



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings October 14, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, Dennis Galicki, Mayor William Koons, Ph.D.,
Elisa Budoff

Member Absent: James Flaiz

Other Officials: Bridey Matheney, Solicitor; Dave Hocevar, Building Official; Ruth Griswold, Board
Secretary

Visitors: Christian Kalinyak of PonyBoys LLC; 447 East Washington Street; Ryan Scanlon, 5260
Chillicothe Road

Meeting called to order by Mr. Latkovic at 7:29pm.

Ruth Griswold conducted roll call.

Mr. Galicki motioned to approve the minutes from August 12, 2021. Mayor Koons seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE # PC 21-10: As required by Section 3.05(b) of the Zoning Code, Mr. Christian Kalinyak, applicant for the property owned by Morning Star Holdings LLC, located at 506 East Washington Street, is requesting the Planning Commission schedule a date for a public hearing to review his proposal for a new tenant for an existing restaurant.

Mr. Latkovic addressed Mr. Kalinyak and Mr. Scanlon and asked them to tell the board a little bit about their plans for a new restaurant. Mr. Kalinyak said he and his partner, Mr. Scanlon, have taken over the former Violante's Restaurant at 506 East Washington. He said their concept will be modern Mexican, and their main goal right now is to be open for the holiday season, and they would like to open the week before Thanksgiving. He said he understands there has to be a public hearing scheduled, and that he is unable to obtain the building permit until after the hearing. He said they are hoping for the earliest date possible.

Ms. Matheney said a public hearing must be set withing 60 days, and that notices must be sent to contiguous property owners and legal ads must also be published no later than 20 days prior to the public hearing. She said

the public hearing is to consider the Conditional Use Permit, and a special Planning Commission meeting for Developmental Review could immediately follow the hearing. She noted the next regularly scheduled meeting on November 4, 2021, does not allow sufficient time for the required notifications.

Discussion followed regarding possible dates for the public hearing. After Mr. Latkovic confirmed availability of board members, it was decided to hold a **Public Hearing on Tuesday, November 9, 2021, at 7:00pm**, and to also reschedule the Planning Commission Meeting from November 4, 2021, to **November 9, 2021, at 7:30pm**.

Mr. Latkovic addressed the applicants and asked if they, as business owners, understood the reasons behind the Conditional Use procedures, and the necessity for a public hearing. Mr. Kalinyak and Mr. Scanlon said they did. Mr. Latkovic said he appreciated them coming in and will see them next month.

Mr. Latkovic then referred to the first item under Old Business; the **Review of the Solicitor's Zoning Code Recommendations**. He said there are a lot of important items to go through, and per his earlier email, he would like to delay diving into the substance of it until all members are present, with the understanding that if someone wanted to bring something up that would be okay as well.

Mayor Koons referred to the **Examples of Expiration of Approvals**, and asked Ms. Matheny if the one-year expiration was fairly consistent and standard with the six communities she researched. Ms. Matheny said yes, that is the standard, clarifying the result was just from the examples she pulled, and that it may be different throughout the State of Ohio. Mr. Latkovic said it seems pretty reasonable.

Mayor Koons then referred to the **Date of Certification**. Ms. Matheny said she wanted to point out that the certifications of the BZA would be tied to the approval of their minutes, which makes it different from the Planning Commission with respect to amendments, Conditional Use Permits and Developmental Approval. She said at the last meeting in August, the period of 5 days was discussed as being reasonable for the Board Secretary to prepare a motion and to certify the action of the board. It was agreed that 5 days for certification was sufficient and reasonable.

Mayor Koons said he has no problem with the proposed amendments to the **Definitions of Building Inspector and Zoning Inspector in Zoning Code**.

Referring to the **Recommendations regarding the Business/Industrial Overlay District**, Ms. Matheny advised looking at it more closely, due to one of the tables in the Zoning Code. She said there are a lot of regulations that would apply or would not apply, and a lot that should be considered, and that it would also require changing the zoning map. Ms. Matheny recommends further consideration of this by the board.

