

Planning Commission
Special Meeting Minutes
March 8, 2017
Minutes

Chairman Mears called the meeting to order at 4:31 PM. The following members were present: Mr. David Miller, Mr. Pete McGory, Chairman John Mears, Mr. Mike Zuilhof, and Commissioner Wes Poole. Ms. Casey Sparks and Ms. Angela Byington represented the Planning Department, Mr. Justin Harris represented the Law Department and Debi Eversole, Clerk from Community Development. Commissioner Lloyd and Commissioner Brady were also in attendance. Mr. Ned Bromm and Mr. Jim Jackson were excused.

There were five Commissioner Members present.

Chairman Mears opened the meeting stating that the special session was called to discuss proposed amendments to Sections 1129.06, 1133.04, 1133.05, 1133.06, 1137.03, 1137.04 and 1151.08.

Ms. Sparks presented that the proposed zoning amendments are all involving the Transient Occupancy section of the zoning code. Currently, transient rental is illegal in residentially zoned areas, but permitted in most commercial and business districts. There are, however, legal nonconforming properties within residentially zoned areas allowed to rent to transient occupants by virtue of an August 21, 2012 Judgment Entry issued by Judge Tone. This Judgment Entry did not preclude the City from "regulating" transient rental. A municipality has the power to create ordinances for the protection of health, safety and welfare. City staff would like to introduce transient rental legislation to assist in the protection of health, safety and welfare of the transient occupants and the surrounding property owners.

Staff recommended to continue to make transient rental "illegal" in residentially zoned areas, with the exception of area(s) possibly designated in the future as "transient overlay districts". Staff also recommended to adopt transient rental regulatory legislation that will require the following:

- Registration
- Inspection
- Enforcement
- Taxation

Planning Commission has privity over the Zoning Code. The four items above will not be included in the Zoning Code Amendments. They will be modified and amended through our Codified Ordinances.

The Proposed Zoning Amendments:

- Changing the definition of Transient Occupancy and creating Transient Overlay Districts
- Create a process, criteria and public notice for a Transient Occupancy Overlay District, which may be created in the future
- Inserting the use "Transient Occupancy" within districts, in which they are already permitted. Primarily the Commercial and Business Districts
- Specifying acceptable documentation to confirm or maintain legal nonconforming status

Current and Proposed Definitions:

- Current Definition: “Non-transient” means a period of not less than 365 days
- Current Definition: “Transient occupancy” means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient
- Proposed Definition: “Transient Occupancy” means occupancy when it is the intention of a party to occupy a dwelling unit for a period of less than 30 days
- Proposed Definition: “Transient Occupancy Overlay District” means the renting from a resident family to other individuals for the purposes of transient occupancy is permitted within an approved transient occupancy overlay districts

A transient overlay district is a layer of zoning that would permit transient rental use in addition to all uses permitted in the underlying (existing) zoning.

Considerations for an Overlay District:

- The City would initiate an overlay district. The City may consider, overtime, area(s) that may benefit from transient rental
- Possible Factors to consider:
 - Proximity to business and commercial districts (i.e., downtown)
 - Declining Housing Stock
 - Declining Housing Values
 - High Rental Percentage
- Reason to initiate an overlay district would be to spur investment in a declining geographic area with the goal of increasing property values and maintenance of homes in areas that are in close proximity to commercial and retail areas

Process for an Overlay District:

- Planning Commission or City Commission could initiate the amendment
- Planning Commission shall hold a public hearing and make recommendation to City Commission
- City Commission shall hold a public hearing and vote on the proposed overlay district

Commercial and Business Districts:

- The current code does not list transient occupancy within certain permitted business and commercial districts. Staff would propose listing this use under the following districts.
- RB Roadside Business
- GB General Business
- DBD Downtown Business
- CR Commercial Recreation
- CA Commercial Amusement

Each of these districts permit hotel and lodging, as such transient occupancy is permitted.

Legal Nonconforming Status:

- To confirm or maintain legal nonconforming status the following document will be accepted:
 - Previous tax bill showing income from property providing transient occupancy
 - Signed contracts indicating the dates in which the transient occupancy use occurred

Mr. Harris stated that depending on Planning Commission's decision at tonight's meeting, there will be proposed legislation presented at City Commission. If the Public Hearing is set in Monday's City Commission meeting, the legislation will be presented on April 24, 2017. He invited anyone interested to participate in the City Commission meeting on April 24, 2017.

