

Athens City Planning Commission
Minutes of Regular Meeting
Thursday, September 26, 2019, 12:06 p.m.

The regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor, at City Hall on September 26, 2019.

Attendees: Betty Hollow, Christine Miles, Barbara Stout, Robert Delach, Joan Kraynanski, Jack Stauffer, Sarah Grace, Chris Fahl

1. **Call to Order**

RJ Sumney called the regular meeting of the Planning Commission to order at 12:06 p.m. and administered the oath to those in attendance wishing to speak before the commission. Quorum was established.

PLANNING COMMISSION MEMBERS:

RJ Sumney, Chair	Present
Christy Zempter	Present
Nancy Bain, Vice Chair	Present
Steve Patterson, Mayor	Present
Andrew Stone, Service-Safety Director	Present

STAFF:

Paul Logue, City Planner	Present
David Riggs, Code Enforcement Director	Present
Lance Allison, Code Enforcement Officer	Present

2. **Disposition of Minutes**

Christy Zempter moved to accept the September 5, 2019 minutes. RJ Sumney seconded. All present voted aye. Motion passed.

4. **Cases**

Case #19-06 Rezoning North Court Street

Paul Logue/Summary

A new map was created based on recommendations from the last meeting to incorporate a portion of East State Street that is also currently zoned B3. Also included in their packet relevant sections of zoning code 23.04.04-07 (permitted uses, Table A Schedule of Bulk Controls, and Table B Off-Street Parking Requirements). We have the typical stacked zoning code. The biggest difference between the zones comes down to the requirements for off-street parking for commercial uses - B2D has no requirement, B3 has requirements that change depending on the specific use.

Process for recommending zoning changes:

- Initiation of a zoning amendment can occur via the Planning Commission, City Council, or a citizen/property owner/business owner within a zone where they would like to see the change.
- The process varies depending on who is initiating it. Process if initiated by the Planning Commission:
 - Make a motion to initiate the process. Once the motion is made, the clock starts and within 60 days something has to be submitted to City Council. Should you choose not to make a motion to initiate, you can still discuss as an item on the agenda. In order to forward something up to City Council you first have to make the motion to initiate the process, then have discussions of the zoning change, and then ultimately, as a secondary process, you would have to make a motion to recommend the change to City Council. Two motions in total.
 - No requirement at the Planning Commission level to hold a public hearing. If you do choose to hold a public hearing the clock goes from 60 days to 90 days.
 - At the City Council level they are required to hold a public hearing.
 - You could have two public hearings, at the Planning Commission level and the City Council level. Both require 30 days public notice.

Andrew Stone: Potentially two votes. 1st to begin process, then 2nd to recommend the change to City Council.

Paul Logue: Deciding to have a public hearing would require a motion/vote as well.

Andrew Stone moved to open process and review the change. Steve Patterson seconded. All present voted aye. Motion passed 5:0.

Discussion

Steve Patterson: The objections in the past were concerns over noise and storage parking. We have had 24 hour parking for some time now and parking enforcement daily to prevent storage parking. A noise ordinance has been in place for some time. Extending the B2D up to the north block of Court Street makes sense and will allow for economic development on the north block. Closely tracking the business environment in the city as a whole, in terms of revenue, decreasing student enrollment, and decreasing OU employment. Diversifying the economy is important. Realignment of the zones will be beneficial.

Nancy Bain: There is a historical the reason there is a B2D. They put a 500 ft. radius around the parking garage when it was first built because they thought it would be underused. Now there is a problem because there are no businesses on the first floor.

Andy Stone: A valid point from the last meeting was does this levy additional restrictions on properties that are currently zoned B3 but then would shift to B2D, and will this take away a property owners' current rights. As we look at the general business zone vs. B2D,

though, it actually promotes an expansion of flexibility for the kind of things that would work in a central business district:

- Table of Bulk Controls Building Height Requirements: B3 currently has a 45 ft. height and 3 ½ story limitation, B2D has a 50 ft. height and 4 story limitation. Previously there was a request for a micro boutique hotel and the height restriction created a challenge.
- Side yard setback restriction in a B3. In a B2D that is removed.
- Rear yard setback restriction in a B3 as well.

Nancy Bain: Are there limitations to additional development here, specifically utilities, is there a hazard to this potential ordinance change? There are serious topographic challenges and problems with storm sewer. Another obstacle is Rose Street being public on the two ends and private in the center. Also worried about the big institutions in this area like the Ohio Historical Center, the expansion of Fern Street into E. State Street, zoning going down the middle of a street, and ending up with large box buildings.

