

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Meeting Minutes

Monday, December 11, 2017

7:00 PM

Planning and Zoning Commission

*Bill Christensen – Chairman
Michael Vasko – Vice Chairman
Joe Donahue – Secretary
Brad Richey
June Konold
Joe Wildenthaler
Drew Gatliff*

Call To Order

Time In: 7:00pm

Declaring A Quorum (Roll Call)

A motion was made by Joe Donahue, seconded by Joe Wildenthaler, that Brad Richey and June Konold be excused. The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

Excused: 1 – Richey & Konold

Approval of Minutes

November 13, 2017 Planning and Zoning Commission Meeting Minutes

A motion was made by Joe Wildenthaler, seconded by Mike Vasko, that the November 13 Minutes be approved. The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

Public CommentPublic OathPublic Hearings**FDP-15-002**

Property Owner: Southgate Company Limited Partnership

Applicant: The MacIntosh Company

Location: 6800 Gender Road

Request: Amendment to FDP-15-002 to modify the approved lighting plan and fence style.

Mr. Moore presented the application for MacIntosh Company for property located at 6800 Gender Road. The applicant is requesting approval for an amendment to Final Development Plan FDP-15-002 to modify the approved parking lot lighting and the fence style around the detention pond.

Staff presented a photometric plan of the previously approved lighting plan and commented that the site contractors did not install the approved lighting. The applicant has also received several complaints about parking lot lighting from adjacent neighbors so while resolving the lighting issues to match the zoning approval they wanted to do something more to help satisfy the residents concerns. Staff presented the proposed lighting plan noting that deflective shields are to be added to the light pole heads, led circuits are going to be reduced as well as rotated to change the light pattern. The changes from the approved lighting plan from 2015 and the proposed changes were discussed.

Mr. Moore touched on the updated fence style for the property. When the final development plan was approved the applicant showed the fence as a 4 foot

white 3 rail vinyl fence. Since that time the applicant would like to modify the approved fence to a 5 foot aluminum "iron" fence.

The amendments to the lighting plan will help concerns from the surrounding property owners. The applicant has committed to changing a lot about the parking lot lights to be good neighbors by going above and beyond and installing shields on the fixtures to help eliminate the light at the top of the pole from view. Additionally, the fencing style was left open to the applicant to decide during the final development plan and the style that was chosen will match the surrounding Village at Westchester Subdivision, as this is a fence style that is approved by the HOA. Staff recommends that Amendment #2 to FDP-15-002 be approved as presented.

Mr. Donahue asked staff if the reason they need approval for the fence is due to the zoning being a Planned District. Staff affirmed.

Mr. Christensen opened up the application for Public Hearing.

No residents from the public spoke.

A motion was made by Joe Donahue, seconded by Joe Wildenthaler, that this Public Hearing be closed. The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

A motion was made by Joe Donahue, seconded by Drew Gatliff, that the Amendment to FDP-15-002 be approved per revised plans. The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

FDP-17-003

Property Owner: Damon Pfeifer, Tiger Construction Inc.

Applicant: Grand Communities, Ltd

Location: 15.8 acres located along High Street and US 33 (PID 184-002764, 184-000748, 184-000749, 184-000739, 184-000738, 184-000747, and 184-001616).

Request: Final Development Plan for 80 twin single family dwelling units.

Mr. Moore indicated to the commission that the applicant officially withdrew the application from the agenda on Wednesday, November 29th.

ZA-17-006

Applicant: City of Canal Winchester Planning and Zoning Commission
Request: A proposed Zoning Code Amendment to Chapter 1181.06 Keeping of Agricultural Animals in Non-Agricultural Districts.

Mr. Moore presented the proposed zoning code amendment to Chapter 1181.06 of the zoning code for the Keeping of Agricultural Animals in Non-Agricultural Districts. This update is a proposed change to the Special Uses section of the code to allow limited agricultural animals on residential property. Currently, this section only allows for Horses on Residential properties over 5 acres.

