

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, November 7, 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 6:03 p.m. by Chair John Hess.

II. Roll Call

Chair: John Hess
Members Present: Frances Flanders, Toni Felter, Dan Buday, Becky Doan, Judy Clock
Members Absent: Larry Boog, John Elzinga, Sherm Chamberlain
City Planner: Michael Spencer

III. Inquiry Into Potential Conflicts of Interest

None.

IV. Approval of Agenda

Chair Hess asked the Commission if there were any proposed changes to the agenda. There were no comments. Agenda approved as presented.

V. Approval of Minutes

Planner Spencer noted that there were some questions and changes requested by Member Buday that had not yet been addressed by the Clerk's office, and asked that approval be postponed until a revised draft could be presented. There were no objections.

VI. Call for Public Comment Not Related to Agenda Items

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

VII. Old Business

A. Third Public Hearing on the 2012 Draft Zoning Ordinance

City Planner Spencer presented the item and reminded the Commission that, after the last public hearing, property owners affected by re-zoning were notified of the specific change and reason(s) for the change. Mr. Spencer noted that he has received several positive comments from property owners. There will be additional meetings for public comment, but Mr. Spencer hopes to make this meeting the final public "hearing" of the Planning Commission to avoid additional publication costs.

Chair Hess opened the item to public comment at 6:09 p.m.

Tony Duerr, 210 W. Upright, addressed the Commission asking if the proposed changes were appropriate for Charlevoix, considering that we are an old, resort, community. Property diversity lends itself to the charm of Charlevoix; Mr. Duerr believes the proposed zoning ordinance is too restrictive. Mr. Duerr asked that some important terms be included in the definition section (he did not provide examples). The R-1 District prohibits transient housing, defined as housing for rentals of less than one week. Many property owners, especially on the north side, offer short term rentals during the summer or festival week. Mr. Duerr believes the set-backs in the R-2 district are too restrictive and questioned why the proposed zoning ordinance prohibits laundry mats and the preparing and packaging of candies in the Central Business District. Article 9 addresses building appearance standards; Mr. Duerr stated that this type of restriction is not appropriate for Charlevoix. Mr. Duerr questioned the legality of prohibiting all off-premises signs and changeable lettering on a portable sign. Mr. Duerr addressed the banners placed by the City near US 31 on the north and south sides of town. While he feels they have a good public purpose, Mr. Duerr noted that they are illegally placed in or near the right of way, either by Federal or State law. To specifically authorize them in the ordinance when they are illegal by State and/or Federal law, is hypocritical. Finally, Mr. Duerr noted that these are examples, not all the problems he noted. Planner Spencer asked Mr. Duerr to prepare and submit a list of issues, so that everything can be addressed, and stated that the City wants as much review of the document as possible.

Planner Spencer addressed comments made by Mr. Duerr: zoning has been in place since 1941 and it is Mr. Spencer's opinion that zoning has helped make Charlevoix a great community. The Draft Ordinance is a draft and can be changed to meet the needs of Charlevoix; however, many of the sections were based on language from other community zoning ordinances. Mr. Spencer stated that proposed setbacks for residential districts have been reduced. Off-premises signs are illegal in many other cities. Changeable message board signs have been prohibited because many people don't like the "cheap" look of the signs; Mr. Spencer noted that he has received positive comments about the dry erase and chalk message boards that are used downtown. Mr. Spencer stated that the Planning Department will get a legal opinion regarding prohibiting off-premises signs and changeable message boards. Mr. Spencer reported that, while Charlevoix residents have rented their homes for short term in the past, there have also been several complaints made related to short-term renters. Prohibition of candy preparation and packaging is an error in the draft.

Chair Hess assured Mr. Duerr that the Planning Commission is considering the unique qualities of Charlevoix when they review the draft zoning ordinance.

Mr. Seidel, President of the Board for Northwest Academy, asked why the public schools are zoned PF, Public Facilities, and Northwest Academy is not.

Planner Spencer stated that municipal facilities, public schools, public parking lots, St. Marys, athletic fields, County building, have been zoned PF, Public Facilities. The reason that the property currently used by Northwest Academy has been zoned Commercial Mixed Use because it could be used for other purposes. If Northwest Academy should discontinue operations [or relocate], the property could best be used as a Commercial Mixed-Use property instead of limiting it to use as a Public Facility. In its current use as a school the property is exempt from zoning requirements, therefore, how it is zoned does not have any impact on the current use.

Chair Hess noted that the American Legion Hall required rezoning in order to accomplish the sale of the property. Re-zoning the site of Northwest Academy facilitates any future use of the property without limiting its current use as a school.

Ms. Gibson spoke regarding rentals in the R-1 Residential district. Ms. Gibson noted that while owners may intend to rent to a reasonable amount of people, larger houses can be rented to several people, with multiple cars, outside of the control of the owner and causing parking and traffic congestion in the surrounding area.

Tracy Sell, of the Lodge and the Edgewater Inn, spoke regarding the re-zoning of these properties as Commercial Mixed Use. Mr. Sell asked if these properties could be zoned as Commercial Mixed Use and still allow transient rentals, which is how they are currently used as hotels.