Barbara Stout/954 E. State and owner of Athens Underground, 90 N. Court

Doesn't understand what this is doing and how it will enhance business. She has had her business for 15 years and it is tough keeping a business going. Many of the businesses along Court Street have closed recently. How is putting large box buildings in an overcrowded area going to enhance anything? This is like the short north in Columbus which caused businesses there to go out of business. Do something to make the downtown shopping district to be more consumer/shopper friendly. Parking around Cornwell's is always completely full.

Jack Stauffer/69 Elmwood

Not for or against the rezoning at the moment but wonders what brought this back to the front burner and who initiated it? There will always be zones butting up to each other. This is all about people/money. What is permitted and not permitted? Will anything be grandfathered in? Will definitions go away if the parking is changed? Definitions on permitted uses? Storage parking has been improved but not cured. Mr. Stauffer described a hypothetical new business under the zoning change to the commissioners and whether it would be allowed. The higher building restriction will encourage owners to build up on their buildings to create additional apartments, so more houses will sit vacant in the nearby neighborhoods.

Steve Patterson: Has been approached by several property owners wanting to see development/changes on the north block of Court Street. One way to do that is to change to a B2D largely due to the parking requirement. Parking studies have revealed that the one block with open spaces was because there was off street parking for the business retail on the first floor. Big boxes don't have to go into these spaces, a green space could go in or any number of things.

Paul Logue: The big difference between the two zones is in the parking requirements, specifically the requirement for commercial business uses. For example, on the north end, if you own a business and want to expand you have to get a variance from the BZA, however, if you have a business right across the street, on State St., and you want to

expand you don't have to go to the BZA for a variance because there isn't the parking restriction.

Andy Stone: Mr. Stauffer's hypothetical business would be permitted.

Joan Kraynanski/56 Mound

Concerns about the zoning change. The cities recent changes to the parking meter zones, times, and time limits has resulted in more people parking out and displacing residents. Concerned about the building height and that downtown is becoming a breakfast community for students. While she was on the BZA the gas station on the corner of State and Court wanted to build an apartment complex there and it was denied because of the B3 ruling. Will be a community for student rentals and will lose businesses. Think of the "what if" scenarios.

Rob Delach/124 Morris

In support of this zoning change. If we want to encourage businesses this is just what we need. This could make it more inviting for pedestrians. A filing station is not a nice thing to have of Court Street. Allow more businesses to come in and attract more foot traffic. Empty space could be filled by more businesses.

Steve Patterson: Clarified that apartment units above the first floor still have a parking requirement. B2D allows for 4 stories only with a maximum height of 50 ft.

Christine Miles/Fort Street

Over-parking and illegal parking with not enough enforcement on Fort Street. There is little signage along Fort St. If there is no parking uptown then there is more pressure in her neighborhood with a lack of enforcement. How does this benefit neighborhoods? This benefits a few families, not the majority of residents. Consider the longtime residents.

RJ Sumney: There seems to be a generational conflict on how a city should be. The needs of a city 30 years ago are not what they are today. Is the Comprehensive Plan addressing this?

Paul Logue: The Comprehensive Plan does address this and parking is always a big issue. B3 is conditioned with parking requirements and assumes that everyone is driving everywhere. This zoning change would discourage cars and allow for better/more inviting uses for the land that is currently used for storage parking. There is a need for cars, however, the current zoning is geared to the E. State strip situation. There will be impacts of this zoning change that we will be ready to respond to. These codes are written for a development plan that is no longer the direction for current society and the environment.

Steve Patterson: There will be a neighborhood benefit. For example, the hypothetical business that Mr. Stauffer described would be attractive and would offer more diverse retail on the block. Walkability keeps cars off the road. With public transit and walkability, students can get through college without cars.

The Commissioners agreed to discuss this again at the next regular meeting, and have all materials widely available.

5. **Communications**

City Council Resolution R-08-19: Request to consider amending zoning code to include short-term rentals in residential zones

Chris Fahl/City Council Representative, 4th Ward

What is being put forward to the Planning Commission is just one small part of the whole short-term rental package. This is more than just for Air BnB. When the Bread & Breakfast ordinance from a few years ago was put forward it was said by council that this would be revisited to look at other issues in the R zones. This is what this short term rental ordinance is going to address. Before the ordinance can be brought forward, the zoning code has to be changed so it is even allowable to have these uses in the R1 and R2 zones. Short term rentals are here and if nothing is done there will be a problem at some point, whether safety or some other reason. It has to be regulated before it gets out of control. Because the code office has a long list of things they are already responsible for, this will be useful tool for the code enforcement officers. The ordinance will be addressing a licensing requirement. Planning Commission has the responsibility for the zoning changes only. Has a table that summarizes the changes that will be made through the licensing process and is happy to send to anyone interested.

