

CITY OF CHARLEVOIX
PLANNING COMMISSION MINUTES
Monday, August 13, 2012 - 7:00 p.m.
210 State Street, City Hall, 2nd Floor Council Chambers, Charlevoix, MI

(A) CALL TO ORDER

The meeting was called to order by Chair John Hess at 7:03 p.m.

(B) PLEDGE OF ALLEGIANCE

(C) ROLL CALL

Members Present: Chair John Hess, Francis Flanders, Larry Boog, Toni Felter, Dan Buday, Becky Doan, Judy Clock, John Elzinga, Sherm Chamberlain

Members Absent: None

Staff Present: City Planner Michael Spencer

Clerk: City Clerk Carol A. Ochs

(D) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

Sherm Chamberlain will be representing DCL on their development plan and will step down for that item.

(E) APPROVAL OF AGENDA

Motion by Flanders, second by Felter, to approve the agenda as presented. Motion carried by unanimous voice vote.

(F) APPROVAL OF MINUTES

The Board reviewed the July 9, 2012 minutes.

Motion by Flanders, second by Boog, that the July 9, 2012 minutes be approved as presented. Motion carried by unanimous voice vote.

(G) CALL FOR PUBLIC COMMENT NOT RELATED TO AGENDA ITEMS

None.

(H) OLD BUSINESS

1. Update on Charlevoix County Stormwater Control Ordinance

Because of the busy agenda tonight, this item will be postponed to a later date. Charlevoix County Drain Commissioner Marc Seelye and possibly the Tip of the Mitt Watershed Council will have a presentation. This may be scheduled as a joint item with the City Council.

(I) NEW BUSINESS

1. Project 2012-04 DP. Development Plan for DCL at 8660 Ance Road.

Member Chamberlain stepped down from the dais.

- a. Staff Presentation

City Planner Mike Spencer reviewed the item and the zoning variance that had been granted by the Zoning Board of Appeals with the condition that the applicant meet with a professional engineer to thoroughly evaluate storm water drainage for the property. The results from that engineer, Arthur Alvin Ranger, are provided in the packet. The letter essentially states that there are not going to be any problems. This is an amended development plan review, not a new development plan, so it is not subject to landscaping requirements.

There has been a letter of support from Michael Castiglione, which has been received since the packets were prepared and sent out.

- b. Applicant Presentation (If requested)

Sherm Chamberlain, representing DCL, stated that the variance is just for the area where the additional footprint will be added, not the entire property boundaries. There will be no access points (doors) on the north side of the property (Exhibit 5). The north portion is for unloading. The addition allows for a logical flow of the manufacturing process. They are removing the

parking where the proposed addition will be located, and moving the parking area to the east side of the building. Mr. Ranger has created the drainage plan for the new parking area.

- c. Planning Commission questions-answers
None at this time.
- d. Call for public comments
The Chair called for public comment at 7:11 p.m. There were no comments. The Chair closed public comment at 7:11 p.m.
- e. Planning Commission determination of findings of fact.
Chair Hess reviewed the findings of fact as presented in the packet:

5.188. Development Plan.

- (1) *No building shall be erected or structurally altered, nor shall any grading take place in any zone district, except R-1 and R-2, nor shall any change in use as defined by use regulation which requires an increase in parking spaces within the various zone districts be permitted in any portion of the premises, until such a time as a Development Plan has been approved by the City Council after review and recommendation by the City Planning Commission. "Change of use" shall also include a re-institution of any use discontinued for a period of three (3) years or more.*

Such approval shall terminate within twelve (12) months of the granting thereof, unless a building permit is obtained for the development plan project, provided, the Planning Commission may grant a six (6) month approval extension upon the submission of a letter by the applicant providing reasonable evidence as to why the project cannot be commenced within the allowed time, and provided further, that an additional six (6) month approval extension may be granted by the Planning Commission upon the personal presentation by the applicant of reasonable evidence as to why the project cannot be commenced within the allowed time.

If a building permit has been obtained as provided, the development plan approval shall be deemed expired if, at any time prior to completion of the project, work on the project cease for twelve (12) months or any twelve (12) month period otherwise elapses when substantial progress is not made toward completing the project.

- (2) *Approval shall be based upon:*
 - (a) *Compliance with the site related requirements of the zoning district in which the land use is located as well as all other site related requirements of this zoning ordinance which apply to the land use.*

The Planning Commission finds the DCL Amended Development Plan application does comply with the site related requirements of the Industrial zoning district and all other site related requirements of this zoning ordinance. DCL is a manufacturing company, which is an allowable use in the Industrial Zoning District (Section 5.112(4)). The application meets all setback requirements, with the exception of the side yard, which required a variance that was approved by the ZBA on July 18, 2012. There is no lot coverage requirement and the building meets the height requirements of the ordinance. Since this project is a major amended development plan a landscaping plan is not required. The applicant is proposing a new 20 space parking lot on the east side of the building, which will replace the existing parking spaces where the addition will be constructed. The parking requirements have been met. All other minimum standards included in Article V General Provisions have been met.

