

**PLANNING COMMISSION  
CITY OF WILLOUGHBY  
MARCH 7, 2024  
WORK SESSION MEETING  
MINUTES**

**PRESENT:** K. Kary; S. Norris, Chairman

**ABSENT:** J. Cook; B. Capelle; M. Wildermuth; John Perkovich; Bill Henrich; Dan Volpe; Mike Maniche; Mike Ross; Mike Merhar; Dan Garry; K. Sievers

**OTHERS:** Joe Palmer; Mike Yutzy; Phil Davis; Paul Garcia; Adam Brown; Larry Puskas Chief Bldg. & Zoning Official; Mike Lucas, Law Director, Mayor Fiala; Dan Anderson; Bob Carr; John Tomaselli; T. Lannon; Tom Thielman; R. Fiala

**Chairman Norris called the regular in-person work session meeting to order at 6:00 p.m.**

**DISCUSSION**

**Planning Commission**

**Potential Zone Code Updates**

**Meeting Dates**

Should some of the zoning issues be addressed from this meeting, the BZA believes that one meeting per month would be adequate to address applications. We will need to check if our Charter permits this and what if any time delays for applicants would result.

**Fencing**

The BZA recommends we eliminate 25% of open space requirements for rear yard fences. Mayor Fiala reviewed corner lot restrictions as prepared by Karen Brooks. The logic of these restrictions is acceptable, but the BZA requests allowing 6' high fencing along the corner side yard of a corner lot.

**Accessory Buildings**

It was agreed to allow an increase for accessory buildings from 600 s.f. to 800 s.f. However, for smaller lots, the Maximum allowed rear yard lot coverage needs to be maintained per below:

**Schedule 1131.10 (c)**

Maximum Rear Yard Coverage of Accessory Uses

Accessory Buildings, Uses, and Structures	R-100	R-80	R-60	R-50
(1) Accessory buildings	a)	(a)	a)	30 % <sup>(a)</sup>
(2) Off-street parking and other pavement	30 %	30%	40%	40%
(3) All other accessory structures	55 %	60 %	65 %	70 %
Total Maximum Coverage of the Rear Yard	55 %	60 %	65 %	70 %

NOTES TO SCHEDULE 1131.10 (c):

<sup>(a)</sup> Shall comply with the maximum area requirements of Section 1131.10 (d).

This prevents from the rear yard being consumed by a structure, or the Accessory Use building being larger than the primary structure.

### **Open Burning**

Mayor Fiala suggested using the Ohio Revised Code standards as the city requirements for open burning. Dr. Norris requested we have the Fire Chief and Fire Prevention Official review the ORC requirements.

### **Camping Prohibited**

Law Director Lucas reviewed his draft for the camping prohibited ordinance and will be brought to council for legislation.

### **DTW permitted uses**

Mayor Fiala said he knows Mr. Lucas is concerned about permitting vape shops, Delta-8, marijuana etc. in certain areas but if people in these wards support it they should consider allowing it. It is a difficult discussion because these are social issues. Mr. Carr said City Council just passed a moratorium with the understanding that nothing would be happening until fall with the state legislation. He explained that a marijuana cultivator, Scott Hollerman in Eastlake spoke at a council meeting and said this legislation is moving faster than anticipated and he would also like to have a shop in Willoughby. He explained on top of the sales tax, there is a 10% excise tax which could greatly benefit the city. Mr. Anderson said Mr. Hollerman also explained that the body that controlled the liquor licenses will also control the marijuana dispensaries. He said there are only so many allowed in the state. There are currently 128 dispensaries but when it goes recreational there could be 128 more. Mayor Fiala believes it will be treated the same way as liquor licenses where you will only be allowed so many in each zone. Mr. Thielman said Eastlake cultivates; Wickliffe and Painesville sell. Mr. Anderson said Mr. Hollerman showed council what they sell at the stores in downtown Willoughby and believes people will come to him for the real stuff. Mayor Fiala said they will do more research and decide what is best for the city.

Mr. Kary said since he has been on Planning Commission he does not recall ever denying a Conditional Use Permit (CUP) and asked how they would deny this without being sued. Mr. Lucas said a conditional use is not permitted by right. He said if the applicant meets every condition in the code then the Planning Commission can grant it. He said if there are factors/provisions in the code they do not meet then they can deny it. Codified Ordinance 1109.05(g)(1) & (2) clearly state the Planning Commission can approve or deny these CUPs. There are two separate sections of the city's code that lay out criteria for the granting or denial of these CUPs. The first C.O. is 1109.05(f) that sets the criteria for the applicant which must be met. There are factors here that are not aromatically precise. He will send out a memo to clear up with he is talking about. He said Chapter 1155 deals with specific uses.

Mr. Lucas said vaping and controlled substances have been brought before City Council. He said in almost every single district within the business district sections is retail. He said this is why Kava, legally controlled substances


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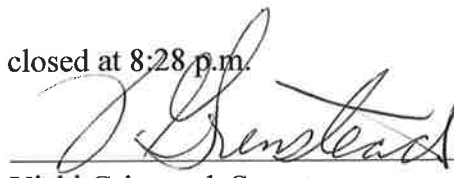
etc. are listed as retail. He said the code, under Scheduled Uses, the business districts have a very broad definition of retail. When he prepared the text amendment changes in the retail districts he specially indicated Retail Sales, (controlled substances) and Retail (electronic cigarettes and vaping devices) because there is a specific axiom under zoning law that the specific always controls over the general so they are further defined and narrowly construed under these two definitions. Under the conditional uses the area of business districts that is not defined with a “c” is downtown business, however there are other districts where it is not included as well. He said the last component for these pieces of legislation he added very broad but specific regulations to each of those two conditional uses under Specific Uses in Chapter 1155.04(gg), (hh) etc. which may need refined. One of the specifications is the permit has to be issued to the owner, operator, or lessee. He also limited the hours of operation to 10:00 p.m. and would like to promote this item for discussion with City Council. Another provision is these cannot be sold in vending machines. There are a couple more but these are examples of Retail, (controlled substances) & Retail (electronic cigarettes and vaping devices). They are not banning them from Downtown Business, they are not permitted lawfully. He said that the Comprehensive Plan explains what is allowed in terms of the Downtown Business District.

Mayor Fiala does not think the residents of Willoughby will welcome these businesses. Mr. Anderson said from a city standpoint the opportunity to have an economic catalyst of a thousand visitors a day could change an area of the city.

Mayor Fiala said Mr. Patt could not make it this evening so the Mayor quickly ran through a few of Mr. Patt’s suggestions. Mayor Fiala said they should wait on co-housing and Air BnB’s. The city does allow work for home but not anything like a machine shop for example. Scale back parking requirements and the city is in agreement with this item. Mayor Fiala cited BJ’S Wholesale Club as an example as it is vacant 80% of the year. He said in the downtown area they need to increase the number of parking spaces required because of the number of apartments that are two bedroom and most likely they have two vehicles. The code currently allows for one parking spot and should be increased to two. He said performance bonds may be difficult for the Building Department but they need to hold developers accountable. He said in regard to web based zoning they met with Lake County GIS and the city can easily implement this by having a link with their system so when you click our zoning map you will see the zoning and the auditors data. He said he is unsure how small commercial would work because the city is to mature to implement this. The rest of the items he thinks Mr. Patt should weigh in on. He said condensing the zoning districts to just three would be an issue and would make a lot of properties non-compliant. He said updating the code every year is extremely expensive and he would rather hold work sessions two or three times a year.

There being no further business the regular meeting closed at 8:28 p.m.

  
Steve Norris, Chairman

  
Vicki Grinstead, Secretary