This code amendment was prompted by Planning and Zoning Commission in early 2017 to get a direction and feedback from City Council on revising the zoning code to allow these uses in some manner without having property owners rezone their properties to the Exceptional Use (EU) district, which allows agriculture as a permitted use. Staff has spent the last 7 months with City Council and other staff members drafting the proposed amendment to the code. This amendment will allow the limited use of agricultural animals on residential properties if certain acreage requirements are met. The size requirements will allow those properties who qualify to allow the select agricultural animals with a simple permit with the city, rather than getting approval from the Planning and Zoning Commission.

Mr. Moore discussed that due to the process in which City Council approves zoning text changes, the update needs to be first reviewed by Planning and Zoning Commission and a recommendation needs to be made to City Council so that they can do the three reading process prior to adoption. While Council has helped draft the document to get it to P&Z, it still needs to go back to them after review and comment from the Zoning Board.

Staff presented to the commission a map showing what properties currently allow agricultural animals to provide a current context map. The current properties that allow agricultural animals are zoned EU (Exceptional Use), and this zoning district is used as a holding category for properties that are annexed into the city prior to them being rezoned for development. This explanation is to show why these EU properties are mostly on the outer edge of the city limits. Staff also pointed out that is why almost all of the EU properties are currently farm land, which is an Agricultural use.

With the proposed code change, the first amendment would allow residential properties over 5 acres could apply to keep a limited number of goats with a permit. Staff discussed the details of this amendment with the commission.

Mr. Vasko asked why there is a limit of 2.5 acres needed per horse in the original code section. Staff indicated that they believe the reason was at 2.5 acres you could limit how many horses could be on 5 acres and greater and it probably had to do with other codes this section was modeled off of.

Mr. Vasko commented that he does not think the 15 foot fence setback is appropriate. This 15 foot setback can greatly reduce the usability of the rear yard for the horse.

Mr. Vasko commented that it might be helpful to include a minimum pen area for horses, but it would be more beneficial to change the fence setback to 8 feet instead of 15 feet. Staff affirmed.

Mr. Christensen commented on an editorial change to the grammar on that section of the code.

The second amendment would allow residential properties over 2 acres could keep a limited number of chickens, ducks, and rabbits with a use permit. Staff discussed the details of this amendment with the commission.

Mr. Donahue asked staff if this permit is a onetime deal or annual. Staff indicated that you get the permit once and if the scope of the permit changes then you would have to reapply.

Mr. Donahue asked how they would monitor this code section. Staff indicated that it will all be administratively reviewed and enforced. This would be comparable to say a deck or fence permit.

Mr. Donahue asked staff how the enforcement process works. Mr. Moore indicated that they would first check on a complaint if a permit is on file. If not then they go inspect the property and if a violation is observed they send a notice to the property owner and they would have to get it corrected in a specific number of days or receive enforcement action such as Mayors Court.

Mr. Christensen provided another editorial to the code section for staff.

Mr. Donahue asked staff if the permit is per animal or use section. Staff indicated that it would be a permit for each of the three sections and provided several examples.

Mr. Moore explained that this code change allows these properties to have these types of uses administratively. If anyone wants to deviate from the code requirements they could request a variance. Right now, there is no variance

procedure for someone to apply to have chickens or bees on residential properties.

Mr. Wildenthaler discussed a scenario with staff in which someone could take advantage of the code section and have goats, horses, chickens, and bees on a 5 acre lot. Staff affirmed that this section would not stop an applicant on applying for all three permits at once.

The final category that has been added would allow residential properties over 2 acres to keep bees and associated beehives on residential properties with a use permit. This section was specifically asked by members of Council to be looked into adding to the code change. Like the other three sections, the use permit would be granted administratively as long as the criteria for approval can be met by the applicant. Any applicant that does not meet one of the conditions of the permit would apply for a variance. Staff discussed the specifics of the code section with the commission.

Mr. Moore pulled up the EU zoning map that was previously shown and recapped that these are the only properties that currently allow agricultural animals. Staff then shared a new map showing all current residentially zoned properties over 2 acres in the city limits and noted that these properties would be eligible for the use permit under the new code update.

Mr. Gatliff asked staff about the setbacks in the code for bee hives. Staff discussed the setbacks that are written into the code.