Audience Comments:

Erlene Tersek, 119 Greenbriar asked for clarification that if someone rents for more than 30 days, but less than 365 days, example 6 months, would they have to pay the \$500.00 rental registration and be inspected. Mr. Harris stated that the new definition of "transient occupancy" would state that anything over 30 days would not be considered transient. They would have to register as a rental property and pay registration fees.

Mary Mischler, 172 E. Market St asked about the legal nonconforming status and what it would take to get that status. Could a renter use guest books to confirm that they have rented since 2010? Ms. Sparks stated that in the past, guest books were accepted. The proposed amendment would require a signed contract. Current legal nonconforming status would be needed if you are renting in a residential area. She then asked that since there is no law in place, could she bring in her guest books dating back to 2010 and be grandfathered in to a nonconforming status. Mr. Harris stated that there is no clear definition of what can be accepted at this time and current cases are being handled on case by case basis. The purpose of developing legislation is to establish uniformity for legal nonconforming cases. The best measure to prove that someone has legal nonconforming status is their tax returns.

Ms. Mischler also asked Staff about the factors that they considered for the overlay districts, specifically increased home values. Ms. Sparks stated that the increase in value is only one of the elements in creating an overlay district. The other factors include if there is a current decline in housing stock, if it's in close proximity to commercial or retail or improve a neighborhood in a whole. Ms. Mischler stated that she loves the City of Sandusky and would love to invest more money into the city but because of the current regulations, she invested in Huron. She feels that for every one complaint on a VRBO property, you would probably find 50 that run with no complaints.

Chris Romick, 172 E. Market St asked if complaints were public record where someone could see what the complaints stated. Ms. Sparks stated that yes, these would be public record, which came to Community Development. He stated that he tried to print a report through the Police Department that showed where the Police were dispatched and for what reason. This report was for May 2016 through September 2016. He stated that there were 4 calls to Lane D, and 1 call to Cedar Point Rd. With the exception of one call reporting a loud group of people, he could not find any complaints regarding transient rental. Mr. Harris responded that complaints are not necessarily through the Police Department. Any complaint regarding legal use of property comes to Community Development, either Planning or Code Enforcement Divisions. Mr. Romick asked what a person that rents his home for 5 days does differently that

a person that rents for 31 days. Are they doing anything other than a person that resides there? He feels like it's starting to boil down to the neighbors don't want particular people to stay next to them.

Lloyd Fitzenbarger, 454 Millpond Dr. stated that he feels it is a mistake to not allow transient rental in our area. We are a tourist community and good people want to come here and spend money. The money spent fixing up rental properties is spent in our community and the tax dollars go to our community. If it's a matter of nuisance complaints, we have laws governing noise, trash, parking, etc.

Ms. Byington stated that the purpose of this meeting today is a step towards allowing transient rental. It is currently only allowed in Commercial and Business Districts. The proposal today is to have sections of the city that would permit transient rental. Due to past opposition, it would be very difficult to propose allowing city wide transient rental in residential neighborhoods.

Erlene Tersek agreed with Ms. Byington stating that she understands that the City is not trying to disallow transient rental, but to start allowing it in certain districts. She added that there are some property owners that will screen their renters and take their neighbors into consideration and others that will not.

Valerie Parker, 1021 Cedar Point Rd stated that she heard examples of reasons against transient rental tonight that discriminated against who is next door to you or in your neighborhood. She stated that is not her concern. She answered the question of what is the difference between 1 night stay and 30 or more day's rental. She stated that the 1 or 2 night rentals can be a constant party, all day, every day. She added that they come in with large groups of people with cars everywhere and that is disruptive if you are in your quiet home. If someone is renting for 365 days, this won't happen as often. There is trash and debris left over everywhere. There is a hazard for safety vehicles to get down Cedar Point Road because there are cars parked everywhere. She likes that the city is trying to regulate this.

