

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, October 8, 2012 - 6:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

I. Call to Order/Pledge of Allegiance

The meeting was called to order at 6:00 p.m. by Vice Chair Francis Flanders.

II. Roll Call

Chair: Francis Flanders
Members Present: Toni Felter, Dan Buday, Judy Clock, John Elzinga, Sherm Chamberlain
Members Absent: Becky Doan, John Hess, Larry Boog
City Planner: Michael Spencer
City Clerk: Stephanie C. Brown, Deputy City Clerk

III. Inquiry Into Potential Conflicts of Interest

Member Chamberlain noted that he had worked on the landscaping project under consideration in Item VII.A. and that he would step down from the dais during this item.

IV. Approval of Agenda

Motion by member Buday, second by member Clock, to approve the agenda. Motion passed by unanimous voice vote.

V. Approval of Minutes

Motion by member Chamberlain, second by member Clock, to approve the minutes of September 10, 2012. Motion passed by unanimous voice vote.

Motion by member Elzinga, second by member Chamberlain, to approve the minutes of September 12, 2012. Motion passed by unanimous voice vote.

VI. Call for Public Comment Not Related to Agenda Items

Vice Chair Flanders opened the meeting to public comment at 6:05 p.m. There were no public comments. Vice Chair Flanders closed public comment at 6:05 p.m.

VII. New Business

A. Review of Landscaping Proposal North of Intersection of E. Dixon and Mercer Avenue

Member Chamberlain stepped down from the dais. City Planner Spencer presented the item and answered questions from the Commission. Property owner Todd Wyett would like to make landscaping improvements on City owned property adjacent to his property. To allow Mr. Wyett to make landscaping improvements on City property, a license agreement is necessary to ensure the City is held harmless for any property damage that occurs due to City access of utility lines on this property. The license would not allow Mr. Wyett to remove trees or place a fence on the property.

Vice Chair Flanders opened the item to public comment at 6:15 p.m. There were no comments. The item was closed to public comment at 6:15 p.m.

Motion by member Elzinga, second by member Clock, to approve the license agreement [with Mr. Todd Wyett for the purpose of landscaping improvements on City owned property adjacent to 808 E. Dixon].

^Motion passed by unanimous voice vote.^

VIII. Old Business

A. Second Public Hearing on the 2012 Draft Zoning Ordinance

City Planner Spencer presented the item and reviewed the planned schedule for adopting the revised Zoning Ordinance. The Planning Commission's goal should be to have the ordinance approved and in effect for the next building season. The planned schedule allows plenty of time for the Planning Commission to work on the Ordinance and for the public to comment. Tonight's session will review proposed zoning changes to specific parcels. If the Commission agrees to the proposed changes, then affected property owners will be notified prior to the next public hearing.

Vice Chair Flanders opened the item to public comment at 6:19 p.m.

Richard Hodgson, Irish Boat Shop board member and Charlevoix Yacht Club board member, addressed the Commission concerning the marine commercial overlay district and the status of the draft ordinance. Regarding the overlay district, Mr. Hodgson stated that it is both unnecessary and unfair. The requirement of a special land use review for any use appears to remove any use by right associated with commercial marine property. Added setbacks and use restrictions could unfairly restrict marine operations. Changing the lot coverage limitation from 0% to 50% significantly restricts the use of the property. Mr. Hodgson feels the overlay district should be removed and the three parcels affected should be left in the marine commercial district.

Mr. Hodgson also addressed the question posed by Staff in Article 9, "Building Appearance – is this appropriate for Charlevoix?" His opinion is that it is not appropriate. These regulations would be micromanagement imbedded in the Zoning Ordinance. It can be

argued that it is inappropriate to regulate taste. It would be better to address this issue later, if it becomes an issue, and focus on the essentials of the ordinance at this time to get it approved. The section on landscaping is also overly descriptive and will lead to micromanagement. Mr. Hodgson feels that the section should be scaled back to make it similar to current requirements.

June Cross, owner of Cross Fisheries, noted that the ability to have a restaurant in marine commercial has been removed and she feels it should be included in the ordinance. Planner Spencer noted that it was not intended to remove this use from the district. He agrees that it is an appropriate use in the commercial marine district but also noted that parking for restaurants has been an issue in the past. Ms. Cross warned that having a district with only three parcels could be construed as spot zoning.

Michael Esposito, president of Irish Boat Shop, wanted to reiterate that having two public hearings is not sufficient to be a thorough review of the proposed ordinance and that he looks forward to seeing and being able to comment on the second draft of the ordinance.

Hans Wiemer asked about the Central Business District zoning changes that would only allow two story buildings with a maximum height of 35' and noted that there are three and four story buildings downtown now. Mr. Wiemer asked how height of a building is determined and asked that the Commission consider a "reasonable" definition of height. Vice Chair Flanders explained that height is one of the most difficult areas the Commission has addressed over the years, and that the current ordinance has many details and drawings to help determine height. Mr. Wiemer noted that height issues are similar to width issues: Should stairways, front porches, and side porches be included in the setbacks? Mr. Wiemer would like the Commission to consider using only living areas for determining setbacks.

Shirley Gibson noted that many of the current residential properties are non-conforming and asked how changes to the residential district will affect the non-conforming lots. Planner Spencer reported that the proposed changes bring many properties into conformance. Other properties, which are currently non-conforming and would remain non-conforming, are considered "legal non-conforming." Ms. Gibson asked from what point the setbacks are measured: Planner Spencer noted that the setbacks are measured from the property line.

Hans Wiemer reported that many affluent cities have small setbacks and gave several examples. "Mr. Weimer believes that" smaller setbacks and additional stories in the downtown area may increase in-town population and increase tax revenues.

Michael Spencer addressed some of the points made. The building height for the downtown area has always been 35'. The proposed zoning ordinance does not limit the buildings to two stories. Setbacks are less restrictive than in the current ordinance and are used for air, light, fire protection, and storm water runoff issues. Storm water runoff is one of the issues in the marine commercial district. Parts of the marine commercial district have a municipal storm water system; however, there is no system in the proposed overlay district. There are several ideas proposed in the draft ordinance that do not exist in the current ordinance: These items were not considered in 1978 when the current ordinance was drafted. The proposed overlay district is definitely not considered spot zoning: Spot zoning is almost always a single parcel with impossible restrictions put into place that prohibit development of the property or the parcel is rezoned to something that doesn't match the surrounding zoning. The draft ordinance proposes to permit several special land uses, the purpose being to notify neighboring land owners when changes are being made. This notification could also be accomplished through the Development Plan Review. Landscaping requirements, while common to zoning ordinances, can be scaled back. Building standards may be new to Charlevoix but are common in other cities. The standards do not address architecture, but do dictate what the façade can and should look like. The Commission may want to consider more stringent building and landscaping requirements in high traffic areas and less stringent in other areas of the City.

Upon questioning, Mr. Spencer noted that placing requirements in the zoning ordinance to address dilapidated buildings is unhelpful, since grandfathering applies in zoning ordinances. If the City wishes to address dilapidated buildings, it should be done under the nuisance ordinance.

Valerie Snyder noted that, while special use permits are sometimes the right way to go, the Commission should be cautious about making too many things subject to a special use permit and should remember the rights of property owners. Based on her experience with other zoning ordinances, Ms. Snyder suggested bolding all defined terms to help identify those terms that are defined by the ordinance and also suggested adding a provision to state when a property owner's rights in a permit are vested and when a permit expires.

Hans Wiemer stated that the overall view of zoning is to provide bargaining power to the community. Mr. Wiemer gave several examples of how big cities use their bargaining power.

Vice Chair Flanders closed the item to public comment at 7:11 p.m.

Planner Spencer noted that the draft ordinance allows for zoning as a PUD, Planned Unit Development. If an owner wishes variances from the requirements of PUD zoning, the owner can provide community benefit in exchange for exceptions to the ordinance. The draft ordinance defines the process and potential benefits very well.

Vice Chair Flanders called for a recess at 7:16 p.m.

The Commission reconvened at 7:24 p.m.

Before resuming discussion, the Commission briefly discussed "regular" meeting times and agreed that 7 p.m. is the best time for the majority of members. Longer meetings can be started at 6 p.m.

Planner Spencer reviewed and discussed with the Commission the following zoning changes, which are based on actual current and potential future uses to make or keep the property in compliance with how it is zoned:

- In the industrial district [12506 Taylor Road]: change from Residential to I, Industrial.
- In the industrial district [08676 and 08700 Mercer], next to the Char-Em School buildings: currently Professional Office, change to I, Industrial or leave as P-O, Professional Office? Change to Industrial that doesn't allow for heavy industrial use? In the industrial district, [12800 Taylor Road]: change to I, Industrial or leave as C-1, General Commercial? Planner Spencer asked the Commission if they wanted to consider an overlay district around the Char-Em School building to restrict heavy industrial uses.
 - The Commission generally agreed to notify the property owners that they would be discussing the zoning at the next public hearing.
- [800 Petoskey]: change to C-H, Commercial Hospitality.
- [810, 820, 830, & 840 Petoskey]: change to R-4, Residential Planned High Density
- Weathervane Terrace Hotel [111 Pine River Lane]: change C-H, Commercial Hospitality.
- C&O Club properties [108 - 144 (even) C&O Club Drive]: change to R-1, Residential Low Density.
 - Planner Spencer stated that he doesn't think the change would impact the ability to build a dock (Scenic Reserve allows docks.) Boat Houses are never allowed on Lake Charlevoix.
- Chicago Club and Belvedere Club are currently Residential Low Density. Change to P-C, Residential Private Clubs.
- Charlevoix Manor [201 Meech]: change from single family to R-, Residential Planned High Density
- The Edgewater [100 - 118 (even) Michigan]: change to C-M, Commercial Mixed Use
- The Lodge [120 Michigan]: change to C-M, Commercial Mixed Use.
- Duplex [106 E. Dixon] change to R-2A, Residential Medium Density – Multi-family
- Several parcels near/surrounded by hotels [100 W. Dixon, 107, 109, 111, & 113 Michigan]: change to C-M, Commercial Mixed Use.
- [106 & 110 E. Dixon]: change to R-1, Residential Low Density.
- [125, 127, & 129 Pine River Lane]: change to R-1, Residential Low Density.
- [113, 115, & 119 Pine River Lane]: change to R-4, Residential Planned High Density.
 - June Cross, former member of the Planning Commission, noted that this property had been previously proposed for cluster homes. At that time, the Commission found that there was insufficient parking and insufficient space for fire truck access. Mr. Spencer stated that any development would require review which would include parking and fire access requirements.
- On-Channel, City Owned Property [110, 112, & 116 Pine River Lane]: change to S-R, Scenic Reserve.
- Weathervane Restaurant [106 Pine River Lane]: change to CBD, Central Business District.
 - Member Clock suggested that the zoning change to C-H, Commercial Hospitality and/or that the owner be notified of the proposed change and asked for input. Planner Spencer agreed to notify the owner.
- Supernaw property [206 Petoskey]: change to P-O, Professional Office.
- Performance Engineers [406 Petoskey & 215 Prospect], change to P-O, Professional Office.
- The Commission discussed the zoning of 306 Petoskey, which is currently R-1, and the zoning of other properties along Petoskey Avenue, which would be ideal for business development.
 - Members of the Commission suggested zoning the property as a commercial overlay district. Member Chamberlain suggested that a Petoskey Avenue overlay district would have allowable uses such as a flower shop, professional offices, bed and breakfasts, salons, and other low-intensity uses. This would be most appropriate for the larger parcels. The Commission agreed that they would discuss this idea again at the next meeting.
- City properties, the library, and various parking lots [108 & 211 Park, 102 & 220 Clinton, 103, 204, 206, 207, & 209 Mason, 109 Antrim, 210 & 301 State] changed to PF, Public Facilities.
- Residential properties [106 W. Hurlbut, 319 Antrim & 312 Mason]: change to R-2, Residential Medium Density.
- Hillcrest Apartments [305 W. Hurlbut] change to R-4, Residential Planned High Density.
- Various properties along Bridge Street [100 Belvedere, 602 – 908 Bridge, 1002, 1004, 1006, & 1008 Bridge, 1101 - 1111 Bridge, 1201 Bridge, 1206 – 1302 Bridge] and properties that abut those on Bridge Street [100 W. Hurlbut, 103 W. Upright, 102 W. Lincoln, 100 E. Lincoln, 102 St. Mary's Dr., 102 E. St. Mary's Dr., 101 Wood, 102 Wood, 101 Green, 102 Green] change to C-M, Commercial Mixed Use.

- The Kusina Building [101, 103, 105, 107, & 109 W. Hurlbut] and the school [115 & 119 W. Hurlbut] change to C-M, Commercial Mixed Use.
- Andy's, BASES, Whitley's Carpet, etc. area on the southwest side of town [204 & 208 W. Lincoln, 205 & 207 W. Garfield], change from Industrial to an overlay district, "West Garfield Avenue General Commercial Overlay District."
- Sections of State Street, W. Carpenter, and W. Garfield, [801 – 1103 (odd) State, 1202 – 1224 (even) State, 205 - 215 (odd) W. Carpenter, and 204, 206, & 212 W. Garfield] change from R-2 to R-1, Residential Low Density to allow greater setbacks on these larger lots, which are lower setbacks than in the current ordinance.
- Larger lots along Sheridan [601 – 631 Sheridan, 815 & 819 Whitley, 508 & 512 W. Garfield] change from R-2 to R-1, Residential Low Density.
- Sheriff's Department [1000 Grant]: change to PF, Public Facilities.
- Seelye's Manufacturing, landscaping business, businesses near airport [1209, 1213, & 1217 State, and 210A W. Carpenter]: change to an overlay district "W. Carpenter/State Street Industrial Overlay District".
- Beaudoin office on May Street [1005 May] change to P-O, Professional Office.
- May Street area [1009, 1021, & 1022 May and 203 Rose Lane]: change to R-4, Residential Planned High Density.
- Areas of Rose Lane and May Street [1010 & 1018 May, and 207 Rose Lane]: change to R-2, Residential Medium Density.
 - Planner Spencer noted that these properties would act as a buffer to the neighboring R-1 district if there were apartments built on other areas of May Street and Rose Lane.
- Foster Boat Works, Northwest Marine [202, 206, & 220 Ferry]: currently zoned Marine Commercial Scenic. Change proposed to Marine Commercial. Planning Commission suggested an overlay district "Lake Charlevoix Marine Commercial Overlay District" which allows the same uses as Marine Commercial.
 - Mr. Esposito noted that a principal concern is that the overlay district makes available uses that are currently uses by right into special land uses which require a special land use review. Mr. Spencer noted that one option to the Commission is to remove the special use section and make those uses "uses by right" which may require a development plan review, depending on the project size, instead of special land use review.
 - Mr. Esposito also stated that the changed lot coverage and site design requirements for the overlay district are also concerns for the property owners. Mr. Spencer reminded the Commission that they could (1) remove the special use permit requirements and tweak the requirements of the overlay district, or (2) remove both the special use permit requirements and the overlay district if they choose; however, this would eliminate setback and lot coverage requirements. The intent behind the proposal of an overlay district was to prevent problems of overcrowding on the south side of Round Lake.
 - Mr. Esposito agreed that strict Marine Commercial requirements could create problems and suggested that a compromise could be reached by removing the special use requirement provisions and tweaking the other requirements of the overlay district, namely setback and lot coverage requirements. Lot coverage requirements, which include driveways and parking lots in the new ordinance, are prohibitive at 50%. Planner Spencer stated that all other zoning ordinances that he had reviewed included parking lots and driveways in lot coverage, to help prevent erosion and storm water runoff issues. In other areas of the ordinance, allowable lot coverage amounts have been increased to help accommodate the change in definition that includes driveways, parking lots, and patios.
 - Mr. Esposito stated that he estimates current lot coverage at 55% when including all impermeable surfaces and stated that he expects all three lots on Ferry will be non-conforming in the new ordinance, if left as is.
 - Member Chamberlain suggested that, due to differences in the two areas, Commercial Marine properties on Round Lake should be zoned differently than Commercial Marine properties on Lake Charlevoix. Member Clock noted that this is the purpose of the overlay district, to establish different requirements for the marine area on each lake.
 - Planner Spencer asked the Commission to address specific items one at a time:
 - The Commission agreed that the requirement for special use permits should be removed from the Lake Charlevoix Marine Commercial Overlay District.
 - The Commission discussed changing the overlay district to cover Round Lake instead of Lake Charlevoix, as Round Lake is already "built out." Mr. Esposito stated that he agrees with Planner Spencer on the concept of the overlay and its intent, but not the limits of lot coverage and site design. Planner Spencer concurred that any development could impede lake views and that the lake view stipulation should be removed from this section; however, Mr. Spencer asked that the Commission make a decision on the concept of an overlay district first.
 - The Commission agreed that the overlay should remain; however, specific standards of the overlay need to be adjusted and the site design requirements need to be removed.
- A south side parcel that appears to have been "spot zoned" [100 Overlook.]: change to R-1, Residential Low Density or leave as R-2, Single Family Residential?
 - The Commission agreed to notify the owner of that zoning of this parcel would be discussed at the next meeting.

- Department of Public Works (DPW) Building [209, 211, & 217 Stover Rd.]: leave zoned I, Industrial.
 - Planner Spencer reminded the Commission that the City intends to eventually move the DPW to the same location as the Electric Department Building.
- Kelsey B's [230 Ferry]: change to C-M, Commercial Mixed Use.

Motion by member Felter, second by member Chamberlain, to set a public hearing on November 12, 2012 at 6 p.m. in Council Chambers of City Hall.

Vice Chair Flanders noted that the date is the week right before hunting season begins.

Motion failed 2-4.

Motion by member Elzinga, second by member Chamberlain, to set a public hearing on November 7, 2012 at 6 p.m. in Council Chambers of City Hall.

Motion passed by unanimous voice vote.

IX. Staff Updates

A. Light Pole Bases

The Commission generally agreed that they like the look of the light poles as shown in the agenda packet for use in parking lots, but not on the street, and suggested using Michigan Beach for a pilot program. On questioning, the Commission agreed that they want to continue to see this type of item presented to the Commission.

B. Capital Improvement Policy

Planner Spencer advised the Commission that he would be bringing everything before the Commission until the Capital Improvement Policy is drafted and passed. At this time, Planner Spencer does not have time to draft a policy and explained the difference between the Commission giving a recommendation to Council versus requiring a Development Plan Review.

X. Requests for Next Month's Agenda or Research Items.

None.

XI. Adjournment

Vice Chair Flanders stated that, if there were no objections, the meeting would adjourn. There was no objection.

Meeting adjourned at 9:10 p.m.

Stephanie C. Brown

Deputy City Clerk

Frances Flanders

Vice Chair

Carol A. Ochs

City Clerk