The commission discussed with staff why there is a minimum standard for 2 acres for chickens and bees. Staff discussed that City Council and Staff wanted the properties that had larger footprints to be allowed to have these uses as a right, without applying for variances. It was discussed that making these uses in general a conditional use or variance for all properties may not make sense to someone who has 5-10 acres and are in a rural setting. However, having a property in the middle of an HOA governed subdivision would benefit from having the additional step of a variance request so neighbors could be notified and the HOA can have a say in the use on the property. The 2 acre minimum removes all HOA governed properties.

Mr. Christensen opened up the application for the Public Hearing.

Barry Conrad at 6240 Wright Road, past president and current treasurer of the Bee Keeper of Ohio Association discussed his thoughts on the code modifications for bee keeping. Mr. Conrad disused that he feels the lot requirements are too restrictive at 2 acres. Conrad discussed that he manages roughly 50 bee hives within 3 miles of the corporate limits of the city. Bee's

travel on average 5 miles to get nectar, which means they are flying in the city limits.

Mr. Conrad discussed Franklin County's requirement and stated any lot .25 acres or less can have two bee hives. That is on any unincorporated portion of Franklin County. The City of Columbus has no restrictions, other than at the county level. Cleveland, Ohio regulates bees at 1 hive per 2,400 sq. ft. New York City has no restrictions at all with lot size. Two acres for minimum lot size is not practical. Conrad discussed the importance of honey bees and how they help pollinate 1/3 of what humans eat.

Mr. Gatliff asked Mr. Conrad on Franklin County code requirements.

Mr. Wildenthaler asked Mr. Conrad technical questions on bee hives and how many bees can be supported in a residential area.

Joe Messerly at 255 East Waterloo Street spoke to the commission about the ordinance proposal. Mr. Messerly commented that he has chickens and he feels they are a good way for kids to be active outdoors and not be stuck with just TV and other social media items.

Mr. Messerly talked with the commission about bees and how they are beneficial to the environment. Messerly discussed how setbacks are probably the better way to achieve a better determination on how to design the hives and coops rather than lot sizes. With proper setbacks it could reduce any potential nuisance factor.

Mr. Messerly commented that he called the post office and asked them if they have any trouble with chickens, rabbits, or honey bees. The post office said the biggest issue they have are dogs and humans.

Mr. Donahue asked Mr. Messerly if two acres on bee hives and rabbits and chickens are too great. Messerly commented that setbacks are a great tool because you can direct how these structures are situated on every property.

Mr. Messerly commented that there are four wild be hives in town he knows about and they do not hurt anyone and people do not complain about them.

Mr. Donahue asked staff if this ordinance gets adopted and people who have these uses now, do they get grandfathered in. Staff indicated they would not, and if properties do not meet any of the requirements they would have to first apply for a variance. There is no grandfathered procedure in the code for a non-conforming use.

Jackie Marian at 106 East Columbus Street spoke to the commission in regards to the ordinance proposal to keeping of bee hives on residential property. Mrs. Marian spoke that she gardens and plants lots of flowers and has never had any issues with honey bees.

Mrs. Marian spoke in regards to chickens and stated that she has never had an issue with neighboring properties with chickens and thinks it would be beneficial to allow those who currently have these animals to be grandfathered in and not be required to get the permit.

Tess Conrad at 7472 Loy Rush Ct. spoke to the commission in regards to bee hives on residential properties. Mrs. Conrad stated that restrictions on to what limits to keep bees safely is a good thing, but the two acre minimum is too restrictive.

Joe Moses at 144 East Columbus Street spoke to the commission in regards to keeping of bees on residential properties. The city should have a program to encourage more bee hives. Mr. Moses spoke that he believes that wasps and hornets are more dangerous than bees and without bees in the environment these predators can move in.

Mr. Moses spoke in regards to chickens and stated that while he knows they can be dirty, he has never had any issues. The vast community is promoting these types of uses and Canal Winchester is being very restrictive.

A motion was made by Mike Vasko, seconded by Drew Gatliff to close the Public Hearing. This motion carried by the following vote:

Yes: 5 - Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

Mr. Vasko spoke to staff in regards to changing the setback language from a fence around horses/goats from 15 feet to 8 feet, among the other mentioned grammatical errors.

