

MINUTES
Planning Commission
September 12, 2016

The Wyoming Planning Commission met in regular session on September 12, 2016 in the Council Chambers at the City Building. The meeting was called to order at 7:00 p.m. by Mr. Jon B. Boss, Chairman. Attendance was as follows:

MEMBERS:

Jon B. Boss
Phyllis Bossin
Jenny McCauley
Mary Beth McGrew

OTHERS:

Terry Vanderman, Community Development Director
Megan Statt Blake, Assistant Community Development Director

Approval of the March 7, 2016 Meeting Minutes

Ms. McCauley moved to approve the minutes as written. Ms. Bossin seconded the motion. There being no comments, the motion to approve the March 7, 2016 meeting minutes as written carried with all voting yes.

Committee Report

No reports were received.

Citizen Participation

No comments were received.

Business

2017 Master Plan Update

Mr. Vanderman reported that City Council authorized the City Manager to enter into a contract with MKSK to update the 2007 Master Plan. The Master Plan Steering Committee had previously created a Master Plan Subcommittee Working Group which will meet this week with the consultant. The Working Group will layout the framework, timeline, and a schedule of meetings for the process. The consultants will be given a tour of the City and its surrounding communities to get a feel for the dynamics of the community.

Ms. McCauley asked Mr. Vanderman to describe the company and how much they know about the Cincinnati and Mill Creek Valley areas. Mr. Vanderman stated that MKSK has offices in Columbus and in Northern Kentucky so they are familiar with the area; most of the folks the City will be working with on this project are from the Columbus office. The

company has completed several plans for other communities in the tri-state area so there is already a familiarity of the area. Mr. Vanderman recalled past consultants that have worked on the City's Master Plan that had not visited the community prior to working on projects. Mr. Vanderman explained that staff is currently gathering all types of reports from the past as well as the last three budgets to provide MKSK some background information while the consultants are preparing to begin the process. Ms. McCauley commented that it concerns her when consultants come from too far north of us and as Wyoming is one of the oldest communities in the State; our history is different than others. She suggested that Wyoming has to compete with other communities to obtain new residents and to retain the ones we currently have. She suggested providing MKSK with resources from the Cincinnati Historical Society to help get them up to speed. Mr. Vanderman mentioned that the Master Plan Committee is made up of, among others, chairpersons from the City boards and commissions including the Historic Preservation Commission. Ms. McCauley commented that the City does not have a person with significant historic background on the community to lay information out for the consultants which is why she is suggesting that the Cincinnati Historical Society would be a good resource to provide information and history about the community. Mr. Vanderman added that the consultants are also looking at regional Master Plans from local communities as well as the I-75 Corridor Study and how these plans could affect our community. Ms. McCauley commented that she is looking at the Master Plan from a community wide view adding that, in the real estate market, that we are nothing like our immediate neighbors but are more like other communities that we regularly get compared to. It would be helpful if the consultants knew about those neighborhoods, and not simply the ones immediately surrounding Wyoming. Mr. Vanderman stated that the consultants are fully aware of the differences and similarities of our neighboring communities. The City tries to look at where we lose residents to and where we gain residents from.

Mr. Boss noted that, at the first Master Plan working session with the consultants, a number of communities were identified that were similar to Wyoming. Mr. Vanderman added that MKSK's outreach, when comparing like communities, is farther reaching than what the City generally looks at and he is confident that the consultants will bring a sufficient amount of data to the discussions. Ms. McCauley added that the consultants should keep our tax base and property values in mind when comparing us to other communities. Mr. Vanderman added that focus groups will be formed in the future, as they proved to be an effective tool with the last Master Plan. It is anticipated that local realtors will be invited to participate as realtors tend to collect helpful information about where and why residents move in and move out of the community. Ms. McCauley stated that a lot of Wyoming's future residents will likely come from Over the Rhine and other City of Cincinnati neighborhoods.

Mr. Vanderman will continue to update the Commission on the Master Plan process.

Discussion Regarding the Planning Commission's Report Regarding, and City Council's Action on, the Changes to the Zoning Code Pertaining to Medical Marijuana, and Potential Additional Changes to the Code

Mr. Vanderman reported that Planning Commission's report was presented in person by Mr. Boss at a special City Council meeting last month. His verbal report generally paralleled the written report that was subsequently provided to Council. Council discussed the objections that were raised by the Commission but were concerned about making any changes to the language without it first being reviewed by the City Solicitor who was not present. Although the Ordinance was ultimately passed as written, Council referred the matter back to the Planning Commission and the City Solicitor for further review as it understood the concerns raised by the Commission Members.