Doug Ebner, Cedar Point Road stated that Ms. Parker previously rented a house that he owns on Cedar Point Rd. He added that we are a destination city and that Sandusky counts on the tourism. He would not consider Cedar Point Road a neighborhood, like other communities within the city. He stated that the renting was going on prior to some of the purchases and that the people should have considered the fact before they purchased.

Mary Mischler, 172 E. Market Street stated that she can appreciate the concern of having multiple cars come in and out and having parties every night. She has not witnessed that, but she feels that any short term renter will spend most of their time at Cedar Point or surrounding attractions. She doesn't see a difference in having short term renters having a party and property owners having a graduation party. She has rented to Attorney General Mike DeWine and feels that if he is for short term rentals, why is the City of Sandusky not? She also wondered how and who determines the zoning for overlay districts. Ms. Sparks stated that there is no area at this time and that this meeting is to attempt to set the criteria for overlay districts. Mr. Harris stated that there is a passion for either side of the issue and that it is already illegal for short term renting within residential neighborhoods. What we are trying to accomplish is to provide a better definition for transient occupancy. What we are presenting to Planning Commission is that if they were to adopt the definition 1107.01 (g12) "Transient

Occupancy", staff would also recommend the repeal of 1107.01 (g11) "Non-Transient Rental" because they would only contradict each other.

Valerie Parker responded to Mr. Ebner's comment that she had rented one of his properties. She rented in December for her children to come visit. She clarified that there is a difference between the middle of summer and the middle of December. Summer, there are bonfires, trash, water toys that may cause disturbance for the neighbors. She stated that she does not disagree with transient rental all together, just when it causes a disturbance in the neighborhood.

Doug Ebner stated that he is in full agreement with rules and regulations. The City laws are in place for noise and disturbance complaints. It is not his intent to disrespect his full-time neighbors. He purchased 3 of his properties on Cedar Point Road out of foreclosure so he is doing the city a service within the economy.

Mr. Zuilhof stated that he feels that this session helped with understanding that staff is trying to make it possible allow transient rentals in certain areas and not prevent these uses. He stated that his concern is how staff will implement this overlay district going forward for example deciding what areas are permitted and what areas are not permitted Mr. Zuilhof does understand the value of allowing in certain declining neighborhoods to increase value to the area, solve land use problem, and solve an economic development problem.

Mr. Poole stated that zoning exists to ensure that compatible uses are in locations that don't create problems. He understands that in residential neighborhoods, there are rules put into place so that the property owners know what to expect. What the overlay district allows the city to identify places where transient rental will not be a problem.

Mr. Miller stated that he understands that this is more permissive than what is currently in place but wonders as we move forward, how the overlay districts will be regulated and how will individual cases be handled.

Mr. McGory stated that in everything that he has heard today, nobody is wrong and everybody was right in what they had to say. He stated that there are two types of transient rental. On the one hand, there are people that want to experience the area and will not have the big parties or excessive guests parking everywhere. And, there are others that will take advantage of the outside fun. This could be a nuisance to permanent residents. The hard decision is finding something that would be right for everyone.

Mr. Zuilhof stated that one of the points that was missed in the past is that there are two different situations to consider: Should someone be allowed short term use according to the zoning codes regarding peaceful use of the property, number of occupants, etc. Or, will the people renting be using the property for a party/party hall or venue for any celebration, for example a wedding reception. This use is an entirely different situation which would fall into a commercial use, not a residential use.

He added the concern about property rights and how people feel that any restriction on their property is unconstitutional. The city has the right to protect the neighbor's rights that pertain to the different zoning codes.

Mr. Poole asked if all of the amendments needed to be addressed in separate motions. Mr. Harris stated that any motion could have amendments to the definitions. Mr. Poole stated that he moved to adopt section 1151.08 as written, but excluding the last line which states "signed contracts indicating the dates which transient occupancy occurred". With no second to the motion, the motion died.

Mr. Miller moved to accept all of staff's recommendations, including the repeal of 1107.01 (g11) as it conflicts with the new definition of 1107.01 (g12). Mr. McGory seconded the motion. The motion carried with a unanimous vote.

Ms. Sparks informed the Commission that there is a regular scheduled meeting on Thursday March 22, 2017.

Chairman Mears adjourned the meeting at 5:45PM.

APPROVED:

Debi Eversole, Clerk

John Mears, Chairman