

**CITY OF CHARLEVOIX**  
**PLANNING COMMISSION MEETING MINUTES**  
**Tuesday, January 22, 2013 - 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: Larry Boog, Dan Buday, Becky Doan, Judy Clock, John Elzinga, Sherm Chamberlain

Members Absent: Frances Flanders, Toni Felter

City Planner: Michael Spencer

**III. Inquiry Into Potential Conflicts of Interest**

None.

**IV. Approval of Agenda**

Chair Hess stated that the annual election of officers needed to be added to the agenda, and suggested that be the first item under New Business. There were no other changes to the agenda.

**V. Approval of Minutes**

Motion by Member Chamberlain, second by Member Elzinga, to approve the December 10, 2012 minutes as presented.

Motion passed by unanimous voice vote.

**VI. Call for Public Comment Not Related to Agenda Items**

Prior to the meeting, Robert Timms provided an article entitled "Sustainable Development: The root of all our problems" for the Commission's review.

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

**VII. New Business**

**A. Election of Officers**

Chairman Hess turned the item over to Planner Spencer, who presented the item.

Motion by Member Buday, support by Member Chamberlain, to appoint John Hess to the position of Chair.

Motion passed by unanimous voice vote.

Member Doan expressed her interest in being Vice-Chair of the Planning Commission.

Motion by Member Boog, support by Member Chamberlain, to appoint Rebecca Doan to the position of Vice-Chairman. Chair Hess asked if there were any other nominations.

Motion by Member Buday to appoint Frances Flanders to the position of Vice-Chair. Motion died for a lack of a second.

Chair Hess asked if there were any other nominations. There were none. Chair Hess called for a vote on the motion to appoint Doan to the position of Vice Chair.

Motion passed, 5 – 1.

Planner Spencer reminded the Commission that, although the By-Laws call for the election of a secretary, City Staff has always performed this duty for the Commission. The Members had no objection to this practice continuing.

**B. Discussion on Transfer of Development Rights Program**

City Planner Spencer reviewed the Staff Report dated 08/22/12, which was requested by Member Doan and addresses the Transfer of Development Rights (TDR).

Members discussed the advantages of a TDR program and whether or not those advantages could work to the interests of the citizens of the City. Member Doan asked that the Chair poll the Members for their position on TDRs:

- Member Doan noted that most of the litigation in the City is in regards to view protection and feels that TDRs could be used to prevent some of this litigation.

- Member Clock stated that she does not see an advantage to implementing a TDR Program in Charlevoix.
- Member Elzinga declined to comment.
- Member Chamberlain does not see how this program could work in Charlevoix and reported that he had offered a similar suggestion a few years ago, which did not interest the property owners.
- Member Buday considers the program pertinent to Charlevoix.
- Member Boog believes that there are other avenues to achieve the desired results.

Richard Hodgson reported that an agreement similar to a TDR program was used with the Ward's Boathouse. Planner Spencer reported that sometimes property owners come to an agreement on their own; a TDR program is a non-profit administered program designed to promote development and is not intended to protect view corridors.

### VIII. Old Business

#### A. Review of 2012-13 Draft Zoning Amendments

##### (1) Individual Planning Commissioner Comments

(a) Member Boog had no comments.

(b) Member Doan made the following comments/questions:

- Page 6 of the Agenda Packet references a change to the Zoning Map for Sunnysbank Assisted Living facility to conform to zoning. It is currently zoned as R-2, making the facility non-conforming. Has this change been incorporated into the ordinance? Planner Spencer reported that the change has not been made yet and that the topic is up for discussion.
- A definition for an athletic court should be incorporated into the draft ordinance. Planner Spencer stated that a definition may be beneficial, but more important are reasonable restrictions and requirements that would impact any athletic court.
- Regarding Section 5.52. [Medical Marijuana Related Uses], how long is a permit active? Does it require annual renewal? Member Clock reported that, under subsection 15, "all ... caregivers must notify the zoning administrator on a yearly basis if the ... facility is still in operation."
- Section 5.55.(2)(c) indicates that the zoning administrator has the ability to decide whether or not the Planning Commission needs to make a determination on similar uses. Member Doan is concerned that all similar use items may not go before the planner. Planner Spencer clarified that this section allows him to bring items to the Planning Commission when he feels it is advisable.
- Regarding Section 5.46.(4)(c) Day Care, limits operating hours of a day care. Planner Spencer was not aware that Charlevoix has 24-hour daycare. The Commission generally agreed to eliminate this provision.
- Section 5.46.(4)(e) requires screening from abutting residential districts for a daycare. While fencing is a state requirement, Member Doan stated that screening seems an excessive requirement. The Commission generally agreed to eliminate the screening requirement.
- Regarding Section 5.118., Site Plan Review Procedures, Member Doan asked for clarification as to when a Site Plan needs to be reviewed by the Planning Commission. Planner Spencer stated that Level "A" reviews can be approved by the Planner, and may go to the Planning Commission if the Planner feels such a review is necessary. Level "B" reviews will go before the Planning Commission. The Planner reported that the Commission still needs to define the difference between a Level "A" Review and a Level "B" Review. Member Doan asked that additional discussion take place, stating that all Site Plan Reviews should come before the Planning Commission. Member Clock stated that Level "A" and "B" reviews are defined in Section 5.116. Chair Hess stated that reviews of Site Plans due to size of the development that conform to all other requirements, is an unfair impingement on property owner rights. Planner Spencer asked the Members to carefully review this section and be prepared to discuss at the next meeting. Member Buday asked that Members also review Section 5.117., Exemptions.

(c) Member Buday asked for pdf copies of proposed changes. Planner Spencer will forward said changes, and stated that they are also available on the web site.

- Member Buday asked that property owners adjacent to zoning changes be notified of proposed zoning changes. Member Buday has concerns for residential property owners that currently live next to a residential zoned address where the zoning will be changing to Commercial Mixed Use. Planner Spencer stated that only currently zoned Commercial Properties are changing to Commercial Mixed Use. Planner Spencer and Member Buday discussed these concerns and referenced language from the October 8, 2012 minutes "Various properties along Bridge Street... and properties that abut those on

Bridge Street... change to C-M, Commercial Mixed Use.” Planner Spencer will check into these zoning changes and, if the Ordinance does change property zoning from Residential to Commercial Mixed Use, will notify abutting property owners. Because over 100 parcels are being rezoned, notification of abutting property owners would significantly set back the approval process.

- Member Buday does not agree with the proposed zoning change of the parcels currently in use by Northwest Academy [115 & 119 W. Hurlbut], which changes the parcels to Commercial-Mixed Use. Instead, Member Buday feels the parcels should be zoned the same way as other schools [PF, Public Facilities].
- Member Buday reminded the Commission of Ms. Valerie Snyder’s suggestion to highlight or bold any defined term to make it clear that it is a defined term. In addition, in the electronic version of the Ordinance, terms can be hyper-linked back to their definitions.
- Several churches are still zoned something other than Public Facilities P-F. Ensuring that they are zoned P-F will help identify them as such when other projects are proposed nearby.

(d) Member Clock asked:

- Are weddings classified as “church and customary related uses” and noted that these uses are not permitted in the H-C, Hospitality-Commercial, District. Planner Spencer stated that weddings would not be classified as a church or related use, but noted also that the Religious Land Use Protection Act prevents zoning from prohibiting a person’s ability to establish a church. Therefore, it may be advisable to make this an allowable use in all zones.
- Member Clock stated that boat houses should not be permitted along protected shorelines in the residential district.
- The definition of Home Occupation (Major & Minor) conflicts with Section 5.46.(6)(d). The Commission generally agreed to change the definition to match Section 5.46.(6)(d).
- Regarding Section 5.46.(7)(d), is there a minimum height requirement? Member Clock suggested that there should be a minimum height requirement. The Commission generally agreed and decided to revisit this issue at the next meeting.
- Sections 5.46.(10)(c)10. and 5.47.(5)(g)6. reference Township ordinances and should read City Ordinances.
- Section 5.46.(10)(c)15. should indicate that a WECS may be replaced with a WECS “up to” the same height to allow for technology changes.
- Section 5.47(5)(i) allows two years for completion of a construction project. Member Clock feels this is excessive and asked Planner Spencer to research if a shorter time was allowable.
- Should electric charging stations be listed in Section 5.53.(3)(d), or is it referenced by means of “other appurtenances”? The Commission generally agreed that it can be included as an “other appurtenance” and can be addressed on a case-by-case basis. Planner Spencer would like to revisit this issue at a later date.
- Sections 5.65.(3) and (4) do not match Section 5.55.(3)(g)5. Planner Spencer stated that there is a provision in the ordinance that when two sections do not match, the more restrictive provisions apply; however, he will look into this item.
- Regarding Section 5.73., should there be a limit to the amount of time a port-a-potty can be in place? The Commission generally agreed not to address this item.
- Section 5.80.(3)(b) addresses commercial building appearance in a residential district. Member Clock believes that the builder should be allowed to make the building look like a residence, including clapboard siding. Planner Spencer reminded the Commission that the Section may get deleted, as it is a controversial topic. However, he will do additional research and suggested that the item get tabled until a later date.
- Section 5.81. should address maintenance of landscaping, specifically trimming of tree branches that are within six feet of sidewalks. Planner Spencer stated that this is probably an area that should not fall into the zoning ordinance and noted that the Street Department currently trims trees that overhang the sidewalk.
- Should Section 5.81.(2) and (3), addressing mulch, be included in the ordinance? Planner Spencer suggested that this be tabled and Members consider the topic.

(e) Member Elzinga had no comments.

- (f) Member Chamberlain stated that he has been focusing on the zoning districts. Specifically:
- There are some parcels which should be zoned R-2 instead of R-1, mostly on the south side of town. Planner Spencer stated that the Commission would go through the zoning map again at a later date, and could review these concerns at that time
  - Section 5.26. states that site condominiums are not allowed in the R-1 and R-2 districts. Member Chamberlain believes this should be an allowable use in these districts and gave a specific example. Planner Spencer clarified that, in this example, the structures would conform to the R-1 zoning, except that there are common areas and the ownership would be as for condominiums. Planner Spencer asked Member Chamberlain to show him details of the project outside of this meeting and he would look into it.
  - Has Planner Spencer done the requested research on youth hostels and homeless shelters? Planner Spencer stated that he had done some research and planned to address these items first with the subcommittee, which can make a recommendation to the Planning Commission.
- (g) Chair Hess asked:
- Is it appropriate to make fence requirements vary based on the distance from the lot line? Chair Hess suggested that fence permits should be reviewed individually based on height, distance from the lot line, and opacity.
  - Why must accessory structures be placed a minimum of ten feet from any other structure? If zoning requirements are to be based on the safety, health and welfare of the community, how can we justify this requirement?
2. Call for Public Comment  
Chair Hess opened the item to public comment at 7:38 p.m.
- Bob Timms stated that there is a section of Sheridan that is proposed to be rezoned to R-1. Mr. Timms believes this should be zoned R-2.
3. Review proposed changes
- (a) Marine Commercial Overlay District  
Planner Spencer reviewed the history of the proposed district, including the concerns of affected property owners. The Planning Commission's Subcommittee on the Draft Zoning Ordinance is making a recommendation that this overly district be removed. The Subcommittee determined that drainage requirements, one of the primary reasons for an overlay district, are regulated by other governmental entities.
4. Motion to incorporate changes into the draft and republish  
Motion by Buday, second by Chamberlain, to remove the Marine Commercial District from the proposed zoning changes.  
Motion passed by unanimous voice vote.

#### **IX. Staff Updates**

None.

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

Planner Spencer was directed to review or research the following items:

- Review draft zoning map, specifically in relation to residential properties just off Bridge Street that are designated as rezoned to Commercial-Mixed.
- Laws regulating the amount of time to complete construction on a site condominium project.
- Allowable construction materials for site condominium projects, specifically: Should materials be allowed that would make the project more like a residence in appearance (clapboard siding)?
- Definitions of hostels and homeless shelters, and suggestions on where they could be located within the City of Charlevoix. This item should be reviewed by the subcommittee for a recommendation to the Planning Commission.

**XI. Adjournment**

Motion by Member Doan, second by Member Chamberlain, to adjourn.  
Motion passed by unanimous voice vote.  
Meeting adjourned at 7:49 p.m.

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Stephanie C. Brown Deputy City Clerk

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John Hess Chair

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Carol A. Ochs City Clerk