Planner Spencer stated that the "transient housing" definition applies to rentals of single family homes and condominiums. Planner Spencer suggested that the proposed ordinance could be changed so that hotels and motels are a permitted use in a Mixed Use Development. If this change is made, no change would be necessary to the definition of "transient housing". Mr. Spencer noted that some of the other properties in this district are unsuitable for hotels/motels, as some properties are not large enough and/or there is not sufficient space for parking. The Planning Commission generally agreed that it would be appropriate to allow hotels and motels on larger parcels in the Mixed Used Development district. The Planner suggested that the Commission consider a minimum lot size for hotels and offered to bring language to the next meeting, both with and without minimum lot size requirements, for the Commission to consider.

Mrs. Birdie Whitley, 311 W. Lincoln, asked what the proposed zoning is for 101 Mason, why four properties located at 204 W. Lincoln are being changed from Industrial to Commercial. [W. Garfield Commercial Overlay District], and if the rezoning at 204 W. Lincoln would affect how the property could be used in the future.

Planner Spencer reported that zoning at 101 Mason is CBD, Central Business District, and is not proposed to change. All properties in the downtown district would stay zoned as CBD. The four properties in the W. Garfield Commercial Overlay District were originally zoned industrial because there used to be dairy and other industrial processing at that location. Because those businesses are no longer there, and the property is located a residential district, it is no longer an appropriate location for industrial properties; however, there are commercial businesses at those locations now. If, as proposed, the properties are rezoned as commercial, industrial uses would not be allowed. Based on verbal comments from the owner of B.A.S.E.S., Mr. Spencer suggests adding the verbiage: "any other use not listed here shall follow the Special Use procedures and the Planning Commission shall look at it on a case by case basis."

Marge Ramsey, owner of Andy's at 205 W. Garfield, asked for clarification between the use between the C-1 and Mixed Use Commercial districts. Ms. Ramsey noted that there is an apartment behind the store now, which would not be allowed in the C-1 district.

Planner Spencer stated that there is little difference between C-1 and Mixed Use Commercial districts. The Planning Commission could consider rezoning the parcels to Commercial Mixed Use instead of rezoning as an overlay district. Either zoning option meets the objective of prohibiting industrial uses on these properties. The Commission generally agreed that the Planner should add language addressing uses of the property not specifically listed.

Members Sherm Chamberlain and John Elzinga joined the meeting at 6:54 p.m.

Glen Holfeld, part-owner of 100 W. Dixon, stated that his property is a residential house, and the zoning is changing from C-1 to Commercial Mixed Use. Mr. Holfeld asked if the zoning change would affect his property use as a residence.

Planner Spencer explained to Mr. Holfeld that, by rezoning the property to Commercial Mixed-Use, the City ensures that commercial entities requiring greater space, such as a gas station or car dealership, are pushed to outskirts of town where the business would be more appropriately located. Residential uses are allowed in both the C-1 and the Commercial Mixed-Use zones.

Todd Holfeld, part-owner of 100 W. Dixon, stated that the property is currently zoned R-4, and asked if it wouldn't be better to keep the property zoned residential? What would be the benefits of changing the zoning to C-M? Would the owners be allowed to rebuild if the home were to burn down? Mr. Holfeld asked about transient rentals on his property.

Planner Spencer noted that, without changing zoning, the property is non-conforming. If the house were to burn down, the owner of a nonconforming structure is allowed to rebuild in the existing footprint and replace exactly what was there. Under the new ordinance, [if the property is rezoned to C-M], a larger footprint would be allowed. If zoned C-M, transient rentals are an allowable use of the property.

Steven Hanson, owner of 113 Pine River Lane, noted that his property is a single family home. Mr. Hansen is looking for reassurance that proposed rezoning will preserve the residential quality of Pine River Lane. Specifically, Mr. Hansen is concerned with the appearance of development on the vacant property and front yard setbacks of High Density developments.

Planner Spencer reported that there is property available for development on Pine River Lane that is almost an acre in size. Changing the zoning to a less intense use, such as Residential Planned High Density (R-4), should alleviate some of the parking issues. Architectural standards can be created and enforced, but some property owners find this too restrictive. The draft zoning ordinance proposes acceptable building façade, but the Planning Commission has heard comments from property owners who state that this is too restrictive and that the City should not be able to dictate what building materials to use. The front yard setbacks in R-4 are the same in the new ordinance as is the old ordinance, which is 40'.

Art Nash, 102 Auld Street, asked if zoning changes will affect the ability to park in the roadway on Pine River Lane.

Planner Spencer reported that zoning changes will not affect the ability to park in the roadway on Pine River Lane.

Mary Eveleigh, 208 E. Dixon, asked if boat houses are allowed in the Scenic Reserve, S-R district. She is concerned about allowing any boat houses on Lake Charlevoix or any additional boat houses on Round Lake. Round Lake has enough boat houses, especially in the S-R district. The S-R district has a purpose: to protect the views and the beaches. Ms. Eveleigh stated that she believes below-ground construction should have grading requirements, and asked the Commission to look at this section of the ordinance. Ms. Eveleigh asked about Article 17, Section 5.178.(10) Use Variances and asked why the City Manager is listed as the contact person. There is nothing in the proposed ordinance to address blighted areas. Ms. Eveleigh's opinion is that proposed setbacks are too permissive and allowing zoning permits to remain active for two years is excessive. Ms. Eveleigh wonders if the classification of the C&O Club as Scenic Reserve was to protect the shoreline and asked how the shoreline would be protected if this area is rezoned. Ms. Eveleigh questioned the way the overlay districts are being used. Ms. Eveleigh encouraged the Commission to pass a Storm Water Ordinance since the City opted not to adopt the County ordinance. Some definitions previously adopted by the Planning Commission are not included in the new ordinance, and the new ordinance includes some definitions not previously included in the ordinance. The Commission should make sure all definitions are clear, legal, definitions. Ms. Eveleigh stated that the issue of electric cars should be addressed in the ordinance.

Planner Spencer stated that boat houses are not allowed on Lake Charlevoix, only on Round Lake. The draft ordinance calls for more uniform standards for boat houses with square footage and height requirements along with a review process that requires Planning Commission review. In both the Belvedere and Chicago Club, there is a restriction to keep any new boat houses in the same "line" as existing boat houses. Planner Spencer agreed that there are many changes when comparing the draft ordinance to the old ordinance: the old ordinance was drafted in 1978 by an attorney and has had many changes "bandaided" over the years. Some changes have been good, others not. The only wetlands to protect in the City are City-owned park property, so they are already protected. The current designation of Scenic Reserve in the C&O club does not make sense, since there are a bunch of single family homes in that area. Single family homes will not be allowed in the Scenic Reserve district, so all those homes will be non-conforming. The purpose of rezoning this area is to zone to actual use. The reference to the City Manager in Article 17 is a typographical error; the section should read "Zoning Administrator" and will be corrected.

Chair Hess closed the item to public comment at 7:33 p.m.

The Commission discussed how to keep the process of passing the Zoning ordinance moving forward efficiently, while keeping the public involved. The Committee decided to use a Zoning Ordinance Sub-Committee to review comments made by the public and the Commission, review the ordinance on a chapter by chapter basis, and make line item recommendations to the Commission. Chair Hess stated that he would poll members after the meeting to determine who wanted to be on the Sub-Committee, the make-up of the committee, and the schedule for the committee.

The Commission reviewed four letters of public comment received by the Commission at the beginning of the meeting regarding the zoning ordinance from the following residents:

- Lois Lewis expressed her support of the proposed zone change for an industrial overlay district on State Street.
- John Fox (representing the Belvedere Club), expressed the Belvedere Club's approval of the proposed rezoning of the Belvedere Club property.

- Charles and Barbara Glueck are opposed to rezoning of their beach property on the east side of the C&O Club driveway to R-1, single family residential.
- Louis Beck, member in the C&O Club, asked several questions regarding the zoning change and reported that, without further information, he is opposed to the change.
 - Planner Spencer reported that he has been in contact with Mr. Beck via e-mail and is attempting to address Mr. Beck's questions and concerns. Mr. Spencer is confident he can resolve Mr. Beck's issues, and will keep the Commission apprised if the situation develops differently than expected.
- William Wyler asked that their property remain zoned Scenic Reserve. They own a home on property adjacent to the three parcels in question and do not want these three parcels developed at all. In the owner's opinion, the parcels are too narrow for development. Mr. Spencer agreed that retaining the Scenic Reserve zoning designation would be appropriate in this case.

The Commission revisited the issue of a Lake Charlevoix Marine Commercial Overlay District v. Marine Commercial for Foster Boat Works and Northwest Marine. The benefit of an overlay district is that setback and lot coverage requirements can be established.

- Michael Esposito, president of Irish Boat Shop, recalled that at the conclusion of the previous meeting the Commission had decided to remove the requirement for special use permits and for scenic view preservation, to keep the overlay district and to discuss lot coverage and set back requirements in the district.

The Commission generally agreed to keep the overlay district and make the lot coverage requirements less restrictive.

IX. Staff Updates

A. Fireplace

Planner Spencer reminded the Commission that there will be a Landscape Architectural Forum at the Library hosted by John Campbell, held on Wednesday, November 14, 2012.

City Council has invited the Planning Commission to their [November 19, 2012] meeting. Architect Mark Buday will be at the meeting to gather information from Council which will allow him to formulate a recommendation on the fireplace.

B. 2013 Infrastructure Projects

There are three projects proposed for the next budget cycle: W. Garfield between Bridge and State Streets, finish Clinton Street, and Lewis Street from Petoskey St to E. Dixon.

Chair Hess called for public comment at 8:04 p.m.

A member of the audience asked who placed the diagram of the fireplace on the plywood covering the fireplace foundation. Planner Spencer stated that John Winn had provided a diagram of the current design of the proposed fireplace.

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

None.

XI. Adjournment

Chair Hess stated that, if there were no objections, the meeting would adjourn. There was no objection. Meeting adjourned at 8:07 p.m.

Stephanie C. Brown

Deputy City Clerk

John Hess

Chair

Carol A. Ochs

City Clerk