Ms. McCauley commented that she has spoken to attorneys that she knows and they are indicating that how the law will be facilitated will depend largely on the regulations that communities are putting into place. Mr. Vanderman explained that it is his understanding from the City Solicitor that communities had the opportunity to enact their own legislation as to where or if these activities would be permitted by September 8, 2016 and that the State will take the next year to year-and-a-half to adopt regulations to determine how business will be regulated. Because Wyoming was able to take action by the September 8 deadline, the City will be able to revise the language that it initially wrote.

Ms. McGrew commented that upon her reflection, after reading the subsequent background information provided, it appears that she may have been quick to judge the situation being rushed to pass the legislation. Wyoming has always had fairly conservative values and has always given pause to consider legislation; however, Ms. McGrew stated that she felt rushed through the democratic process based on the little time that they had to consider the legislation. She is concerned that the City could be looked down on for restricting a drug that could provide benefit to those who truly have a medical need for it.

Mr. Vanderman stated that he agrees with Ms. McGrew's assessment of the facts and that it was unfortunate that the Members were rushed into making a discussion. Council had already discussed the matter and provided direction but the circumstances required a quick turn-around.

Ms. McCauley explained that the Committee of the Whole discusses topics at length to determine if there are enough consensuses among the Members to act on something. It was not intended for the Committee of the Whole to make a decision and then advise the Planning Commission to work on the legislation after the fact. Mr. Vanderman added that the Committee of the Whole is a work session and that no action can be taken. He indicated that this legislation will not preclude people from using medical marijuana in the community if they are legally permitted to do so, but rather that it simply prohibits

residents from growing marijuana, processing it, or selling it from a home or storefront. The legislation has nothing to do with whether an individual uses the products.

Ms. McCauley stated that this is very complex legislation that the State of Ohio just passed and that the State will continue to work to put the law into action. Mr. Boss commented that City Council and the City Solicitor were merely working against the deadline of a constitutional change and he asked Mr. Vanderman to keep the Members updated on any further direction provided by the City Solicitor.

Possible Changes to Chapter 1331 Pertaining to Murals

Mr. Vanderman stated that the City Solicitor addressed the Committee of the Whole regarding possible regulatory changes pertaining to exterior wall murals. Based on a request from the Art Show Committee, City Council is willing to entertain an Ordinance permitting exterior wall murals and has referred the matter to the Planning Commission for its review and recommendation. Mr. Boss asked for clarification that the murals recently completed in downtown Cincinnati were created by the ArtsWave Organization. Ms. Bossin stated that was correct. Ms. McCauley added that there are additional murals in the downtown area completed by other artists as well.

Mr. Boss commented that if he is reading the background documentation and the definitions correctly, this would mean, by way of example, that Half Day Café could not install a mural on the side of its building advertising that it is a restaurant because this would be considered advertising. If there were to be a picture of eggs, for example, painted on the side of the Half Day Café building the City would be asked to determine if this is considered advertising or would it be considered art. Mr. Vanderman felt that the determination would be based on the proposal being presented, which would be evaluated on a case-by-case basis. Ms. Bossin stated that with the egg example, she believed that it would be a sign and that it was advertising for the business, even if there were no words along with the pictures. Mr. Vanderman indicated that he believed that, based on the definition of sign in the Code, if there was no text on the building saying that "eggs are sold here" or "eat here", the picture, while food related, is a mural.

Ms. McCauley suggested that a review group that could consist of the administration and/or Planning Commission or some other group, could be used as a review group to review each submission. She also suggested that a time frame could be incorporated into the legislation to establish how long the mural can be erected and that it could include a provision such as to how they must be maintained and that they be repainted regularly to keep them fresh looking. Mr. Boss commented that the ArtsWave organization is having someone other than City administration make the decision about the appropriateness of its murals. Mr. Vanderman suggested that the maintenance of a mural could fall under the existing Property Maintenance Code under which it would be a violation to allow the paint on the mural to peel, become chipped, or be poorly maintained. Ms. McCauley questioned

what Code(s) the City of Cincinnati has relating to their murals and if we could accommodate some of the same language.

