

**Planning Commission
Meeting Minutes
July 18, 2016**

ATTENDANCE: Pete Reich, George Jack, James McBreen, Tina Young, Ray Ryan, Planning & Zoning Director Mary Ann Skilling and Planning & Zoning Coordinator Dianna Battaglia.

Meeting called to Order at 6:30 p.m.

APPROVAL OF MINUTES:

Without objection the minutes for the May 16, 2016 Planning Commission meeting were approved as written by quorum of attending members.

OLD BUSINESS:

Zoning Ordinance Chapter 84 – additional proposed changes:

Mr. Reich indicated this is the third go round because we've been doing it in pieces. Instead of having staff comment on all this, does anyone have any questions about any of these.

Mr. Ryan commented I didn't see anything in here but I've been seeing them popping up more and more are these hookah stores, the vape shops, how they may fall within our current ordinances. Are they even allowed? Where?

Ms. Skilling replied that had been mentioned before. They are almost similar to what we've done with the tattoo parlor. We haven't done anything with them but you have to watch what you restrict and how you restrict it. What we did with the tattoo parlor, we sent it to Mr. Sussman to ask for his advice and Ms. Battaglia can elaborate a lot more because she was dealing with it. Our biggest concern is you don't have to have a license to do tattoos and that's working with a needle.

Ms. Battaglia stated as far as the vapes and the hookahs, we haven't had any requests so we haven't had to deal with that. That use is not listed specifically on the table of permitted uses.

Mr. Ryan commented are they really any different from somewhere that sells cigarettes. So if the 7-Eleven sells cigarettes they are allowed in certain districts. Wouldn't that also apply to someone who wanted to sell the e-cigarettes and all those other things basically in the same districts you can sell cigarettes. I don't know if that's the easiest way to look at it or not but I thought maybe that would be one of the solutions.

Ms. Skilling responded that would be how we would have to look at it unless we want to get even more explicit to that use.

Mr. Reich stated we haven't gotten the whole package yet, there may be a couple more things that have to be changed but the next time we look at it it's going to be the whole thing, not just this piece. Since Mr. Sussman is still looking at a couple of things why don't you ask him for an opinion on that.

Mr. Jack commented it's like a cigarette, you wouldn't specify those things within a 7-Eleven, and you wouldn't draw that particular thing out unless it was liquor or something like that.

Discussion continued to do the research and ask for legal opinion. We don't want to restrict businesses from coming in here. There is one in Havre de Grace but not sure what they have in there.

Mr. Reich indicated I've been in one and they sell tobacco, it's really pipe tobacco that's shredded like cigarette tobacco and they sell all the machines to roll cigarettes, paper, and is a way to get around the cigarette tax because it's pipe tobacco not cigarette tobacco. I had somebody tell me they could roll with filters a pack for about 50-75 cents. I was looking for a new pipe and they sell a lot of different kinds of pipe tobacco, there's some imported pipe tobacco, but the rest seems to be primarily to be used to smoke in a pipe or to be used to roll in cigarettes. I was in a mall in Newark in a smoke shop and they sell bong, hookah's, tobacco, like the shop in Havre de Grace.

Mr. Jack questioned for clarification, in Section 167 it says "a non-commercial art or cultural center shall be permitted with condition in...", what's the condition?

Ms. Skilling responded in Town Center, there are conditions in Town Center that would specify what you can have and how you have to set up, what the process is.

Discussion continued regarding wording in the section that lists different criteria when a business comes in to evaluate whether it should be approved or not. The last sentence was deleted that referred to parcel to have a minimum of 2 acres, with no minimum. It could just be an art center, a store that sells supplies, paintings by local artists, a very small place. A minimum of 2 acres would limit us to never have an art or cultural center in downtown and would depend on location, different zoning criteria would apply. Also, the shop in Havre de Grace is selling things so that makes it commercial, and what this says to me is an art studio where people come in to paint or trained to paint, so that non-commercial is a tough definition here. There are non-profits that have studios where people can come in sell their art goods and that is one of the things that are really popular in a downtown district. The "non-commercial" was in the Code and maybe that's another thing that should be stricken out, have it "an art or cultural center" so that it could be a shop like described where someone is teaching students or it could be a retail shop that is selling original art from local artists. Non-commercial means you're not selling anything and people can just come in and display something. It was suggested to strike that out.

Mr. Ryan indicated to back up to the question Mr. Jack had, the wording "with conditions", I know there are several listed there but when we look at plans all the time, and when staff looks at plans, they always make recommendations for different things that we would like to see done. And I think that is the condition, and I think based on that information and not everything can be listed, if you take that "with condition" out then they can say I don't have to meet what you say. So I like the idea of having that in there.

Mr. Jack replied but if they're meeting the conditions of the ordinances we have no right to interject things that we would like to see. Unless that is the condition of which we're speaking about, it holds no merit. It's saying these are the conditions of the town ordinance and it would be nice to have this but....several meetings ago you made my focus turn from not what I desire, not what we may desire as a town but to the ordinances and when people come in here what do they, do they meet the criteria for what they're asking for. To me it wasn't defined. If it said the conditions of or in the TC, RM, CEMUD, then it would have meaning to me. But just saying permitted with condition in these areas...

