of existing and proposed storm and sanitary sewers and sewers connecting with existing or proposed Village interceptor, outlet or trunk sewers outside the development area; the location and design of parking and service areas; and an estimate of traffic volumes to be generated, including the assignment of traffic to proposed entrances and exits.
- C. A site plan, including the proposed public street system with right-of-way, all easements, the use and subdivision of all land including common and private land, and the location of each existing structure to be retained.
- D. A plat of the development area showing street right-of-way, subdivided and common land and easements in accordance with the requirements of the village subdivision regulations which shall be in form for recording.
- E. Detailed plans and specifications for all streets, sidewalks, storm and sanitary sewers, water mains, street illumination, open space calculations, open space amenities, and all other site features of the development area or that portion of the development area to be developed, designed in accordance with the Village subdivision regulations. Upon approval and recommendation from the village engineer, planning commission may vary the Village's subdivision regulations to allow more flexibility in design.
- F. A detailed landscape plan showing all site features and finished grading for public and private lands within the development area.
- G. The final form of covenants running with the land and deed restrictions (including the use of common land); covenants, restrictions or easements to be recorded; declaration of covenants, restrictions and bylaws of a home association and its incorporation; declaration of condominium ownership and other covenants, if any, for maintenance.
- H. Estimated project cost, including estimates for all public and private improvements.
- I. Construction schedule.
- J. Finished floor elevations and floor plans for all buildings and structures.
- K. **Stormwater and soil erosion control plans.**
- L. Final renderings and building elevation drawings including colors, materials and dimensions.
- M. Descriptive data as to the type of buildings, square footage for each use and number of dwelling units in each building type.

N. In the event the final plan of a development area includes the subdivision of land, any map, plat or other data required for compliance with the provisions of the village subdivision regulations.

(1) The Planning Commission may require additional data and/or drawings to supplement the above when more information is needed or when special conditions occur.

(c) Procedures for Consideration and Approval of Final Development Plan.

(1) The Planning Commission, upon receipt of the Final Development Plan from the Zoning Administrator, shall deal with such plan as it would with a Final Development Plan of a subdivision, recognizing the variations allowed from the approval of the Preliminary Plan.

(2) The Planning Commission shall then approve, approve subject to conditions, or deny, the Final Development Plan. If the Planning Commission finds that a proposed final plan of development area is in substantial accordance with and represents a detailed extension of the preliminary plan heretofore approved by council; that it complies with all of the conditions and adjustments which may have been imposed in the approval of the preliminary plan; that it is in accordance with the design criteria and provisions of this zoning ordinance which apply particularly to any plan of the planned unit development; that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed; that all fee payments have been made and that the provisions of the subdivision regulations have been met; that the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for commerce and/or residential development; then the Planning Commission shall approve such final plan.

(d) Recording of the Final Development Plan as Subdivided Land. After approval of the Final Development Plan, the Final Development Plan shall be presented to the Greene County Recorder for recording within sixty (60) days unless the Final Development Plan does not need to be recorded as a subdivision (e.g. condominium development) or Village approvals shall become null and void.

The purpose of such recording is to designate with particularity the land subdivided into conventional lots as well as the division of other lands, not so treated, into common open areas and building areas, and to designate each building or structure, as well as the use of the land in general.

#### **1264.11 DENIAL OF A PLANNED UNIT DEVELOPMENT PLAN**

No application for a Planned Unit Development which has been denied wholly or in part by the Planning Commission or Council shall be resubmitted for a period of one (1) year from the date of such order or denial, except on the ground of new evidence or proof of change of conditions found to be valid by the Commission and Council.

#### **1264.12 ZONING PERMITS**

No zoning permit shall be issued for individual buildings until the Final Development Plan has been reviewed and approved.

**1264.13 COMPLIANCE WITH DEVELOPMENT PLAN AND SUPPORTING DATA; MINOR AND MAJOR CHANGES**

- (a) In General. A Planned Unit Development shall be developed only in accordance with the approved Final Development Plan and all supporting data. The approved Final Development Plan and supporting data, together with all amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises, including the internal use of buildings and structures and the location of structures in the Planned Unit Development as set forth therein.
- (b) Minor Changes. The Zoning Administrator, upon notifying the Planning Commission, may approve minor changes in the approved Planned Unit Development, which do not change the concept or intent of the development, without following the Preliminary Plan approval procedure provided in Section 1264.08. A minor change is defined as any change not defined herein as a major change.
- (c) Major Changes. Major changes shall include changes which alter the concept or intent of the Planned Unit Development, including:
  - (1) Increases in the number of units per acre;
  - (2) Changes in the location, amount, addition or removal of nonresidential land uses;
  - (3) More than a fifteen (15) percent modification in the proportion of housing types;
  - (4) Reductions of proposed open space; and
  - (5) Significant redesign of roadways, bicycle paths, utilities or drainage.

Such major changes may be approved only by submission of a new Preliminary Plan and supporting data and following the Preliminary Plan approval procedure provided in Section 1264.08 and any subsequent amendment of the Final Development Plan. Any major changes, which are approved for the final plat, must be recorded, as applicable, as amendments to the record copy of the Final Development Plan by the Greene County Recorder, and no zoning permit shall be issued until such recording is accomplished.

**1264.14 REVOCATION OF AUTHORIZATION**

- (a) The Planning Commission shall consider the Planned Unit Development authorization subject to revocation if construction falls more than one (1) year behind the phasing schedule filed with the Final Development Plan.
- (b) In any case where a Planned Unit Development has not been established or is not substantially underway within one (1) year from the date of the granting thereof, then, without further action from the Planning Commission, the approved Final Development Plan shall be considered null and void.

**1264.15 GUIDELINES FOR CONVEYANCE AND MAINTENANCE OF COMMON OPEN SPACE**

- (a) All land shown on the Final Development Plan, as specified in this Chapter, as common open space, must be conveyed under one of the following options:

- (1) It may be conveyed to a public agency or trustee approved by Council such as a civic land trust, which will agree to maintain the common open space and any buildings, structures or improvements, which have been placed on it.
  - (2) It may be conveyed to trustees provided in an indenture establishing a neighborhood association or similar organization for the maintenance of the Planned Unit Development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restrict the common open space to the uses specified on the Final Development Plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
- (b) No common open space may be put to any use other than that specified in the Final Development Plan unless the Final Development Plan has been amended and approved by the Planning Commission to permit that use. However, no authorized change of use may be considered as a waiver of any of the covenants limiting uses of common open space areas. Furthermore, all rights to enforce these covenants against any permitted use are expressly reserved to the Village.

#### **1264.16 ESTABLISHMENT AND RESPONSIBILITIES OF NEIGHBORHOOD ASSOCIATIONS**

- (a) Covenants for mandatory membership in a neighborhood association, setting forth the owners' rights and interest and privileges in the association and the common open space, shall be approved by the Planning Commission and included in the deed for each lot.
- (b) This neighborhood association shall have the responsibility of maintaining the common open space and operating and maintaining local neighborhood recreational facilities within such common open space. Maintenance of common open space includes the maintenance and upkeep of all shared facilities, accessways, open spaces, lighting, etc. in the common areas.
- (c) The association shall be empowered to levy annual charges against the property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities. Such charges shall become a lien against any property, which may be in default.
- (d) Trustees of such association may be replaced by recall action of association members, but in no case shall an association or its trustees fail to discharge its duties, nor shall it dispose of any common open space by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the uses specified in covenants and deed restrictions, or to the Village or other governmental agency designated by Council.
- (e) The developer or subdivider shall maintain control of such open spaces and be responsible for their maintenance until development sufficient to support the association has taken place. The Planning Commission, upon request of the neighborhood association or the developer or subdivider, shall make such determination.
- (f) In the event that the organization established to own and maintain common open space, or any successor organization, shall, at any time after establishment of the Planned Unit Development, fail to maintain the common open space in

reasonable order and condition in accordance with the plan, the Village may serve written notice upon such organization or upon the residents and owners of the Planned Unit Development, setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Such notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days of receipt of such notice and shall state the date and place of a hearing thereon which shall be held before Council within fourteen (14) days of the notice. At such hearing the Village may modify the terms of the original notice of deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in modifications thereof shall not be cured within thirty (30) days or any extension thereof, the Village, in order to preserve the taxable values of the properties within the Planned Unit Development and to prevent the common open space from becoming a public nuisance, may enter upon such common open space and maintain the same for a period of one (1) year.

- (g) If common open space is only available to residents of the PUD, the cost of such maintenance by the Village shall be assessed proportionately against the properties within the Planned Unit Development which have a right of enjoyment of the common open space, and such cost shall thereby be made a lien upon each lot, parcel or unit of the Planned Unit Development. The Village, at the time of entering upon such common open space for the purpose of maintenance, shall, every three months, bill the owners for their share of the maintenance cost. If the same is not paid within thirty (30) days after such billing, the cost shall be certified by the Village Manager to the Greene County Auditor, who shall place the same on the tax duplicate as a tax lien or assessment against the owner's property, with the interest and penalties allowed by law, to be collected in the same manner and at the same time as other taxes are collected.

#### **1264.17 FINANCIAL RESPONSIBILITY**

After a Planned Unit Development has been approved and before it is recorded at the Greene County Recorder's office, where applicable, the developer shall execute a performance bond, certified check or irrevocable letter of credit to the Village of Yellow Springs covering the estimated cost of required public and/or common area improvements (utilities, landscaping, infrastructure, etc.) for each phase or stage of the project. Bonds shall be kept in the office of the Village Manager. A performance bond or cash deposit shall be made in favor of Yellow Springs and shall provide that the developer, or his or her heirs, successors, assigns, agents or servants, will comply with all applicable terms, conditions, provisions and requirements of these and other pertinent regulations, and will faithfully perform and complete the work of constructing such facilities or improvements in accordance with such laws and regulations. Performance bonds, certified checks or letters of credit posted for landscaping shall be held for a minimum of one (1) year from the installation to insure the survival of the required landscaping.