Mr. Vasko commented that one bee hive per two acres seems a little restrictive and commented maybe it can be swapped for two hives per one acre. Staff discussed the change two one acre with the commission and shared maps of how many residential properties are over one acre in the city limits, as a comparison from the proposed two acre minimum in the ordinance language.

Mr. Gatliff asked if future variances run with the land. Staff indicated it would but it could be specific enough that it may not apply with a change of ownership.

Mr. Donahue discussed the zoning change with the commission and staff and commented that he thinks that the regulations appear restrictive based on the public comments but he is not sure if that is the case and asked staff how the code section was designed and what community was it modeled off of. Staff discussed how the code was written with the commission.

Staff indicated that our current zoning code lists bee hives and apiaries as an agricultural use of a property. Agricultural uses are only permitted in the Exceptional Use zoning district. Mr. Donahue thanked staff for the explanation and stated he would like what is best for the community.

Mr. Wildenthaler discussed the differences between two acre and one acre minimum with the commission and staff.

The commission discussed the conflicts with HOA restrictions and zoning regulations with staff.

The commission discussed variance procedure with staff. Mr. Moore indicated that granting a variance to this code section would not set a precedent to do it in the future for someone else. Granting a variance is never a precedent. The code section that is written is the precedent and variances should only be granted in conformance with the criteria listed in Chapter 1147.03. No two variances are alike and they should not be compared.

Mr. Moore discussed that if the commission feels any portions of the code that is layout out tonight is not correct, or they feel it should be changed for any reason then the appropriate thing to do would be to make a recommendation to City Council with the changes noted. If Council likes the updates then they could stay, if they want to change them further then they can.

Mr. Wildenthaler commented that he thinks the ordinance is set up well. The only change would be to reduce the acreage from two acres to one acre and see councils take. Then we will treat this as a case by case basis as a variance procedure.

Mr. Christensen asked if the ordinance can prohibit specific neighborhoods. Staff indicated that it could not.

The commission discussed setting up the ordinance to allow the change for the HOA to review the code or variance process.

Mr. Wildenthaler discussed that without this code section being adopted in any manner, the Planning and Zoning Commission could not grant any variance request in the future.

Mr. Vasko commented he does not know if this is a big issue. There does not seem to be a big demand for any of these uses.

Mr. Gatliff discussed that staff reports show other similar variances which leads to show how variances are similar and should be approved across the board. Mr. Moore indicated that section was added to the code at request of some P&Z Members and it appears it has caused issues because it misleads people to not look solely at the criteria in Chapter 1147.03. Staff indicated that line from the staff report will be removed to help alleviate that future issue.

The commission discussed a revision to the language for chickens and bee hives. The decision was that the acreage on bee hives should be changed to one acre and two hives per acre. Additional changes would be for the chickens, ducks, and rabbits from two acres to one acre.

A motion was made by Joe Wildenthaler, seconded by Mike Vasko, that the Zoning Text Amendment ZA-17-006 be recommended to City Council for approval with the following changes:

1. **1181.06 (a)(5) have the fence setback modified from fifteen (15) feet to eight (8) feet.**
2. **1181.06(a)(9) insert “or goats” after “keeping of horses”.**
3. **1181.06(b)(1) have the minimum acreage modified from two (2) acres to one (1) acre.**
4. **1181.06(b)(2) have the acreage calculation changed from two (2) acres to one (1) acre.**
5. **1181.06(b)(4) correct the spelling for “fencing”.**
6. **1181.06(c)(1) have the minimum acreage modified from two (2) acres to one (1) acre.**
7. **1181.06(c)(2) have the calculation modified from one (1) hive per two (2) acres; to two (2) hives per one (1) acre.**

The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

Old Business

Mr. Moore presented the 2017 stats for what all Planning and Zoning reviewed and approved/denied.

New Business

Adjournment

Time Out: 8:59pm

A motion was made by Mike Vasko, seconded by Joe Wildenthaler, that this Meeting be adjourned. The motion carried by the following vote:

Yes: 5 – Gatliff, Wildenthaler, Donahue, Christensen, and Vasko

Date

Chairman

Secretary