Ms. Skilling stated here's the difference or at least how I look at it as a planner, there are certain things in the Zoning Ordinance that are by right, you're allowed to do it. Now, we put conditions in here. It's not necessarily all by right, you can have it but now we've set conditions. The conditions can be what is required in the town center and if you look for a little more detail there are some design standards in

the town center, because something that's by right you can't do much about it if they meet all the criteria.

Discussion continued, rewording that to say conditions within the CEMUD, TC, etc. however grammatically it would be correct, the minimums required, not listing the conditions in the TC, RM, because they're already there, all you have to do is reference. The wording ought to be: shall be permitted with condition or condition(s) of the TC, RM, CEMUD etc.

Mr. Jack questioned farmers market, under 187, does the farmers market fall under this (section) 187 that we allow out there every week from May to October.

Ms. Skilling responded it is a special event that has just been changed by ordinance by Mayor and Commissioners, eventually. It's an activity that is on town property that Mayor and Commissioners will authorize on a yearly event activity. Now with that said, they have looked and reviewed a resolution that the farmers market, as a special event to have every year. We didn't want to change it right now because it would mean that our farmers market right now would not be legal. So we decided to wait until the end of the farmers market so when it comes up it will come up probably in October or November and it will be adopted. It doesn't fall under Section 187, to answer your question. It will fall under the authorization of Mayor and Commissioners under this regulation that is being passed.

Discussion continued regarding Section 187, a special event or event of public interest. It says seasonal businesses not to exceed more than 90 days in 12 consecutive months. They're down there every week from May to October however only 1 day a week.

Mr. Ryan explained there's many more things to come with this, I hope, and I'm saying that to be hopeful for the town that it happens, if it's going to happen, because we're making so many changes down there with the park as a whole; putting up the band stand for example and we're hoping to draw more things into happening like that. Public events, whether they're special events or public interest, it doesn't matter, there's much more use that's going to come with this park. And because of that I see this right now as probably a work in progress a couple more times over our career on this board because I think some things are going to come up that we haven't thought about. Somebody's going to want to do some type of an event down there that we haven't thought about but what I do like about this is the fact that it does give us some parameters now and some clarity that I don't think we had with the farmers market.

Ms. Skilling explained I think we're getting into 2 different categories and it's been defined by the Mayor and Commissioners and the Town Administrator. Here's the difference and distinction we're using as Planning and Zoning. Let's say there's an event in town that is not on town property, do we want to restrict the fire company and ask them to have a permit to use their property for a carnival or whatever. There might be traffic jams and the police department has to provide service, so are we wanting to do that. The resolution that is being passed that Mr. Ryan is talking about is primarily on town owned property. We have suggested in the new guidance that there are more defined things in there so that when it's even on town property certain things should be defined. For example, if it's out in the public you have zoning regulations, you have places you can put things, you can't just do it. So we have to have a means to do it. So we believe a Zoning Certificate is appropriate, that way we can check it, we can make sure the parameters have been met. On town property the Mayor and Commissioners have designated now that the administrative office downstairs can sign off on an activity at the park, and I agree with you, right now Lower Ferry Park is in limbo because we don't really have any guidance of who and when the band shell could be used, if it can be used, are we going to charge, all those things have not been defined yet, and need to be defined.

Mr. Ryan responded I want us to be proactive instead of reactive but I don't see where we're going to get a lot of those questions answered until we know what those questions are. For example, we charge to use the park and we charge to use the pavilions, do we stay in that same line to use all the other parks that we have in our town. We need to look at the ordinances across the board, this is growth pains. And if it makes us grow then let's just deal with those pains.

Mr. Jack commented I think if we're having any functions, or to allow anybody to have on town property, it should go through the same procedures that anybody else would to operate in town. Any kind of thing through a zoning or ordinances, we should have to do the same thing, to follow the same rules and regulations.

Mr. Ryan responded I believe we do and I'll use the example of the campout coming up in August. There were certain things we asked staff to make sure what was happening that night and it fell in line with use of anything else. For example, music can't be louder than a certain amount, past a certain time. The park closes at a certain time but in this case we're allowing an exception to allow people to stay in the park as we're trying to do different things for our community. So I think we already are. I don't know if it's as formalized as it is when we have an outside business come in where we require this paperwork and that paperwork. Because we already know we have an insurance policy, we already know Ms. Hickman's going to be the contact, and we already know what the plan is behind most of it. I don't know if she's gotten any less questions than anybody else when coming in front of the board with it.

Mr. Reich agreed, having a campout in our park isn't any different than a RV park, down at Elk Neck or wherever, you can't play music after 10:00 or you'll get thrown out of the park. So it has to be what one would call family rules, and obviously still no alcohol down there because that's not allowed in the park, so I'm sure there are very simple regulations.