Mr. Latkovic then addressed the item under **New Business: Discussion of Air BnBs/Rented rooms**. Mayor Koons inquired if an issue came up regarding short-term rentals. Ms. Budoff said that she brought it up because it has become an issue in Lake Louise. She said one of the residents has been doing it for years, and the rental is advertised as being situated in a lake community, with access to the lake. She went on to say that this is a concern since the lake should only be used by residents, and some parents of young children are concerned about randos entering the community and using the lake. Ms. Budoff said when she searched the Air BnB website, she discovered another one across the street and down Bell Road a bit. She said she sent those links to Steve, and she doesn't know if there are others in South Russel, but she is bringing it up because neighbors asked her if there were any regulations in the Village.

Mr. Galicki asked Ms. Budoff if the neighbor who has the Air BnB uses the property as their primary residence. Ms. Budoff said the house has an in-law suite, and it is advertised as having a separate entrance. She said the

description in the advertisement also indicates there is a private trail to the lake. Ms. Budoff said that means they would be walking through all the neighbors' backyards, since there is no private trail to the lake.

Mr. Latkovic said he mentioned this to Jim Flaiz and they both agree it is a good topic to discuss, and that it makes sense that the Village would address the issue and have some sort of regulation and oversight. He said he doesn't feel it would have to be shut down, but regulated so the Village knows where the properties are, and if neighbors have any issues, that there be some recourse.

Mr. Latkovic thanked Ms. Matheney for sending the helpful information from other communities regarding short term rentals. He read bullet points of items included in the various regulations:

Permit Registration Process, Renewal, Local Representative, Fees, Purpose of Rental, Parking Issues, Info Packet for Renters, Defining and Addressing Nuisances, Hosting Platform Obligations, Limit on Number of Nights, Inspection Rights, Differentiations/Restrictions on Individual Rooms vs Whole House.

Ms. Matheney said in the current zoning code, renting of actual bedrooms is permitted, although it cannot include any cooking facilities. She said a short-term rental ordinance could be considered an accessory use to the Residential zoning in the Residential District.

Mr. Galicki said as they craft the legislation, they should be mindful of Ms. Budoff's concerns regarding intrusion on neighboring properties. He expressed concern, and news stories have brought this to light, of a short-term rental house or unit being rented for one purpose, and then having a hundred people show up for a party and disrupting the community. He said it's important to be concerned about, and respectful of, the property rights of the surrounding neighbors, and in keeping South Russell Village a nice community.

Ms. Budoff said she would think the hosting platforms would inform their clients of rules in their respective areas. She said many residents in South Russell belong to Homeowners Associations, and at what point would the HOA step in with certain rules regarding use of lake facilities for instance.

Mr. Latkovic said that is a good point, and that perhaps the permissive aspect to use your home as a short-term rental would be subject to HOA approval, since he wouldn't want the Village regulations to trump HOA rules. Ms. Budoff said she emailed a member of her HOA about this issue, and his response was that he wouldn't want to interfere with someone's right to make a profit, but he wasn't sure if he'd like randos in his neighborhood around his kids. Mr. Latkovic said it is important to try and strike a balance, and it is understandable that people clearly enjoy their property rights. He said there is a lot of respect for that, and at the same time, people don't like it in their backyard.

Mr. Latkovic said although the legislation will not be crafted tonight, he would like to go through the bullet points and address what would be appropriate conceptually, if this endeavor should move forward. He confirmed with board members that something should be crafted regarding short-term rentals.

Mr. Galicki said he noticed amongst the sampling of ordinances from different communities, that there was nothing from Chagrin Falls. Ms. Matheney said they do not have an ordinance. Mr. Galicki said there has been a lot of controversy in Chagrin Falls, especially in the older area of the Village, where many properties have out-buildings, garden houses and/or former garages that owners have wanted to convert to short-term rental use. He said he is aware of a lot of pushbacks as a result. Ms. Matheney said she is aware of the controversy, and that their Historic Districts are very highly regulated and strict.

