

MEETING OF THE LAND USE COMMITTEE 1-24-2019

The meeting was held at 7 pm in the Town Hall. Present were Dedun Ingram and Lees Hartman, co-chairs; Tom Collins, Kathy Flaxman, Rod Henderer, Eric Murtagh, Stuart Sessions; Kirk Renaud, Council member; and Barney Rush, Mayor/Council liaison.

Zimmerman Park: It has been determined that the path through the Sustainable garden must be ADA compliant; this will require some design changes. The connector path between the garden path and the path to East-West Highway may also need to be ADA compliant.

Dedun reported that she, Kirk, and Lees had walked around Zimmerman Park to see whether a stair-free path farther east than the path being used by B-CC High School students would be feasible. They determined that to be stair-free, the path would have to intersect with the East-West Highway sidewalk so close to Maple Avenue that it wouldn't be much of a shortcut. Therefore, it seems likely the B-CC students (and others) would continue to use their current route. For that reason the easterly route has been abandoned and Backyard Bounty has been asked to focus on designing a path that follows the student's current route. Since the last LUC meeting, there has been further discussion with Backyard Bounty regarding the design for the stairs to East West Highway. Because of site constraints including tree roots, the stairs will probably be powder coated steel. Backyard Bounty has been asked to look at redesigning the rain garden so it captures more stormwater, can sustain plants, and is possibly in a slightly different location to facilitate the path's route. The perc tests for this work can't be done at this time of year and will be postponed until the spring

To proceed to construction, the Town needs the State Highway Administration (SHA) to approve the stairway plans and any portion of the path that falls within the East-West Highway right-of-way. SHA will want detailed engineering plans to review. The Council would like to have the stairs constructed and in service by the end of the summer.

Dog Exercise Area: The County has evaluated over 350 sites in the County as possible dog park locations and narrowed the list down to 50 sites. Elm Street Park is on the "short" list; Norwood Park is not. It is not known how many, if any, new dog parks will be built and in any case the time frame is long. This suitability study was scheduled to be completed in Fall 2018 with a report in Winter 2018/2019, but according to the County website the report is not yet done. We have met with County parks staff once about dog parks and are trying to set up a second meeting about the suitability study and about a possible partnership with the County for a DEA. The park staff leading the suitability study are interested in talking with us about Elm Street Park and also about a possible DEA at Leland Park, which was not included in the study because it's too small for a full-scale dog park.

Lees suggested that we have further discussion of the Leland Park site between the tennis courts and Elm St. He re-measured the site and found that it is smaller than originally thought (about 8,000 square feet rather than 12,000). Given the smaller size the evaluation did not fully consider the resulting proximity of a DEA to neighbors, the basketball court, and the playground. LUC members discussed the scoring and agreed to adjust the original scores for space, nearby activities, proximity to neighbors and limitation on usage hours. The revised report will be sent out for comments by the committee, after which it will be sent to the Town Council.

Barney noted that a Council work session before the February 13 Town Council meeting will consider the sustainable garden, the staircase, and the DEA.

[Kirk left the meeting.]

Accessory apartments: Dedun reported that County Councilman Hans Reimer has introduced a Zoning Text Amendment (ZTA) regarding accessory apartments. History: Until 2013, all accessory apartments in the R-60 zone were a conditional use and permitted only as special exceptions. A 2013 ZTA allowed attached apartments by right with certain conditions, including no other such apartment within 300 feet. Last fall a ZTA streamlined the licensing process for attached apartments that didn't meet the parking or spacing requirements. The proposed ZTA 19-01 would allow detached accessory apartments (those located in an accessory structure) in residential zones where they were not previously allowed and removes most of the existing limited use restrictions. LUC's discussion of the ZTA focused on the proposal to allow detached accessory apartments (and particularly to allow them in existing accessory buildings regardless of setbacks) and on removal of a set of restrictions that could result in duplex-like structures being built in single-family neighborhoods (removal of the 1,200-square-foot cap on size, allowing a separate entrance on the front of a house, allowing apartments to be constructed in new houses). The Committee considered that some of the proposed changes would not produce affordable housing and would negatively impact single-family neighborhoods. Can the existing infrastructure (sewer, water, electric, schools, roads, parking) handle the additional burden?

Dedun reported that she attended the County forum the previous weekend on the proposed ZTA and had expected to hear a lot of pushback from residents, but instead most people spoke in favor of the proposed changes. Elderly residents want to be able to age in place while renting out part of their house, or possibly live in a tiny house on the property while their children live in the main house. Young couples want to offset their mortgage costs with apartment rents.

The Town Council will consider its response at its February 13 meeting. Barney asked LUC to draft a Town Crier notice describing the proposed changes and asking for resident comment.

Changes to building code: The committee worked on some of the remaining proposed building code changes assigned to the committee last spring. Barney noted that the Council would like to vote on proposed changes during the current Council year; the last meeting is in April so the changes would have to be introduced in March.

- 1) Maximum rear setback: LUC previously agreed to a new rear setback formula for lots deeper than 120 feet. But using it for lots that are 121 or 122 feet deep slightly increases their rear setback. To correct this, The committee unanimously agreed to change the cut points for the two upper lot depth groups to: a) more than 100 feet in depth but less than 123 feet in depth and b) 123 feet in depth and greater.
- 2) Definition of "repair": Dedun has talked with Dave Walton about handling this as a part of the Town's executive regulations rather than within the code. The Committee concurred.
- 3) Replacement of nonconforming fences: LUC unanimously agreed to allow this (but not for fences in the public right of way). A permit would still be required.
- 4) Licenses and public property devoted to private use: LUC was asked to consider amending Sec. 4-49 to add some specific requirements for revocable licenses. We will ask Dave Walton to weigh in – it may be that no change is needed. Stuart noted that he had done an informal survey of rights of way in the Town and found that there are a variety of things that have been done that do not conform to current regulations.
- 5) Appeals: If a decision of the Town Manager is appealed, should the appealed activity be stayed until the appeal is decided? Should we create a list of types of actions that should be stayed? Some activities if not stayed are irreversible. Stuart noted that in environmental law, asking for a stay/injunction is

separate from the appeal process. Advantage: A brief stay can be issued and a time limit put on the appeal. After considerable discussion, the consensus of the committee was to leave this one as it is.

- 6) Replacement of non-conforming retaining walls. The Committee previously agreed to recommend that replacement of nonconforming retaining walls along driveways should be allowed provided they are not enlarged and are in the same location. The Committee agreed unanimously to recommend that replacement of nonconforming retaining walls elsewhere on the property also be allowed provided they are not enlarged or moved (a permit would still be required, but no variance). The Committee concurred that replacement of nonconforming walls in the public right-of-way should continue to require a permit.

The meeting adjourned at 9:10 pm.

The next LUC meeting is scheduled for February 28.