

Minutes: Russell Township Zoning Commission
Russell Fire-Rescue Station
February 22, 2012

Present: Richard E. Snyder, Chairman
Bruce Murphy
Ben Kotowski
Tom Warren
Diana Steffen, Secretary

Donna Weiss Carson was absent with apologies.

Also in attendance: Ric Machnics, Zoning Inspector.

The Chairman called the meeting to order at 7:39 p.m.

MINUTES OF JANUARY 25, 2012 – *Mr. Murphy made the motion to accept the minutes as submitted, Mr. Warren seconded and the motion passed unanimously by 3-0. Mr. Snyder abstained due to his absence from that meeting.*

DEFINITION OF FAMILY – Mr. Snyder said that the Geauga County Planning Commission has repeatedly recommended the Commission use the County Model Zoning Resolution definition of family and advised reviewing the Commission's suggested language with legal counsel. He said that the Commission's definition was much more restrictive than the County Model in attempting to define what constitutes a family. Both the G.C.P.C. and Prosecutor's Office took issue with occupiers of a dwelling bearing the burden of proof to show that they are the functional equivalent of a family. The courts have said you cannot distinguish between related and unrelated "families." Mr. Snyder said he has spoken to Assistant Prosecutors Rebecca Schlag and Sheila Salem, and they advised that asking people to prove that they are the functional equivalent of a family is unenforceable. Because the Zoning Inspector would need to go into the home to make a determination, privacy laws may be violated and it is unlikely a judge would provide a warrant for him to do so.

If the Commission does use its proposed definition Mr. Dietrich has asked that a member who supports it attend the G.C.P.C. meeting to explain why it should be used instead of the County Model. Mr. Snyder said he agreed with the County representatives that the Township should use the County Model, because the Prosecutor supports that definition and it has been successfully defended within the County. The Commission can decide on the number of unrelated people permitted to live in a residence, and had chosen five since that is the number used in the current definition.

Mr. Murphy said he liked the Commission's definition because it is clearer than the County Model and would be easier for people to know if they fit the definition of family, although he understood that the County would prefer its definition be used throughout the County for uniformity and easier enforcement. Following further discussion Mr. Snyder said he would like to use the County's definition. Mr. Murphy said if they do that then he would like to make some changes by adding reference to people being related by legal action, and by removing "living and cooking together as a single housekeeping unit." Mr. Kotowski said he liked the Commission's definition but since the Township relies on the County Prosecutor to defend its zoning, he would be willing to use the County Model which the Prosecutor has successfully defended, and incorporate some changes as suggested by Mr. Murphy. Mr. Warren said that although he felt the County Model could be improved, since the County wants to have uniform regulations he believed it to be a workable definition and he would agree to using it. One benefit of the County definition is that it does list those groups that are excluded, and that provides clarity for enforcement purposes. He asked if the Commission should remove the specific number of unrelated people permitted to live in a residence, but Mr. Snyder said he would recommend using five since it would prevent situations such as ten college students from living in a residence.

The assistant prosecutors also suggested that if the Commission's proposed definition was used, the Zoning Inspector would then be the arbiter of what constitutes a "stable" relationship as used in the definition. Mr. Machnics stated that he did not believe that was within his powers and he did not wish to be put in that position. For that reason he preferred the County Model over the Commission's definition.

Action Item: Mr. Murphy will revise the County Model definition for consideration at the next meeting.

UPDATE OF LAND USE GUIDE PLAN – UPDATE PROCESS – Mr. Snyder presented a graphic of the Proposed Update Process Phase I that he prepared at the Zoning Commission's request. It shows a timeline from now until the Commission hires a planner, with the tasks that will need to be accomplished, and who will handle them. Mr. Snyder said he believed that by collecting most of the data the Commission can accomplish much of the work that was done by the planner for the last update.

Mr. Snyder said that he has spoken to Mr. Dietrich, who did not think that focus groups are necessary before crafting the survey. Russell is the only township in the County to have ever used them for that purpose. He suggested looking at other townships' surveys and at the County's survey for help with questions, and agreed that the Commission should base its survey questions on those asked last time to get a good comparison. It can make some changes to the questions as needed and the G.C.P.C. would assist with verbiage. Then a consultant with survey expertise should review the survey to make sure the questions are not biased.