Ms. Matheney went on to say that when short-term rentals are addressed in townships, it is always in their Zoning Code, and other municipalities have it in their Codified Ordinances under Business Regulations. She said South Russell would need to decide how they would address it.

Mr. Latkovic said from his perspective, any new legislation should replace whatever presently exists in the codes and become the central place for anything that is residential rental based.

Discussion followed and board members agreed that the legislation should only address short-term rentals for thirty (30) days or less.

Mr. Latkovic began addressing the bullet points, beginning with the **registration** aspect. He said he would prefer any property owners offering short-term rentals be required to register their home. Board members agreed. Mr. Latkovic said once this is adopted, the Village would need to inform the community of the requirements. Mr. Galicki recalled when the Republican National convention was held in Cleveland, many people had never considered renting their homes before, but the market became flooded because of the need. Ms. Budoff said when you search VRBO or AirBnB websites for the dates desired, only available ones will come up. Mr. Latkovic said those sites often don't provide an accurate address, but just the general area. Mr. Latkovic and Ms. Budoff agreed that it is necessary to spend some time to pinpoint available rentals in a given area.

Mr. Latkovic asked Mr. Hocevar for his opinion and perspective on short-term rentals. Mr. Hocevar said he thinks it is a great idea, and that a lot of thought should be put into any new legislation. He said there are many short-term rentals in the area, and not just for vacationers, but some people will rent a house as their property undergoes renovations. Mr. Latkovic asked Mr. Hocevar what his concerns would be. Mr. Hocevar said he would not be concerned about any rentals other than those for 30 days or less, but the short-term rentals would introduce transient individuals and differing purposes for the rental, and for the Village to have some control is a good idea. Mr. Latkovic asked if he would want the right to inspect the property, with a 3- or 5-day notice, or just to inspect in response to a nuisance complaint. Mr. Hocevar said a nuisance complaint already allows the Village to inspect, and that Home Occupations are restricted in many ways, and they also allow the Village to inspect. Mr. Latkovic asked if he felt an annual inspection for renewal of a short-term rental should be required. Mr. Hocevar said a registered complaint, on the Village complaint form, should prompt an inspection. Ms. Budoff expressed concern regarding the Village's liability if a renter dies in a fire in a short-term rental, which did not have working smoke detectors. Mr. Latkovic said that is no different than the Village being held liable if a restaurant burns down and the Village had performed an inspection. Ms. Matheney said you could require a renter to provide proof of insurance, and even have the Village named as additional insured. She said this would also provide important contact information. Ms. Budoff said she feels the property owner should be responsible for having all the necessary elements in place for the safety of the tenants. Mr. Galicki asked if the Fire Code addressed short-term rentals, and said he knows that the operation of an Inn would require professionally installed fire systems with sprinkler heads. Mr. Latkovic said that is a good point, and maybe, conceptually, short-term rentals should be thought of as the same as any other business, since the property owner is using their home as a business. Mr. Latkovic asked Mr. Hocevar about the Fire Code as it relates to short-term rentals. Mr. Hocevar said it is governed by occupant load, usually for over 25 people, and it also has to do with the type of construction. He said he would look at the Fire Code and consult with the Village Fire Marshal, Sean Davis.

Mr. Latkovic said outlining details regarding the registration, permitting, and inspection process for short-term rentals would be helpful to have. He asked the board if they think a **local rep** should be required as is the case in other communities, and if it is currently required for a business owner to name a representative. Ms. Matheney said it is not a requirement for businesses in South Russell to do so. Mr. Hocevar said it may be something to look at.