Mr. Jack continued another for clarification for me, to be handled through the Planning & Zoning Department administratively, my question is if someone comes in with an application who do they go through now? Does one person downstairs check off all the things that are required?

Ms. Skilling replied a resolution was passed by the Mayor and Commissioners for town owned property, that is handled downstairs but it's still relevant because they actually deleted it from that and made it an administrative decision so when they did that we had to go back and look at how that would impact this section.

Ms. Battaglia indicated this section (187) would be handled just like somebody coming to build a shed, with a Zoning Certificate and I would check the code to make sure that everything is correct, Ms. Skilling signs approval as the Zoning Administrator, it's done. That's what we're hoping to do with this section, to handle it administratively and not have to add another agenda item to the Mayor and Commissioners because we have the conditions.

Mr. Jack stated it's always better to have more than one set of eyes on a piece of paper so it flows through more than one person.

Ms. Skilling commented Ms. Battaglia does the zoning, she goes through the code, she gives me very similar to what she gives you, the explanation of the code, we talk about it, and I sign off on it if it meets the standard and I believe she's done her work and it's worked really well. In this particular case what came to light with us is when the Mayor and Commissioners were taken out of the activities downstairs and we're thinking we read this, how does that impact this and in fact it was clarified to us that's on town property, this isn't.

Mr. Ryan stated and we're also looking at if you bring in a request to use the park now, you have to wait till the next town meeting before anything is done with it. And sometimes people are last minute with family coming in and they want to use the park and have to wait because it has to get approval first. Now we're saying why do they have to wait, we have a very competent staff downstairs and upstairs, let them make some decisions, we don't need to micro-manage daily operations.

Mr. Reich commented if somebody doesn't like a decision they made you know who they're going to go see, they're going to go talk to a Commissioner or call the Mayor. So you do have another set of eyes looking at it. Pertaining to Article XVIII Amendments, the proposed change to eliminate the public hearing by the Planning Commission, that is an absolutely great thing to do because having a public hearing here and then having another public hearing and then a vote just makes this whole process go way too long. If we do a recommendation to the Mayor and Commissioners I hope that recommendation gets on the agenda for the next month, the next regular meeting. It takes too many days to put notice out, so we put public notice out twice, published in the paper twice for each, so that takes a lot of time and costs. So I think this proposed change is great to eliminate the public hearing here.

Ms. Skilling indicated State law doesn't require two, it only requires one public hearing. All of you had mentioned that once before and is something we've been thinking about for some time. And since I have been here many times your recommendations are given to Mayor and Commissioners and most times, except for barring a few, they agree. And I do remember another project the Mayor and Commissioners said to send it to you before they made a decision.

Discussion continued for clarification, tattoo services, the 1000 feet to another entity, to make sure we didn't have too many together in close proximity.

Mr. McBreen asked what is the actual code for dogs having to be leashed. We have some situations down at Owens Landing and I'm sure in other places. Ordinances are only as good as the enforcement that follows it and from what I've seen in other places there's just no teeth or no enforcement. And then what happens is you have a public individual getting involved in a town or even a civil court or entity situation.

Ms. Skilling stated if you have a concern address it with me because code enforcement is under me or you can go anonymously on our website, submit something or send it to me or Don Stanley, who is code enforcement. I wish people would send us something if they have an issue or a concern. That is the best way for me to know what's going on out there. A lot of times I hear it through someone else and I'd like to get it directly so I can send it to someone or if you want a response I can respond to you. It is a town code and code enforcement is under my jurisdiction. I work with them to make sure it's done.

Mr. McBreen commented what I specifically wanted to do was to address that individual in person and say this is creating a little bit of difficulty with our particular life and I'm only bringing this up to you because are you aware of this particular code that is in effect. You know how it gets when a neighbor gets in the middle instead of just referring it to someone. I'd rather approach the person and say this particular action is involving us now and affecting us and it shouldn't be occurring because we have this ordinance, are you aware of that, and if the person says no he wasn't aware of it then you have a totally different thing. I want to address it as a neighbor.

Mr. Ryan stated I want to commend you for that idea, that as a neighbor you're trying to take care of it that way, to help your neighbor. I don't see that much. Most come in here to complain and want something done about it.

Ms. Skilling indicated animal control is in the county and we've recently changed to follow their regulations.

Mr. Reich commented the next time we see this we may have a couple other ones the attorney still needs to review and the changes we've discussed today and then we'll see the whole package for recommendation to go Mayor and Commissioners next time.

Ms. Battaglia replied yes, it will be all the proposed changes, and we will be having a public hearing because the change hasn't gone through yet to eliminate it.

Ms. Skilling stated if anything comes up send us an email or if you see any significant changes that need to be done, this is the time to do it. We've covered a lot right now and need to get these done because some of them are important to our revitalization plans.

Mr. Reich indicated I think it's been progressive and not reactive; you've tried to search out what could possibly happen and looked out to the future of the town for how to handle it.

Adjournment:

Without objection the Planning Commission meeting was adjourned at 7:17 p.m.

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator