

The Planning and Zoning Commission of the Town of Avon held a ***GoToMeeting*** on Tuesday, October 12, 2021. Present were Thomas Armstrong, Chair, Brian Ladouceur, Jr., Vice Chair, Peter Mahoney, Mary Harrop, and Alternates Elaine Primeau (sat) and Drew Bloom (sat). Absent were Lisa Levin, Dean Hamilton, Joseph Gentile, and Alternate Raz Alexe. Also present was Hiram Peck, Director of Planning and Community Development.

Mr. Armstrong called the meeting to order at 7pm.

APPROVAL OF MINUTES

Mr. Mahoney motioned to approve the minutes of the August 10, 2021, meeting, as revised. The motion, seconded by Mr. Bloom, received unanimous approval.

Mrs. Harrop motioned to approve the minutes of the September 21, 2021, meeting, as revised. The motion, seconded by Mr. Mahoney, received unanimous approval.

PUBLIC HEARING

App. #4951 - Avon Marketplace Investors LLC, owner, Cuckoo's Hawaiian Shave Ice, applicant, request for Special Exception under Section VI.C.3.d. of Avon Zoning Regulations to permit ice truck for existing business (It's Playtime), 380 West Main Street, Parcel 4540380, in a CR Zone

The public hearing for App #4951 was continued from September 21.

Present were Cory Edgar, applicant and Attorney Robert Meyers

Mr. Edgar reported that he reached out to the Town Parks and Recreation Department who was receptive to the idea of the shaved ice truck but explained that because this truck is integral to their business (It's Playtime) their preference is to keep the truck onsite (Avon Marketplace). He displayed a photo of the ice truck, which is electric, very small, and mobile, and also a photo of a grassed area, located behind Orvis. He said that this grassed area is not a landscape area.

In response to Mr. Armstrong, Mr. Edgar explained that the ice truck could be located in the aforementioned non-landscape grassed area, so as not to be located in a parking area. The entrance for the business is located in the rear of the building, right next to this grassed area. He said that the ice truck is intended to be used outdoors in spring/summer/fall and would be stored away once the weather turns cold (ice truck would not be brought inside the building). He clarified that the machine that makes the ice and syrups is transportable and could be brought inside but they haven't decided on that. A cotton candy machine has replaced the shaved ice inside the building.

In response to Mr. Bloom, Mr. Edgar explained that a wood plank could be put down on the grassed area to support the ice truck but indicated that he does not yet have a solution for a possible muddy grassed area. The area is wheelchair accessible via the sidewalk which runs from the front with an existing ramp around the side.

Mrs. Harrop said that she visited the site and thinks the ice truck could fit nicely in the rear

grassed area. She asked if the area could be fenced to keep the kids from running away from the area. She asked how people would find the ice truck in the back because it's not accessible to shoppers.

Mr. Edgar said that he is sure they could come up with a creative way to "corral" the kids, as a fence may not be aesthetically pleasing. He also noted that kids will be with their parents - their business is not a daycare. Although there is an entrance at the front of the building most people enter the business from the back of the building where the ice truck would be located. He said that there is no intention of putting a sign up because they are doing just fine by "word of mouth" and social media.

In response to Mr. Armstrong, Mr. Peck explained that the ice truck would not be allowed in a parking space or on the sidewalk but noted it's really a judgment call by the Commission as to whether it could be allowed in the aforementioned grassed area to the rear of the building. He clarified that this grassed area is space left over from a building expansion for Orvis that wasn't built at large as proposed. The applicant confirmed that the primary access for the business (It's Playtime) is in the rear of the building near the grassed area. Locating the ice truck in the rear grassed area alleviates safety concerns for it in the front parking lot.

Mr. Ladouceur said that he understands the circumstances surrounding this application to justify possibly allowing the ice truck to be located in the rear grassed area but noted his concerns with other businesses who would now want to have food trucks parked in parking spaces or in landscaped areas.

Mr. Peck explained that a special exception application review by the Commission would be required for any other business interesting in a similar activity (food truck). He said that the subject situation is a rather unusual such that there are not likely many others like it. The aforementioned grassed area has no trees or bushes and the safety concerns are significantly mitigated.

Mr. Armstrong noted his concern with safety because young children are all over the place. He said that he may be willing to look at it but couldn't give a long period of time. The landlord would also have to approve it.

In response to Mr. Ladouceur, Mr. Peck said that an approval could be limited to one year so see how the ice truck functions through one summer season.

Mr. Mahoney said that there needs to be responsible adults with the children, as the business is not a daycare.

Mr. Edgar confirmed that they are not a daycare and there must be adult representation and supervision. Boundaries could be creatively formed so that people can flow safely between the business access and across the sidewalk to the ice truck on the grassed area.

There were no further comments. The public hearing for App. #4951 was closed.

Mr. Ladouceur motioned to waive Administrative Procedure #6 and consider the public hearing item. Mrs. Harrop seconded the motion that received unanimous approval.

Mr. Mahoney motioned to approve App. #4951 subject to the following:

1. Use of ice truck (aka 3-wheeled scooter, as represented) is approved for one year from date of approval, October 12, 2021.
2. Property owner/landlord shall submit written approval of ice truck to the Avon Planning Department indicating/confirming location behind Orvis store.
3. Ice truck shall be located in grassed area to the rear of the building behind Orvis, as represented.
4. Fencing shall be installed around the ice truck; a fencing plan/sketch shall be prepared and submitted to the Avon Planning Department for review and approval.
5. No signage for the ice truck is permitted.
6. Ice truck shall demonstrate compliance with all requirements of the FVHD, Building Official, and Fire Marshal.

The motion seconded by Mrs. Harrop received unanimous approval.

OTHER BUSINESS

Stratford Crossing – Status Update

Mr. Peck reported that he has been to the site several times. There is a construction trailer that should be removed as soon as possible and this was suggested to the owner and his attorney. There are some concrete monuments located near this trailer that will hopefully be installed soon. There are still outstanding items to be completed, as noted on the list from the last meeting but no additional information is available at this time. The Town is in contact with the neighbors to find out and resolve any issues. The neighbors have been informed about the latest legislation which allows the developer a number of additional years to complete items before the Town can require items to be completed. Town Staff will continue to monitor the site and provide updates.

Affordable Housing Plan – Implementation Consensus List

Mr. Armstrong said that the Commission will discuss and finalize the redraft of the recommendations (document dated October 7, 2021) provided by Mr. Peck.

Mr. Ladouceur said that he looked at the October 7 draft and compared it to the draft of September 9 and something is not getting communicated because he keeps reading the same things over and over despite numerous comments about simplifying/reducing every time. He sent out something clear and concise a month ago and we pretty much followed most of those items but none of them are shown here adding that he is not in favor of what is contained in the October 7 draft.

In response to Mr. Armstrong, Mr. Ladouceur said that his concerns are with the bullets. He said he is ok with just the information in the bold text/lettering. He said he doesn't want to see more than two bullets for each item but there are many more, five or ten, for each item.

Mr. Armstrong noted his understanding adding that there is one bullet item missing and he has talked with Mr. Peck about it (...*Explore converting existing housing stock to "A" affordable housing*). He said that he thinks some of the bullets as outlined are ok and asked if anyone has

comments on the four bullets under Item #2, which looks ok to him.

Mr. Ladouceur said he doesn't see the value of the text in four bullets under Item #2 (Accessory Apts) if the information is already there.

Mr. Peck explained that there are many, many ways to create accessory apartments and the information is there to provide guidance and clarification for people looking to explore that. Providing guidance and clarification to people is the entire purpose of having the bullets throughout the document. He said isn't the purpose of this document to explain to people how we are trying to do the job we are tasked with doing under the Legislature.

Mr. Mahoney noted his agreement.

Mr. Ladouceur said he's just not in on the bullets in Item #1 (Task Force). He said we already talked about the language for the Task Force in the version he sent back a month ago.

Mr. Mahoney asked if Mr. Ladouceur is writing the document or are we going to allow the professional Town Staff and consultant to take our input and come up with a document. Every single meeting Mr. Ladouceur monopolizes the conversation and it's all about his document. He wants to either blow it up, not move forward, or over simplify it so that's it's a meaningless document. It's a big waste of time.

Mr. Armstrong said that he feels everyone has had a chance to comment on Mr. Guskowski's draft plan. We are going to go to a vote tonight.

Mr. Ladouceur said he can't agree with the form, the message, and everything that's been here so far and it started at the very beginning. We were told in the beginning that the Commission has total control over the document but found out last meeting that the State has to approve it. If we are not allowed to have input recognized by the consultant and others he said he won't send the document to the State for approval; others may choose differently.

Mr. Peck said to Mr. Ladouceur that he still does not understand what the problem is with having the public have an opportunity to comment on this plan. Why do you want to keep it to a very small number of people on this Commission – let's put it out to the public and see what they say.

Mr. Mahoney noted his agreement.

Mr. Ladouceur said that why would he put something out there that doesn't reflect what his intent, as a commissioner, of what the plan should be. The current plan is the farthest thing from local control.

