

CITY OF ROCKY RIVER

January 16, 2018

Council Planning, Zoning and Economic Development Committee Meeting

The Planning, Zoning and Economic Development Committee Meeting was opened by the Chairman of the Committee, Councilman Moran, at 6:00 p.m. in the David J. Cook Council Chambers.

Planning, Zoning and Economic Development Committee Members Present: Mr. Moran, Mr. Klym, Mr. Shepherd, Mr. O'Donnell

Council Members Present: Mr. Hunt, Mr. Furry, Mr. Sindelar (7:05)

Administration: Mayor Bobst, Mrs. Costello

Law Director: Mr. Bemer

President Moran opened the meeting this evening and handed the microphone over to Councilman Shepherd. Mr. Shepherd explained that this evening's meeting is being held to discuss Ordinances Nos. 79-17 through 93-17. Mr. Shepherd introduced and thanked Mr. Bill Bishop, Chair of the Planning Commission, Mr. Eric Pempus, Chair of the BZA Commission and Mr. Ray Reich, Commissioner of the Building Department along with Mr. Andy Bemer, Law Director, for attending this evening's Planning, Zoning and Economic Development Committee Meeting.

Ordinance No. 79-17: This ordinance prohibits activities of general noise and disturbances such as power tools and construction tools, powered motor vehicles, sound devices and sounds being emitted from a moving source after 8:00 p.m. Mr. Reich said he sent an email stating that cities surrounding Rocky River adhere to the 8:00 a.m. until 9:00 p.m. If this ordinance is adopted, the times for the City of Rocky River would be from 7:00 a.m. until 8:00 p.m. Mr. Bemer said this came to him from Councilman Sindelar in regard to some issues in his neighborhood. Mr. Shepherd suggested that this ordinance continues to be discussed amongst Council.

Ordinance No. 80-17: This increases the time period from 7 days to 14 days for the application for approval of a preliminary design to be submitted. Mr. Bishop said that this change is a definite plus for the Planning Commission to extend the time period to 14 days.

Ordinance No. 81-17: This has to do with the rental of rooms of a resident's home in peer to peer accommodations, Airbnb or the like. This seeks regulation of these types of situations and defines those situations as rentals less than 30 days. Mr. Shepherd discussed this with other members of Council and he is asking if this should be permissible in residential districts. There are serious issues and the City has received complaints. Mr. Bemer said he has documentation

from the City of Fairlawn and how they restrict Airbnb's. Mr. Shepherd isn't sure it should be an outright ban, but maybe limited to only in commercial districts. Mr. Reich added that there is wording in this ordinance concerning single room lodging like a Boarding House. Mr. Reich said that this is four or five residents, not related, living in the same house. The police are called to these residents often. Mr. Moran asked if these are written tight enough that they can be enforced by the Rocky River Police Department. Mr. Shepherd said that Council should think about this and redraft it to prohibit Boarding Rooms or roommates. These homes have become problematic. These are inspected currently as rentals. Mr. Furry helped initiate this ordinance and feels something needs to be done with this transient use of property. The Mayor said that there are very strict rules that are set forth by Airbnb and VRBO. That doesn't mean everyone follows those rules. Situations like these being discussed can become problematic with the relationship between the homeowners and the Airbnb and VRBO. Mr. Klym doesn't understand what the enforcement scheme is for this. Mr. Reich said that at a minimum, these residents should be required to register with the Building Department so they can be treated as an inspected property. Mr. Bemer responded that it kicks over to Chapter 1371. Mr. Klym and Mr. Shepherd said that for this ordinance and Ordinance No. 82-17 that the Law Department and Council should come up with a comprehensive scheme to deal with all these issues. Mr. Shepherd said that the behavior that was brought to Council's attention isn't acceptable in any district. Mr. Hunt said that he would be in favor of a residential ban on these types of rentals. They hurt the neighborhoods.

Ordinance No. 82-17: This is a companion ordinance to 81-17. It defines a Bed and Breakfast establishment accommodation and a rental unit for a period of thirty days or more. Single room lodging in a boarding house manner is not a permitted rental use in any zoning district. This ordinance will be discussed further and a comprehensive scheme will be developed along with the previous Ordinance No. 81-17. Mr. Bemer said that these ordinances should focus on the transient use.

Ordinance No. 84-17: This states that decisions by the Planning Commission granting or denying approval of detailed development plans shall be final. Appeals shall be subject to review by the Board of Zoning and Building Appeals, as provided for in the City's Charter. Mr. Shepherd asked if there has been a problem with people appealing in the preliminary design. Mr. Bemer responded yes. There are a number of circumstances that came out of the Whole Foods Litigation and this is one of them.