Mr. Latkovic asked Mr. Hocevar what he felt the **annual registration fee** should be. Mr. Hocevar said many of the fees are currently out of date and are being looked at. He said \$50-\$100 sounds reasonable. Mr. Latkovic said that is a lot less than other communities. Discussion followed and comparisons continued regarding fees. Mr. Latkovic said it may be that it is decided to be broken down to the initial permit fee, with an annual renewal fee. He said the **inspection process** also must be thought through. Mr. Hocevar agreed and said many cities perform annual rental inspections.

Mayor Koons referred to some of the legislation from other communities and noted that they are able to perform inspections only with the approval of the homeowner. Ms. Matheney said that is a whole other issue, since it

could be considered an unreasonable search and seizure, and the point-of-sale program in other areas of Ohio has been challenged on that basis. She said it is a constitutional right to refuse to have your property subjected to an inspection it can be a complex process, and she is not sure if the Village wants to get into that area. Mr. Latkovic said the Village could require certain other things to allow their participation in the business community. He suggested having **registration and permitting**, and the permit application, signed by the property owner, could explicitly agree to the proposed rental space having annual inspections.

Mr. Latkovic then addressed the **restriction of use** aspect of a short-term rental. He said he feels it would be better to not regulate the use, but to have them comply with existing laws regarding noise and parking, and to avoid creating nuisance conditions. He asked others for their thoughts. Ms. Budoff said she agrees that any renters should comply with all the current ordinances. Mr. Hocevar said the police department enforces noise complaints effectively.

Mr. Latkovic again addressed the issue of **requiring a local rep** for all short-term rentals if the property owner is not available. The local rep, basically a property manager, would be someone for the police to contact in the event of a nuisance situation. He said of the examples given, there was only one community that required it, and it stipulated a maximum response time from the representative of one hour. Mr. Galicki said he thinks it would be a good idea, Mayor Koons and Ms. Budoff agreed. Mr. Latkovic said he is on the fence about it, as to how far the Village wants to go against the individual's property rights to do as they wish with their property, and of over-regulating and the red tape involved. He asked Mr. Hocevar if he could ask his friends in the business if they are familiar with how this works. Mr. Hocevar said he would do that.

Ms. Budoff expressed concern regarding human trafficking and how the perpetrators may utilize short-term rentals. Mr. Latkovic said illegal activities may be one of the reasons some communities simply prohibit short-term rentals, since it's impossible to regulate and know everything, and there is the possibility of renters doing things that are illegal.

Mr. Latkovic then addressed the issue of **parking**. He said he didn't think any additional restrictions were needed, and asked board members what they thought. Discussion followed. Mr. Latkovic then brought up the issue of an **information packet for renters** and said that parking rules and regulations could be part of that, along with noise restrictions and such. He said he likes the idea of requiring an information packet to be presented to all renters. Mayor Koons agreed and said it should have valuable information for the renter. Mr. Latkovic said the property owner would be responsible for providing such information to each tenant.

Mr. Galicki remarked on the increased popularity of Air BnBs among the younger generations. Ms. Budoff agreed and said especially since Covid, more people prefer the smaller options that include a kitchenette, rather than a large hotel and going to restaurants.

Mr. Latkovic then addressed the issue of **nuisances**. He said he feels that nuisances are pretty well handled in the Village, and asked board members if they thought it should be separately addressed for short-term rentals. Mr. Galicki referred to the "Grounds for Denial" in the **Dublin**, Ohio ordinance, which speaks to nuisance examples, but said he doesn't think the Village needs to address nuisances separately.

Ms. Budoff asked about the "Bed and Breakfast" part. Ms. Matheney said the Village does have regulations regarding Bed and Breakfasts in the Zoning Code. They are required to obtain a Conditional Use permit and there are many regulations regarding fire safety and food. She said Bed and Breakfasts should most likely be exempt from the short-term rental ordinance. Mr. Latkovic agreed.

Mr. Latkovic said he has utilized short-term rentals many times, and most often there was a formal rental agreement that needed to be signed and sent back in order to secure the rental.

Mr. Latkovic then addressed the issue of **platform obligations**. He said he does not think the Village should become involved in this area. After discussion, all board members agreed.