Mr. Mahoney said we should hear from the public; it's not all about Mr. Ladouceur.

Mrs. Harrop said that she has been reading all the information in the document adding that it is very confusing and asked how a clear message is going to get across to the public if we can't even agree on the content. If we are doing all this to get the State to approve it, that really floors her, because she is on planning and zoning to do what she thinks is best for our Town.

Mrs. Primeau addressed Item #2 (ADUs – Oct 7 draft) and asked why we can't just say promote accessory apartments per our existing Zoning Regulations. We aren't adding anything different than we already have.

Mr. Peck explained that the third bullet addresses access to provide guidance for people to create accessory dwelling units (in a separate structure) to ensure that they look architecturally like they belong with other structures in the neighborhood. He further explained that right now there is no requirement for this in the current Regulations. He agreed with Mrs. Primeau that the first two bullets can be removed, as that information is already in the Regulations.

Mrs. Primeau said that Item #1 (Task Force) needs to be simplified; we don't have to make it complicated with all these bullets.

Mr. Peck said tell me what would tell the Task Force what they are going to do when they sit down and spend their time doing it.

Mr. Ladouceur referred to what he sent in late September for a Task Force.

Mr. Armstrong asked how many members of the public (one, two, or three) do we want on the Task Force and assume two non-voting Staff and assume two voting PZC members.

Mr. Ladouceur said one (two PZC and one public). Mr. Mahoney said two, at least.

Mrs. Primeau said it needs to be either one or three.

Mr. Mahoney said that he is fine with everything contained in Item #1 (Task Force, Oct 7 draft). He said that he's a project manager and likes details – he likes to be clear about things and not vague.

Mr. Bloom asked if we are limited to only the items that are spelled out in the document.

Mr. Peck explained that he doesn't think so and noted, for example, that Bullet #5 for the Task Force says...*"Examples of resources for the task force provided..."* which are examples of groups you could get information from. He noted that a lot of these items are quite technical; bankers and the housing authority are people who would bring technical information to the table. He explained that these are just examples of groups that a task force could interface with but confirmed that there is no intention to place limitations of any kind on the groups that could be involved.

Mr. Ladouceur said he put three bullets down that are easy and agreeable. If wanted, all the other recommendations and examples could be put on a piece of paper and given to the three to five task force members but they should not be part of the written recommendations.

Mr. Bloom noted his agreement.

Mr. Mahoney said that we are presenting this to the public for input; it's not a final document.

Mrs. Primeau said if we leave it open they can bring in the experts and get their testimony if needed.

Mrs. Harrop said whoever is on this committee is going to figure it out.

Mr. Armstrong said he's looking for a consensus on the Task Force and asked who prefers Mr. Peck's wording (Oct 7 draft) and who prefers the suggested alternative.

Mrs. Primeau said she votes for the alternative as she wants it kept simple.

Mr. Ladouceur said he votes for the alternative, obviously.

Mr. Bloom said he votes for the alternative.

Mr. Mahoney said he votes for Mr. Peck's wording/recommendations to go to the public; it could be changed/modified if needed. He said that he wishes we were listening to the professional Staff more than we do and wonders why we are wasting so much time.

After some discussion, there was general agreement on bullet #3 in Item #2 (ADUs - Oct 7 draft).

After some general discussion regarding Item #4 (Promote AHOZ - Oct 7 draft), Mr. Peck explained/clarified that any request for AHOZ requires a zone change application (and approval) to the Commission. He further explained that he feels there would be a number of people who would speak out against making AHOZ available anywhere in Town. He said that TDR and work/live all require special exception application and approval and that is why these items are lumped together.

Mr. Ladouceur said that there are limiting factors (public water and sewer) that determine where an AHOZ could be located; maybe 75-80% of the Town could qualify.

Mrs. Primeau said right then why have it.

Mr. Peck explained that we should have it (AHOZ) because it allows things to be developed in certain areas that could not be developed without it. In addition, people could come in with a different zone (8-30g) in an area where only 5-6 units are proposed that may not have public water and sewer; there are a number of different ways to do it. He said that he doesn't think these items (AHOZ, TDR, Work/Live, ADUs - Item #4 – Oct 7 draft) cause any great problems and they are lumped together because they are somewhat similar and each one of the bullets clarifies what the process would be to promote any of the aforementioned items. He agreed that the fourth bullet (Update Zoning Map) could be eliminated, as it's included in the third bullet. The Commission agreed

In response to Mrs. Primeau, Mr. Armstrong addressed Item #5 (USDA, CHFA – Oct 7 draft) and said that his view on this is that if these financing resources are used they count towards an "A" affordable.