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- (b) *Compliance with requirements of the City of Charlevoix for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.*

The Planning Commission finds the DCL Amended Development Plan application does comply with the requirements of the City of Charlevoix for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services. This project was discussed with department heads on July 16, and it was the professional opinion of each department head that the proposal complied with the requirements or capacities of their area of responsibility. There is adequate water, sewer and electric adjacent to the property to serve the development. Ranger and Associates has provided a grading and storm water management plan. Once constructed, the parking lot and storm water management features will adequately disperse storm water so that neighboring properties and the City right-of-way will not be affected. Emergency vehicles can access the proposed addition on three sides in the event of an emergency. Water and sewer lines are located in close proximity in the Ance road right-of-way to accommodate any additional demand from the proposed addition.

- (c) *Compliance with the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.*

The Planning Commission finds the DCL Amended Development Plan application does not require approval from other State or Federal Agencies. The applicant must obtain building permits from the Charlevoix County Department of Building and Safety prior to starting construction. The Planning Commission finds this standard has been met.

- (d) *The creation of no unsafe condition including, but not limited to pedestrian, vehicle, and emergency access.*

The Planning Commission finds the DCL Amended Development Plan application does not create unsafe conditions for pedestrian, vehicle, and emergency access. The City of Charlevoix Police Chief and Fire Chief did not have any concerns or specific recommendations regarding pedestrian, vehicle, and emergency access. The site plan shows multiple entry points to the property. The driveway approaches are sufficient width to accommodate emergency vehicles and fire trucks. The Planning Commission finds that this standard has been met.

- (e) *Compatibility of proposed landscaping, grading, and filling with adjoining property and land uses.*

The Planning Commission finds that landscaping, grading, and filling in the DCL Amended Development Plan application is compatible with adjoining property and land uses. The area proposed for construction is flat and there is sufficient room for grading and filling without impacting adjoining properties. The landscaping plan is not necessary for an amended development plan. The Planning Commission finds that this standard has been met.

- (4) *Conditions and safeguards. The planning commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights on nearby parcels, and for insuring that the purposes of this Chapter and the general spirit and intent of the zone district will be observed.*

No Recommended Conditions

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The commissioners had no objections or comments regarding the findings of fact and review standards. The Chair reviewed the Commission's options regarding the project.

f. Motion

Motion by Flanders, second by Clock, to approve project 2012-04 ADP without conditions, based on specific findings of fact that prove the project does meet the review standards in 5.188(2.). Motion passed by unanimous voice vote.

Member Chamberlain returned to the dais.

2. Introduction of the 2012 Draft Zoning Ordinance

a. Review of proposed timeline for adoption

City Planner Mike Spencer introduced the 2012 draft zoning ordinance to the Planning Commission. The draft is a result of over a year of work. Staff wanted to get the draft introduced while the summer residents were still here so they could comment on it. The Planning Commission now will take ownership of the ordinance, thoroughly review it, listen to public comments, and present a recommended ordinance for Council to adopt.

b. Presentation of 2012 Draft Zoning Ordinance

Mr. Spencer gave a brief history of zoning ordinances in the City of Charlevoix. The 1978 ordinance has been amended many times and is now around 100 pages. This draft is about 178 pages. This doesn't mean zoning ordinances are better with more pages: Over time, things become better defined, communities learn from past mistakes, learn to plan for future development, and learn to be more proactive, rather than reactive. Although the draft is considerably larger than the previous ordinance, it doesn't necessarily mean it's more restrictive. In some cases it is less restrictive, in some cases more so, depending on the section. Because of the significant changes, it will be difficult to do an apples to apples comparison to the previous ordinance. Some items, like setbacks, will be easy to compare. Others will not, because the new ordinance contains items that simply aren't addressed in the old ordinance.

Mr. Spencer reviewed steps for creating the draft zoning ordinance. The provisions of the Master Plan were reviewed, and staff tried to carry out the goals of the Master Plan in the draft zoning ordinance. Some examples are provisions for mixed use developments and higher densities in R4 residential. Some items were pulled from other communities' ordinances because they were things staff, with the help of the consultants, thought the Commission might like to add. Staff tried to accomplish the goals without sacrificing neighborhood character or safety.

Mr. Spencer reviewed the proposed schedule, emphasizing that if either the Planning Commission or City Council wished to take additional time for review, or wanted staff to do additional research on any item, the schedule could be pushed back. He does not want them to feel rushed. Mr. Spencer is asking the Commission to set a public hearing for September 10, 2012. He asked that the Commission not make any changes to the ordinance tonight, to allow time for all of them to finish reading it, as well as to allow the public time to read it and make comments.