Comments/Questions/Responses

- There will be an initial inspection by Code and annual inspections by the Fire Department. It is a health, life and safety inspection similar to hotels.
- \$100 or a \$150 licensing fee, depending on the rental.
- Types of short-term rentals: Traditional BnB, Homestay/less than 30 days (max 2 rooms/2 adults per room, max 4 people), Tourist home (whole house with 3 rooms/2 per room, max 6 people). The tourist home requires the owner to live within a 250 ft. radius of the home so they will notice if there are more people than the max allowed. The license will regulate against having a landlord operating a tourist home; you can't have a rental permit and a short term rental license.
- Permanent residency requirements. Will be tax requirements when you apply for your license.
- Housing law bedroom size minimum is 70 sq. ft. for one person.
- In the modeling, people further out in the neighborhood with empty houses may convert to a short term rental instead of a rental. There will be very few Tourist Homes because of the 250 ft. radius requirement.
- Language can be added to the zoning code to reflect owner occupied for Homestay and the 250 ft. stipulation for the Tourist Home. This language is in the licensing ordinance.
- Because owners have to be permanent owners of a residence, there is no concern that a group of people or corporation may buy up homes to use one as a Tourist Home.

- Renters subleasing would be illegal as it is now. The enforcement would be the same as it is now.
- More and more people are doing this illegally now. People view this as a good way to go forward in our uptown area and to reduce our carbon footprint. Regulating to make sure this is well done and people are protected.
- Regarding a home business in an R1 other than short term rental, you can have traffic coming and going to your business. This is currently allowed. There is no requirement for a license unless it is a professional license. A short term rental will be more regulated than it currently is for a home business.
- The modeling revealed that this will be mostly home stays, and not Tourist Homes. People are doing it already so it needs to be regulated.
- RJ Sumney: Nationally the trend is to reverse this activity - just because everyone is doing it doesn't hold water.
- Andrew Stone: Regarding enforcement and the provision in code where we require a licensure – the people who have the license report people who do not have the license.
- RJ Sumney: What does this do to property value? Some states are formalizing a disclosure process that a house is a short term housing unit or is next to a short term housing unit.
- Athens is different in that it is a given that you are next to a short term rental. Tourist homes or rentals have to follow all requirements, ordinances, etc. You are a neighbor of your own short term rental.
- The 250 ft. radius was determined with the help of the City Planner. The pin is in the middle of the property.
- The City Planner's interns did the modeling for this.
- The homeowner/operator holds the license and Code Enforcement does the policing.
- This will be presented at the next City Council meeting and can be presented to the Planning Commission as well.
- David Riggs noted that enforcement currently is complaint driven. Not certain if any have been prosecuted. Citation under zoning code then a court date is set.
- Steve Patterson requested more clarity in the definitions. Chris Fahl suggested the Planning Commission send their language recommendations to City Council.

RJ Sumney noted that a communication was received by Betty Hollow (attached for reference).

Betty Hollow/31 Maplewood

Lives in an R1 district close to town that is primarily owner occupied at this time but this could change if this ordinance is passed. Many of her questions have already been addressed. Ms. Hollow read her cover letter and reviewed the attached articles. Less demand for rental houses because of the low student enrollment. City doesn't profit from it. Residents will primarily suffer. Visitors are more important than residents. Haven't addressed the parking issue. Zoning never refers to number of rooms, it refers to the number of people. Will the parking remain the same - Will a tourist home with 6 people require 6 parking spaces?

Jack Stauffer/69 Elmwood

Need more public input for something that is going to be so devastating to an R1 district. Tourist home should be stricken. Leave R1 alone. Allow this market in a B3, R2 or R3 where it can be met there. The near east side will be affected the most.

Joan Kraynanski/56 Mound

Many concerns. In the tourist home, it could be run by an operator within 250 ft., not an owner. Don't understand the homestay "operated by a non-profit corporation." Homestay was clarified. Single dwelling on a homestay or a duplex, not clear. Enforcement concerns: in a phone call with Rick Sirois he stated that there was one incident that he was not allowed to enforce so he can't enforce any of them. Code doesn't have time to micromanage these things - don't put things in to code that can't be enforced. Generationally, she is not opposed to change.

This will come forward next week at the October 3, 2019 meeting as a case. The clock starts today. Public hearing will be decided at the next meeting.

6. **Report from City Planner and Director of Code Enforcement**

RJ Sumney tabled reports until the next meeting.

7. **Opportunity for Citizens to Speak**

8. **Announcements & Other Business**

The next meeting will be October 3, 2019.

9. **Adjournment**

Planning Commission had to adjourn because of a court case that was commencing at 2PM and attendees were gathering in the hall. The meeting was adjourned at 1:53 p.m.

RJ Sumney, Planning Commission

Patricia Witmer, City of Athens