Mr. Ladouceur said that if a house has a loan with a bank, like People's Bank, it doesn't count towards "A" affordable but if there is a loan with USDA or CHFA the same house becomes an "A" affordable unit.

Mr. Peck explained/clarified that if a commercial bank provided lending and the property was deed restricted it would still be counted as “A” affordable.

Mr. Ladouceur said that deed restrictions have always been a problem for people with loans but said that he doesn’t believe that they need a deed restriction if it’s a USDA or CHFA loan. It’s a way to make the same house “A” affordable purely by who the owner is writing the monthly mortgage checks to.

Mr. Armstrong said that insurance needs to be bought through these programs which means that a borrower with less credit worthiness can apply possibly making getting a hold on a house easier.

Mr. Peck confirmed that he quite often gets calls from people asking about loan information.

Mr. Armstrong said that we discussed at the last meeting about adding an item....”*Explore converting existing housing stock to “A” affordable housing*”. These are the two bullets to go with it:

- Identify current “a” and “A” affordable housing and rental stock and a subset of potential stock where a deed restriction may be feasible. Mr. Armstrong said that there are three areas where it might be feasible – residents who do or may in future receive tax incentives. Public Act 490 includes Farm Land – there was some talk about trying to do something like that for deed restriction.
- Consider incentives and evaluate impediments to deed restrictions.

Mr. Ladouceur said he is fine with this as a category with two bullets. Deed restriction is one of the biggest impediments to make a large portion of Avon’s housing stock potentially qualify as “A” affordable. Mr. Armstrong said he agrees.

The Commission agreed with the new item just discussed.

Mr. Armstrong asked how everyone feels about the non-consensus item (Item #8 - Middle density housing retrofits – Oct 7 draft).

Mr. Ladouceur said he doesn’t think we need this at this time; let’s stick with the four items we have.

Mr. Peck explained that if there is an old structure that needs to be torn down because it can’t be rehabbed or it’s more costly to rehab than it would be to tear it down and build new, that is certainly what would happen. He further explained that there are a number of locations in Town where there may be some existing large homes that people want to make into a duplex – it doesn’t say 6, 8, or 10 units – it says 2-4 units maximum. This is something for public discussion to see if there is any interest. This is something that would be done by private developers, based upon the Commission’s approval; this is not something the Town is going to do. He pointed out that the last bullet requires architectural standards to preserve the character of existing residential neighborhoods. Any/all proposals for “middle-density housing retrofits” would come before the Commission for review and approval; the Commission has the final say.

Mr. Ladouceur said this item is unnecessary at this time.

Mr. Mahoney said that he's fine with keeping this item.

In response to Mrs. Primeau, Mr. Peck explained/clarified that this item (middle-density housing retrofits) would be included in the Affordable Housing Plan that will go to a public meeting for discussion before anything would go anywhere, like to the Task Force.

Mr. Armstrong said that he knows that both Ms. Levin and Mr. Mahoney are in favor of keeping this item but said that he agrees with Mr. Ladouceur that it would have very little application because if we are talking about blighted sites he has seen seven sites that have been identified.

Mr. Bloom said he agrees with Mr. Ladouceur to get rid of this item.

Mrs. Primeau said she would simplify this item because there's a lot there but also said she is not sure off the top of her head how to do that.

Mr. Armstrong said that the only way the Town could do this, if they even want to, is to sell tax liens.

Mr. Peck explained that there is nothing in the language that says that the Town is going to be involved in this transaction; nothing. He clarified that there is no intent, at least on his part, to have the Town buy these properties and resell them. This is not something the Town or anybody is interested in and the language doesn't say that. It's important to understand that if there is a blighted property or site that has deteriorated and someone comes into my office, as happens every week, and asks what can be done with this property and I tell them it can be rebuilt just the way it is or the Commission has created a new regulation that could allow two units as long as it is architecturally compatible with the neighborhood. Mr. Peck indicated that he doesn't see the harm in having the public talk about whether or not this is desirable. He stated that he takes calls from realtors everyday who are asking what can be done with certain properties.

Mr. Mahoney asked how anybody is going to know about this unless we let them know.

Mr. Armstrong said we have two sides of this issue.

Mr. Ladouceur said get rid of it.

Mr. Mahoney said, yes, the two sides are we let the public know about it at a public meeting or we an appointed board make a determination to not let people know about it.