Mr. Snyder said other data is already being collected and compared to that in the 1995 update; the Chagrin River Watershed Partners collected data on land that has been preserved since 1995 and compiled maps to compare the difference from 1995 to now. C.R.W.P. will be an excellent resource to compile maps and data.

Mr. Snyder said that Mr. Warren has volunteered to work on the environmental aspect. This will involve contacting county and state agencies, and also Dr. Yoram Eckstein who did the original hydrological study in the 1980's. Apart from asking Dr. Eckstein whether his study is still valid, the Commission should also ask about the consequences to the aquifer of an oil/gas well accident, similar to the one in Bainbridge.

Mr. Snyder said another mission of the Zoning Commission is to educate the residents on environmental matters. He suggested hosting an educational symposium for residents such as was held about ten years ago. All residents of Geauga County would be invited, and he would expect an increase on the approximately 125 attendees from last time due to the interest in the Bainbridge case. The purpose would be to educate all residents, not only those who may be considering an oil/gas well on their properties, so that everyone would know the potential dangers. Mr. Snyder said he is looking into damage to roads caused by trucks, especially those involved with a fracking well field. The County Health Department is also monitoring a number of wells throughout the county for chemicals etc. This information will be worth collecting and including in the plan update.

Other data to be collected and reduced, according to Mr. Snyder, is new census information that will need to be put into a table with similar format to that used for the last update, in order for the planner to use the comparison. Regional relationships will need to be considered, asking NOACA for trip generator information as was done with the 1995 update.

Mr. Snyder asked the Commission to agree on the process for Phase I. Phase 2 will be the planner's work, Phase 3 will be preparation of the final report and its presentation to the public. He would like a goal of having a first draft of the report by the end of 2013, with 6 to 8 months to receive feedback, make revisions and prepare the final report. It could then be submitted to the Board of Trustees by the third or fourth quarter of 2014. The Commission agreed on the process for Phase I.

Mr. Kotowski asked when the data collection will start and who will be assigned to which task. Mr. Snyder said it will officially start once the Trustees approve the process. The current Guide Plan will be on the website, and with good publicity residents will have an opportunity to read it before the environmental

program. At the program the Commission can mention that a survey will be forthcoming. Mr. Murphy suggested mailing out the survey in September or October, after summer vacations but before people leave for the winter. Mr. Snyder agreed, and said that would give time for the report on goals accomplished since 1995 to be completed by June or July.

Action Item: Mr. Snyder will work on a presentation of the process for the Board of Trustees' second April meeting.

TRAFFIC IMPACT STUDY – Mrs. Steffen had revised the draft after the last meeting, incorporating Mr. Dietrich's comments as agreed by the Commission. The only question remaining was whether to include requiring "a professional engineer" as well as a "qualified entity." This had been postponed to ask Mr. Snyder's opinion again. Mr. Snyder said that as he reviewed licensing requirements for engineers he observed that professional engineers are only permitted to work in areas of their expertise, so the Board of Zoning Appeals would verify the qualifications of an engineer in the area of traffic impact studies. Mr. Snyder recommended including the language. The Commission agreed.

Action Item: Mrs. Steffen will revise the draft and finalize it in the form of an amendment.

RETAIL FOOD SERVICE – Mr. Kotowski had redrafted the proposed amendment, and had added language to remove any ambiguity as to the main restaurant building so that there is no question as to where patron activities are permitted. He had also moved the sentence regarding amplified music and added some wording as agreed at the last meeting. The Commission approved the changes. Mrs. Steffen said that as she read the draft she noticed that item 2, the sentence regarding minimum lot area, might be confusing to an applicant reading the section. It mentions a number of requirements in the section, but in fact some are not referenced in this section, but in Section 5.3. The requirement for minimum lot area appeared to be in conflict with Section 5.3. After discussion the Commission agreed to delete that sentence and add some language to Section 5.3.1.D in the proposed amendment splitting the C-S zones.

Action Item: Mrs. Steffen will make the required changes to the Retail Food Service draft and to proposed Section 5.3.1.

There being no other business, Mr. Murphy moved to adjourn, Mr. Kotowski seconded and the meeting adjourned at 9:37 p.m.

Respectfully submitted,

Diana Steffen
Secretary

Date

Richard E. Snyder
Chairman

Date