Mr. Spencer reviewed how the ordinance is organized. Mr. Spencer reviewed the draft ordinance, drawing the Commission's attention to and providing detail on new and changed sections, as well as the reasons behind the changes and additions. There are some errors in the ordinance, such as typos and formatting, which will be ironed out and corrected by staff.

Mr. Spencer would like the Commission to focus on the zone changes and the specific language of the ordinance. Although the ordinance will be similar to those of other cities, much of the language, such as some of definitions, will be geared specifically to Charlevoix. If

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the Commissioners think some sections need the addition of a graphic for clarity, they should let Mr. Spencer know. Mr. Spencer asked the Commission to pay close attention to the highlighted sections of the ordinance: These are sections that are new, different from the current ordinance, or have been controversial in the past. Mr. Spencer advised the Commission that, if they are unfamiliar with a term as they read the ordinance, they can go back and look it up in the definitions. He asked the Commission to pay close attention to the *Schedule of Uses* tables. He reminded the Commission that anything in the ordinance can be changed. Staff has tried to add any uses they could think of: outdoor seating areas, outdoor displays, recreation areas, meeting facilities, retail stores, solar panels, wind turbines, commercial dog kennels, mining operations, etc. Mr. Spencer reviewed the new concept of overlay districts and explained how it was applied to select areas of the City. Mr. Spencer spent some time reviewing boat house and seawall sections and how the language provides for restrictions and standards for those provisions.

Chair Hess called a recess at 8:05 p.m.
The Commission reconvened at 8:12 p.m.

Mr. Spencer continued to review the ordinance, pointing out changes/improvements to the language in existing sections as well as new provisions/sections.

The Planner asked them to review Article 9. Building Appearance is a new section, added as a discussion point, and the Commission will need to decide if it is appropriate for Charlevoix or select areas of the City. The Landscaping section has also had significant changes to the language. He also asked them to review the Lighting and Mechanical Equipment sections to see if it is appropriate for Charlevoix. Article 10 is also a new section regarding parking that the Commission should pay close attention to. Mr. Spencer asked them to pay close attention to the provision for Bridge Street downtown parking.

Mr. Spencer reminded the Planning Commission that they are able to make amendments or deletions to the ordinance based on what fits the community; anything in the ordinance is subject to change.

Mr. Spencer reviewed changes to Article 12: Site Plan Review and asked the Commission to pay special attention to it. Some of the changes proposed stem from a movement by communities toward expediting the development plan review approval processes to make it easier for people to start development. This is put forward as a starting point; he expects the Commission will have changes or deletions. Mr. Spencer also spent time reviewing Article 14's Planned Unit Development (PUD) provisions and asked them to take a close look at it.

Mr. Spencer stated that the new ordinance brings a lot of properties into conformity. He thinks overall this will mean less variances and less nonconforming structures and properties. The new Nonconformities section is much better than what is in the current ordinance.

Mr. Spencer reviewed changes and updates to the administrative provisions, which are pretty standard language and update procedures to be in line with the Zoning Enabling Act.

c. Questions from Planning Commission about Draft Ordinance

Commissioner Doan expressed concerns about setting a public hearing before they had time to fully read and digest the ordinance. Chair Hess stated that even though they hold the public hearing, the Commission is not required to pass the ordinance at that time. Mr. Spencer stated that having more public hearings is better than having less. The Commissioners may find that, once they and the public have had a chance to read the ordinance, there may not be a lot of major issues or questions. He proposed that they go ahead and set the public hearing. The Planning Commission can always have more time and hold more hearings if they wish. He does not want them to rush. Chair Hess suggested they follow Mr. Spencer's plan, hold the public hearing, and if they find they need more time they

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can take it. Ms. Doan stated that she does feel rushed. Mr. Spencer said if they need to take more time that is great. The Commissioners may decide they want him to do additional research. The ordinance will not go to Council until the Commission is finished with it.

Ms. Doan asked if Mr. Spencer could research putting airspace (transfer of development rights) into the ordinance. Mr. Spencer is unsure if it could be applied to the City, because it is already so built out, but he can look into it.

There was discussion with the Planner and the Clerk on how to word the motion. Clarification was provided that all meetings require the call for public comments, the main difference is that a public hearing has specific notification and advertising requirements. Mr. Spencer stated that property owners will also need to be notified of any zoning changes to their properties.

d. Motion to set a public hearing date

Motion by Buday, second by Clock, to set a public hearing on the draft zoning ordinance, for Monday, September 10, 2012 at 7:00 p.m. in Council Chambers of City Hall. Motion carried, 8-1.

(J) STAFF UPDATES

The Clerk briefly instructed the Planning Commission about the Open Meetings Act.

(K) REQUESTS FOR NEXT MONTH'S AGENDA OR RESEARCH ITEMS

None.

(L) ADJOURNMENT

Motion by Boog, second by Doan, that the meeting be adjourned. Motion passed by unanimous voice vote.

The meeting was adjourned at 9:43 p.m.

John Hess, Chairperson

Carol A. Ochs, City Clerk