Mr. Latkovic then addressed the issue of putting a **limit on the number of rental nights**. He said many of the communities most consistently mentioned 30 days; one had a rule of no more than two weeks per year. Discussion followed between board members about the different time periods involved. Mr. Latkovic said he did not get a good sense of how the various restrictions were working. He referred to the **Mayfield Village** ordinance which states, *"No short-term rental shall be permitted to be rented for more than thirty days in each calendar year."* Mr. Galicki said that seems to be poorly written and questioned if they meant 30 days at a time, or 30 days total for the entire year. Mr. Latkovic referred to the **Hudson** ordinance which states, *"Short-term rental means any room or dwelling that is rented wholly or partly for a fee for less than thirty consecutive days by persons other than the permanent occupant or owner from which the permanent occupant or owner receive monetary compensation..."* Mr. Latkovic asked what would happen if someone wanted to rent for more than thirty days. Ms. Matheney said she thought maybe after thirty days it would become a long-term rental. Mr. Latkovic said **Dublin** and **Oxford** also have short-term rentals defined as being thirty days or less. Ms. Budoff said **Hudson** requires an inspection by the Fire Department. Mr. Latkovic quoted the **Dublin** ordinance, *"Short-term rental operators are prohibited from renting any room or dwelling to transient guests for more than two weeks total in a calendar year. The short-term rental may be rented up to two times a year, in increments up to seven days each. If a property owner wishes to rent a room or dwelling for more than two weeks in a calendar year, such rental must be to the same tenant and for a lease term of at least 30 consecutive days."* He said he believes this is quite helpful, and that his thinking is leaning toward legislation that is less time-based and more substantively transactional based.

Mr. Latkovic reviewed the ordinance from **Cincinnati**, and discussion followed regarding the 30-day duration of occupancy that is repeated throughout the communities that regulate Air BnBs. Ms. Matheney said she believes that after 30 days, it would then be considered a month-to-month lease situation, which the Village does not regulate and perhaps that is the reason the 30-day occupancy is the limit for short-term rentals. Mr. Latkovic agreed. He said Cincinnati's ordinance seems to capture many important elements. Mr. Latkovic asked board members if they agreed on the **30-day limit**. Discussion followed. Mr. Latkovic said if the home is being offered as a short-term rental, then the property must be registered. If the property owner decided to rent the house for longer than that, that would be fine. If a home is only offered for lease on a month-to-month basis they would not have to register as a short-term rental.

Mr. Latkovic then addressed the issue of **inspection rights**. He suggested referring back to **Cincinnati's** ordinance. Ms. Matheney said the right to refuse the inspection must be clearly spelled out in any ordinance requiring an inspection. Mr. Latkovic asked if that applied if the property owners did not live there. Ms. Matheney said it would only apply to an owner-occupied property. Mr. Latkovic said on the application for short-term rentals, the question must be asked if this dwelling is their personal residence, and if not, the Village could inspect. Ms. Budoff asked how an in-law suite, which is a part of their personal residence, would be classified. Mr. Latkovic suggested having the requirement on the permit application and taking it from there.

Mr. Latkovic asked for board members' perspectives on whether to allow the renting of an individual room vs the entire house. Ms. Matheney said the current Zoning Code allows the renting of one room, with no qualifier as to duration, and Bed and Breakfasts are allowed with a Conditional Use permit. She recommended if short-term rentals are regulated, that individual rooms are either exempt, or incorporated into the new legislation. Discussion followed amongst members regarding classifying short-term rentals as a business or addressing it in the Zoning Code. Mr. Latkovic said if the regulations are defined the way **Cincinnati** has done it, it would naturally exclude property owners who do not advertise online. He said he liked their **definition of the short-term rental**, which includes advertising through a website or a mobile application, although Cincinnati is the only one that has that.