**2009 PLANNING COMMISSION GOALS**  
**(Revised 07/13/09)**

**Level of Priority**

**Goal**

- |                 |   |
|-----------------|---|
| 1 <sup>st</sup> | Participate in the Visioning/Planning Process and encourage others to do likewise.  |
| 2 <sup>nd</sup> | Outline policy and/or legislative needs as next steps for implementation of the updated Comprehensive Plan, particularly with respect to the Miami Township Comprehensive Plan.<br>Meet with the Miami Township Zoning Commission   |
| 3 <sup>rd</sup> | Complete an updated inventory of historical buildings. Review and define Special Planning Areas to preserve important historical and cultural assets of the Village.  |
| 4 <sup>th</sup> | (The Commission will review its charge from the Charter and examine the Village's infrastructure in the fall.)<br>Review overall YSO infrastructure (Capital Improvement Planning) <ul style="list-style-type: none"><li>• Develop assumptions about future land use that is likely to occur, based on Facility Planning Area Category 1 and 2 identified lands.</li><li>• Review a 10-year Capital Improvement Plan, identifying needs, scope of work, costs, location, including:<ul style="list-style-type: none"><li>○ Water</li><li>○ Sewer</li><li>○ Electrical (Generation, Distribution)</li><li>○ Storm water</li><li>○ Transportation (including non-motorized uses)</li></ul></li><li>• Complete a plan document for Council's consideration</li></ul> |
| 5 <sup>th</sup> | Parallel review of procedural requirements for PUD and Subdivision Regulations <ul style="list-style-type: none"><li>• Review process diagrams for both PUD and Subdivision processes.</li><li>• Eliminate steps in the process that don't add value to the outcomes.</li><li>• Where possible, follow similar procedures to make each process more consistent with each other, reducing confusion and increasing public awareness.</li><li>• Where possible, create certainty and balance risk and rewards for redevelopment and new development.</li><li>• Where possible include accessibility, walkability and bikeability.</li></ul>   |

**The following items have been identified for inclusion in the list of Planning Commission Goals for 2010** (list not prioritized).

- Identify critical environmental area, such as the well fields, Jacoby Creek Watershed and applicable areas within the Village. Coordinate the work with the Environmental Commission, and the updating of the Areawide Water Quality Management Plan (AWQMP) by the Miami Valley Regional Planning Commission (MVRPC).
- Annual review and update of the Comprehensive Plan's reference list (following completion of the current Comprehensive Plan review)
- Review the proposed Parks and Recreation Master Plan.
- Review land use alternatives for the Northwest subarea.
  - ❖ Focus on future land use of area North of Dayton Street and West of King Street (and the Vernay Site) within the Village's Facility Planning Area defined as category one and two.
  - ❖ Involve property owners, real estate, engineering, legal and economic professionals in developing likely land use in area, along with the public in general.
  - ❖ Provide for a diversity of housing types at a wide variety of affordability levels, based on market needs.
  - ❖ Project likely land uses to occur in area and related transportation, water, sewer, storm water, and parks needs, costs and timing.
    - Based on likely land-uses, project vehicle trips using ITE Trip Generation Manual and commonly accepted sound engineering practices. Develop traffic circulation to support likely land uses.
    - Based on commonly accepted sound engineering practices, determine water, sewer and storm water needs.
    - Provide space for suitable parks needs.
  - ❖ Complete a subarea plan document for Village Council's consideration.
- Draft a development code to replace the current Subdivision Regulations following completion of the current Visioning/Planning Process.

## **YELLOW SPRINGS PLANNING COMMISSION – FEBRUARY 5, 2010 VILLAGE STAFF REPORT**

There are several items that Staff wants to provide an update on to Planning Commission.

**CBE Update** – Jacobs Engineering provided three alternatives at the end of the year. Village Staff, CR representatives and others met with Jacobs on January 20<sup>th</sup> to discuss them. Work continues on the annexation of the roadway ROW. Both the annexation and the plat that is developed once the roadway locations are finalized will be before the Commission at some time in the future.

**Visioning/Planning Project** –The second public input session, the Goals and Values Workshop, was held on December 12<sup>th</sup>. The results of this Workshop, Goal Statements for the various topics, have been refined once by the Consultant and reviewed and commented upon by the Steering Committee. The Consultant will present the goal statements again at the February 17<sup>th</sup> Steering Committee meeting. Additionally, the Consultant will be meeting with Village Council and the Township Trustees in a special joint meeting on February 22<sup>nd</sup>.

**Northern Gateway Project** – The Village submitted a grant application to the Ohio Department of Natural Resources (ODNR) for the Village’s Northern Gateway Project, entitled “Yellow Springs Trailhead Improvements/Bikeway Connector” with the Recreational Trails Program for financial assistance. The total estimated cost of the project is \$425,000. The Village has already been awarded a Congestion Mitigation and Air Quality (CMAQ) Improvement Program grant in the amount of \$275,275. This leaves a funding gap of \$149,725. The Village will be requesting \$101,000 from ODNR’s Recreational Trails Program. If our application is funded, the local share would be \$48,725. Keep your fingers crossed!