Mrs. Primeau said that it's one thing to have people come into the Town Hall to ask about properties in disrepair but it's another thing for the Town and/or Commission to turn around and tell people about such properties.

Mr. Peck said that there is nothing here that says the Commission is going to advertise this.

Mrs. Primeau said that Mr. Mahoney mentioned it.

Mr. Mahoney said no he didn't; what I said was the public should know that this is an option. The Town is not going to advertise blighted properties and that is not what this item says.

Mrs. Harrop said that she knows where some of these blighted properties are and she would be hard pressed to have them be either two or four homes. Most places in Avon do not want to have duplexes.

Mr. Mahoney said so you are going to allow accessory apartments but not allow redevelopment to a duplex which is two dwellings. Why would you allow one and not the other.

Mrs. Primeau said the accessory apartment is less than 1,000 SF.

Mr. Ladouceur said it's also part of the attached house and typically reserved for a family member. Detached accessory apartments are viewed with a more critical eye and are not guaranteed. This topic does not need to be included at this time; we have four or five other topics for public hearing.

Mr. Bloom noted his agreement.

Mr. Peck said that while he understands that there may be a very small number of houses that this applies to, keeping information from the public for discussion is not doing a service to the public.

Mr. Armstrong said that given the comments from everyone, this item (Item #8 – Oct 7 draft) is off the list. He addressed the list (Oct 7 draft) noting that Item #1 remains, as revised by Mr. Ladouceur, etc. Item #2 is on with the third bullet; Item #4 is on with the fourth bullet out; Item #5 is on; and the new one, "converting existing housing stock to affordable housing" is on.

Accessory Apartment Regulation Redraft – from Chair

Mr. Armstrong said that his draft revisions to the accessory apartment regulations were done to address PA 21-29, which has a number of convoluted issues one of which is when does it become effective and what does it say. These revisions are also suggested to secure the two thirds votes needed to approve an override and opt out of this regulation. If we don't opt out, this law becomes effective Jan 1, 2023. He said that his read of PA 21-29 is that we can't make changes to our accessory apartment regulations unless they are consistent with this law after January 1, 2022. There is a hiatus between Jan 1, 2022 and Jan 2, 2023 as to which law applies; do our regulations apply or does the State Statute apply. If we don't opt out, PA 21-29 will become effective which means no public hearings or input from the Commission relative to accessory apartments; they would be allowed by right. He reviewed his handout provided to all members, showing his proposed changes to the regulations. He asked the Commission to review his document and consider which changes should be made. He said that if no changes are made his view is that come January 2022 we are in Pandora's Box. He said that if a decision is made to make a change he would like the hearing and decision made by the end of this year.

Mr. Peck suggested that Mr. Armstrong's proposed changes be submitted to the Town Attorney for review and comments prior to holding a public hearing. Mr. Armstrong agreed.

Receive Applications for 20 Security Drive – PH October 26

Mr. Peck confirmed that the public hearing for the proposal at 20 Security Drive will be opened and a full presentation made by the applicant and heard by the Commission at their October 26 meeting. The applicant would like a vote as soon as is possible. Comments have already been received from various Town Staff and forwarded to the applicant. He explained that the application was submitted to the Town for a public hearing to be opened and heard by the Commission at their October 12 meeting but the applicant pushed it to the next meeting to give the Commission time to review this very large application. He asked that the Commission please forward to him any questions they may have as soon as possible so he can get answers before October 26.

In response to Mr. Ladouceur, Mr. Peck said that he would get answers relative to the ground lease and the “A” affordable aspect relative to the financing but added that the applicant’s attorney will be making a full presentation explaining all these details at the October 26 meeting.

STAFF UPDATESAvon Village Center Status

Mr. Peck reported that Town Staff and Steve Kushner’s family would like to put a bronze plaque (dedicated to Steve Kushner) on one of the boulders in the rock garden located right behind the Town Offices (near the bike trail) and are looking for an endorsement by the Commission. If the Commission is in agreement, the matter would be forwarded to the Town Council.

The Commission indicated their full support and endorsement of the plaque for Steve Kushner.

Legislative Updates

Mr. Peck said that he would like the Town Attorney to make a presentation at one of the Commission’s future meetings where the members would be able to ask questions.

Mr. Armstrong asked if the Commission could get the summary sheets as soon as possible.

Mr. Ladouceur asked to receive first, as a priority, any updates that are time sensitive, such as the accessory apartments coming up on January 1, 2022.

Mr. Peck noted his understanding noting he would pass along to the Town Attorney.

There being no further business, the meeting adjourned at 9:15pm.

Linda Sadlon
Avon Planning and Community Development