Mr. Latkovic said the consensus is that there is no meaningful difference, from a substantive standpoint, between renting a room vs whole house, through an online platform.

Mr. Latkovic asked if Village legislation regarding short-term rentals would include being subject to any HOA restrictions. Ms. Matheney said it is a question as to how it would be policed, and how would the Village know what the HOA restrictions are. Mr. Latkovic said if the Village adopts something that allows residents to register to have a short-term rental, the HOA could still control it and not allow it. Ms. Budoff asked if HOA approval should be requested as part of the application for the short-term rental permit. Mr. Latkovic recalled concerns expressed by Mr. Flaiz in the past, regarding instances where the Village issued permits without the applicant having obtained HOA approval. Mr. Galicki said the issue was regarding a form that used to be required, which was brought to the Village showing HOA approval prior to permit issuance. Mr. Latkovic said from his personal perspective, if the HOA is going to enforce something they are going to enforce it, and any permit issued for short-term rentals should be made public and searchable online, without divulging personal information.

Mr. Latkovic then addressed the issue of **penalties**. Discussion followed regarding suspension, revocation and penalties. Ms. Matheney referred to the penalties in the **Oxford** ordinance and quoted, *“Failure to comply with any section or provision of this chapter shall be deemed a violation. Enforcement of any of the provisions of the chapter may be by civil action and/or criminal prosecution. Whoever violates Section 743.02 is guilty of a minor misdemeanor.”* Mr. Galicki said he liked the all-inclusiveness of that and noted that Oxford has a lot of student houses or fraternity annexes. Mayor Koons said he was surprised that Oxford’s ordinance is only a page and a half. Mr. Latkovic said Oxford combined the definitions of Air BnB and Bed and Breakfast into one, and they just require registration.

Mr. Latkovic said they have discussed a lot of possibilities for the South Russell ordinance regarding short-term rentals, and asked board members for any other thoughts. Mayor Koons said he noted many points of discussion. Ms. Budoff and Mr. Galicki expressed appreciation for the matter being brought to light. Mr. Latkovic asked Ms. Matheney if she could provide a draft of the legislation, and asked Mayor Koons to list the items the board considered. Mayor Koons read the following from his notes: **1) Annual Registration 2) Permit 3) Qualifications 4) 30 Day Maximum, 5) Inspections? 6) Penalties 7) Host Requirements 8) Packet info to include information about the Fire Code, Evacuation Routes, Noise, Police 9) Fee 10) Insurance 11) Local Agent 12) Parking 13) Police Notification 14) HOA?** Mayor Koons said the list of items could probably be combined and reduced to about six.

Mr. Latkovic said regarding the HOA, he doesn’t think anything needs to be put into the legislation, but that having the Village provide a list of the properties registered as short-term rentals is important. He asked Ms. Matheney to let them know if she sees HOA mentioned in other short-term rental ordinances. He asked her to have the penalty section enforceable but not Draconian, and aligned with other penalties in the Village. He said in his opinion any legislation that is created should become part of the Zoning Code vs Business Registration.

Mr. Latkovic then addressed the next item under New Business: **the live streaming of future Planning Commission meetings on YouTube**. He said, as Chairman, he was told he could make the decision, but he wasn’t comfortable with that and thinks it’s appropriate to make sure no board members had any issues with it. He said he is all for live streaming the meetings. Ms. Budoff said since anyone can attend the meetings, they should also have access to view the proceedings. Mr. Galicki said he feels none of their business should be secretive, so he would have no problem with the live streaming. He confirmed with Ms. Matheney that anyone who wishes to speak at the Planning Commission Meetings must be present to do so.

Mr. Galicki motioned that going forward, all Planning Commission meetings be live streamed and available to the public. Mayor Koons seconded. On roll call vote, the motion passed unanimously.

There being no further business, Mr. Latkovic adjourned the meeting at 9:03pm.



Steve Latkovic, Chairman

11/9/21

Date



Ruth Griswold, Board Secretary

11-9-2021

Date