Mr. Bemer also asked Council to discuss 1127.37 – Approval of Development Plan Requiring Variances. Mr. Bishop said that this is to clarify so that no one can come back and say that this can't be done. It allows the Planning Commission to make the minor changes as in parking spaces, sewer easement and separation of buildings with an easement. Mr. Bishop said that this allows the Planning Commission to look at the project as a whole versus focusing on one deviation and takes away the risk that someone could come back.

Ordinance No. 85-17: This ordinance will require that protestors will have to state a reason/grounds for their protest of a building/zoning permit. Mr. Pempus said he is focused on the diminution of value in this ordinance. Mr. Pempus says there are cases where a view is

blocked and the law states that if you like the view, you have to buy it. Discussion ensued. Mr. Shepherd said that it is still completely discretionary whether a variance is granted. The BZA still has the right to look at all the criteria and balance it and make a decision. This gives you the ability to make a decision in a case where maybe before it wasn't as strong. Mr. Shepherd suggested that Mr. Bemer clarify what a zoning certificate means and if it applies to building permits. Mr. Shepherd feels that this is undermining the zoning and building code. This needs to be further reviewed and discussed for the next meeting.

Ordinance No. 87-17: This ordinance referenced wireless telecommunication facility in Chapter 1191 but there was never a Chapter 1191. This change is to eliminate it, per Mr. Bemer. The Mayor added that the State Legislation governing small cell and micro cell wireless was just completed last week. It is currently being reviewed by the Legislative Services. This legislation requires that local municipalities have very strong design standards for the placement of these structures in the public right away. Mr. Bemer said that this has been ongoing litigation. The wireless telecommunications piece will be put on hold until the state legislation is approved. The rest of this ordinance covered experienced based modifications to the zoning ordinances i.e. setbacks along the lake; garage heights are being increased to 18 feet; flat roofs to 12 feet on a garage; house projections into front and side setbacks; a provision eliminating a fence on a property line along the neighbor's driveway; a provision that fireplaces and decks need to pull permits and generators need to be placed in back yards. Discussion ensued. Mr. Shepherd asked that Mr. Bishop and Mr. Reich work with the law department and come back to Council with revisions regarding garage roof heights and the location of generators. Mr. Bemer will remove the added words of "if on a corner lot" in Chapter 1153.13 Projections into Required Setbacks.

Ordinance No. 88-17: This ordinance is regarding business district regulations to achieve desirable land use; appropriate and convenient locations and to protect the character and value of residential neighborhoods. The definition was very vague and confusing and caused some of the litigation regarding Whole Foods. The definitions are in the zoning map and outlined in the matrix for uses. Mr. Bishop stated that as much as it caused an issue with Whole Foods, the language worked for the city regarding the Tadoo Parlor. Mr. Bishop agrees with this but maybe it needs to be written in a different way. Mr. Bemer and Mr. Bishop will work further on this.

Ordinance No. 89-17: This ordinance will reduce the amount of area for a mixed use overlay district; reducing the requirement from 3 acres to 1 acre for new development. Mr. Bemer said that this is for future development. It is virtually impossible to assemble three acres anywhere in the city. Mr. Shepherd envisions commercial on the first floor with residential or offices above it. Mr. Bishop said that the criteria in this area is strict to begin with so to have a land area is irrelevant because of all the other criteria. The Mayor is not comfortable with using the word district and maybe should change it to read project. The area restriction will be removed.

Ordinance No. 90-17: This ordinance will increase the amount of roof that can be covered with solar paneling. Residential solar paneling cannot be less than three feet from the roofline and the total area of the panels do not comprise more than 75% of a single roof surface. For fire prevention there needs to be 3 feet from the roof for the fire ladders. Mr. Bemer suggested to add free standing panels as an accessory use to this ordinance.

Ordinance No. 91-17: Currently the Code adopts the Ohio State Building code of whatever Code year is in effect. As the state amends, Council will have to adopt the new date.

Ordinance No. 92-17: This ordinance corrects a typo of section 1313 to 1311.

Ordinance No. 93-17: This ordinance is in regard to Wireless Communication and will be put on hold until the State Legislation regarding Wireless Communication is approved. The Mayor asked that this ordinance remain on Council's agenda until the State Legislation is approved.

As there was no further business by the Planning, Zoning and Economic Development Committee, Chairman Moran moved to adjourn, seconded by Mr. Klym.

Vote:	Klym – aye 4 ayes	Shepherd – aye	O'Donnell - aye 0 nays	Moran - aye
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The meeting adjourned at 7:45 p.m.

Mr. John B. Shepherd
Committee Member

Susan G. Pease
Clerk of Council