Ms. Bossin commented that if someone wants to apply a mural to a building and the City has to review it, then the content of the mural would need to be reviewed as well to make sure it is not offensive. Mr. Vanderman agreed, however, he added that the City would have to exercise care not to violate the first amendment rights of the applicant/owner. He added that potential mural installers would need to obtain a permit from his department. He stated that the owners of Wyoming's next restaurant, opening this fall, contacted the administration regarding painting a food related mural on the side of the building where the restaurant will be opening. The administration met with the proprietors, went through their questions and proposal, and it was determined that their proposal qualifies as a mural and that it is not a sign because the image is not indicating the name of the restaurant or asking people to come in and buy this or that food product. The proposal includes the picture of a food item (eggs) and a cooking quote.

Ms. Bossin stated that if a restaurant sells breakfast and paints a picture of eggs on the side of the building then she believes that the 'mural' is a sign advertising the business. Mr. Boss added that if Wyoming were to have an ice cream parlor in the City and a painting is placed on the side of the building showing a child eating an ice cream cone, one will likely assume that inside that building is an ice cream parlor although there may not be any words painted on the building. Ms. Bossin stated that, in her opinion, this scenario would constitute a sign and not a mural. Ms. McCauley suggested that if murals need to be approved by City Council it could go on their meeting agenda where a public hearing could be held.

Mr. Boss commented that the City does not have an ArtsWave or similar Committee so that if an installer went to City Council with a proposal, then public discussion can be held. Ms. Bossin questioned that if the City receives a proposal from someone that wanted to paint a swastika on the side of a building, if this would be considered free speech, art, or something else? She is concerned that it may be difficult to determine where to draw the line on what can and cannot be painted on a building in the City.

Ms. McGrew commented that she has come across situations similar to this and indicated that there is universal language/sentence that can be used that clarifies what language is labeled offensive. Ms. McCauley commented that the City might want to think about putting a timeline on a permit for its renewal because something that is great today may not be great or relevant ten years from now; she is not in favor of a mural in perpetuity.

Mr. Vanderman stated that he believes that he is hearing from the Members that: There should be some type of review board or committee; there should be some type of maintenance obligation built into the Code; that a mural cannot have any correlation with

what the business offers; and, that consideration should be given to adding schools and churches to the list of properties on which murals can be displayed.

Possible Changes to Section 1103 and Chapter 1189 Regarding Kennels

Mr. Vanderman reported that City Council was approached by an area resident expressing concerns about the current restriction on the number of dogs residents are allowed to have. After discussing the matter, members asked the City Solicitor to prepare an Ordinance addressing the issue. The Solicitor has submitted proposed legislation for the Planning Commission's consideration lifting the established two dog limit but also proposing legislation preventing kennels from being established in the community.

The Committee of the Whole heard testimony from the Police Chief who indicated that he cannot recall the City ever citing anyone for having more than two dogs however most of the complaints about dogs are regarding excessive barking complaints. The Chief's recommendation is to abolish the two dog limit because it is not enforced. The Committee of the Whole concurred and added that in order to strengthen the Code to allow additional dogs the issue of breeding or boarding dogs for commercial purposes should also be visited. The City Solicitor has drafted new Code language allowing for more than two dogs. However, it prohibits an owner having more than four dogs for commercial purposes; in essence, a dog can have a litter but the litter needs to be given away or sold before the animals reach four months of age. Mr. Vanderman added that a portion of this Code is housed in the Zoning Code which is why the Planning Commission was asked to review it.

Ms. Bossin moved to recommend that City Council repeal section 505.20 of the Code pertaining to a Maximum of Two Dogs and add Section 1103 to the Planning and Zoning Code providing a definition of "Kennel" and amending Section 1189.03 of the Zoning Code prohibiting kennels in any residential zoning district. Ms. McGrew seconded the motion. By roll call vote, 4-0 all voted yes, the motion carried.

Miscellaneous

Due to the Rosh Hashanah holiday, Planning Commission will meet on Tuesday, October 4. Ms. McCauley stated that she may be late to the meeting due to the previously scheduled Committee of the Whole meeting.

Ms. McCauley announced that on May 13, 2017 the Wyoming Historical Society, in conjunction with the Cincinnati Preservation Association, will be conducting a Wyoming historic house tour in celebration of the 30th anniversary of the establishment of the Wyoming Historic District.

Excusal of Absent Member

Ms. Bossin moved to excuse Mr. Johnson. Ms. McCauley seconded the motion. All voted yes, the motion carried, Mr. Johnson was excused.

Adjourn

Ms. Bossin moved to adjourn the meeting, Ms. McCauley seconded the motion. All voted yes, the motion carried. The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Debby Martin, Executive Assistant

Jon B. Boss, Chairman