

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING MINUTES
Monday, April 12, 2010 – 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, Michigan

A) CALL TO ORDER

The meeting was called to order by Vice-Chair Flanders at 7:00 p.m.

B) ROLL CALL

Commissioners Present: Dan Buday, Judy Clock, June Cross, Toni Felter, Francis (Brownie) Flanders, and Becky Doan
Commissioners Absent: John Hess (excused) , D. J. Way (excused) and Larry Boog (excused)
Staff Present: City Planner Mike Spencer

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST None.

D) APPROVAL OF AGENDA

Motion made by Member Clock and supported by Member Felter to approve the agenda as submitted. The motion was adopted by a unanimous voice vote.

E) APPROVAL OF MARCH 8, 2010 MINUTES

The Commission reviewed the minutes.

Member Cross asked that the last sentence in paragraph seven on page 2 of the March 8, 2010 minutes be amended to read:

“Commissioner Cross stated that she is against allowing boat houses on the north shore of Round Lake, as people have brought property knowing that there would be no obstructions in front of them.”

Motion made by Member Cross and seconded by Member Clock that the minutes of March 8, 2010 be approved as amended. The motion was adopted by unanimous voice vote.

F) CALL FOR PUBLIC COMMENT (Not related to agenda items) None.

G) NEW BUSINESS

1. Public Hearing on proposed amendments to Title V Planning and Zoning
 - a. Call for public comments

Jennifer Schafer, on behalf of Bridget Brown Powers addressed the Commission. Ms. Brown Powers is the legal representative of Camp, Reis, et al., who have an appeal before the Zoning Board of Appeals. The property owners, who are involved in the ZBA appeal, are opposed to any changes to the zoning ordinance as they relate to boat houses. They also have issues with the new boat house definition. A boat house should be for the exclusive use of boating. The new definition should require that a boat house be a detached accessory building with height limitation of 16'. If boat houses are attached to the principal structure, they can be 26' tall. Boat houses can be a sight obstruction and that is not what people expect in an R-1 zone district.

Ms. Schafer voiced concern about boat houses being allowed to be a maximum of 2,000 square feet. She stated that the proposal is better than the 3,000 square foot boat house currently being appealed to the ZBA, but she'd like to know how Staff came up with the 2,000 square foot figure. Ms. Schafer would

like to see the boat house size reduced. If the R-1 zone district requires the principal residence to be a minimum size of 1200 square feet, then a detached accessory building should also be limited. Ms. Schafer asked the Commission to consider what residents expect to have in the R-1 zone district. Her clients object to the proposed ordinance wording and wish to discuss the proposed amendments further.

- b. Commission review of proposed amendments. The Commission may add, delete, or modify any proposed amendments.

City Planner Spencer reminded the Commission that this is the second public hearing on the proposed amendments and there have been several other public meetings on the proposed ordinance language. The ordinance is being amended to reflect changes in laws, inconsistencies, building methods and economy.

The Planner advised the Commission that he has received calls inferring that the only reason the ordinance is being amended is due to the ZBA's pending appeal. This is not accurate. Any property in the R-1 zone can build a boat house or accessory building. Accessory buildings can be garages, storage sheds or boat houses. The proposed amendment also includes changes to the sign regulations and structure height. It is our intent to have the amendments clear, direct and in tune with the City's common practices. Charlevoix is one of the few communities that still allow boat houses to be constructed. Boat houses do not have a one size fits all format. The City Council will hold a public hearing, hear additional public comments and possibly make changes to the proposed amendment.

The Planner reviewed the various sections with the Commission.

- Definition of Boat Docking Space

Member Cross advised that the definition was created to require on-site parking for people using the docks. The Commission discussed if dock footage figures were needed to define a boat dockage space. The definition was amended by the Commission.

- Definition of Boat House

The Commission reviewed the proposed language. The Planner reminded the Commission that separate regulations should be created for different zone districts. Definitions should be limited to only defining the term. The Commission agreed to amend the definition to have the Marine Commercial "MC" reference moved to Marine Commercial district section of the ordinance. Member Clock asked that the definition not include the word "recreational". The definition was amended.

- Definition of Accessory Structure

The Commission asked that a definition for accessory structure be added. The Planner agreed to locate a sample definition for accessory structure during the Commission's recess.

- Definition of Building Roof

The existing definition for a "building roof" is complicated. The Commission agreed to the use the definition in Webster's Dictionary to define "building roof".

- Definition of Height of Building

The Commission reviewed the proposed definition and its relationship to Section 5.200.

- Definition of Ordinary High Water Mark

The draft definition includes the Pine River Channel and Round Lake into the text.

- Definition of Water Mark

The Commission intended to repeal the definition of “water mark” last year, when the definition of “ordinary high water mark” was enacted. But the section did not get repealed. This has caused some confusion and the definition needs to be removed.

- Definition of Setback

The definition will require all structures, whether above or below grade to adhere to setback requirements.

- Section 5.32(10)

The Commission reviewed proposed ordinance language.

- Section 5.176 Accessory Buildings

The Commission reviewed photos of existing accessory buildings. A detached accessory building is allowed to be 16’ high to the midpoint of peaked roofs. If the detached accessory building were attached or connected to the principal dwelling by a breezeway, the ordinance allows the accessory building to be 26’ high and more than one story. The Commission discussed attached accessory buildings and their required setback requirements. The Commission agreed that an attached accessory building should meet a 20’ rear yard setback.

Member Cross asked if an apartment would be allowed over a garage. The Planner stated that if a special use permit was obtained, a “granny flat” could be built.

The Commission took a short recess at 8:40 p.m.
Meeting reconvened at 8:48 p.m.

- Definition of Accessory Structure

The Planner reviewed proposed verbiage for accessory structures with the Commission.

The Commission discussed boat house requirements. Presently, there are boat houses on the north shore of Round Lake that are bigger and smaller than the proposed 2,000 square feet.

- Section 5.188 (5) Development Plan

The Commission reviewed the text. This language is being proposed by our legal counsel.

- Section 5.200 Building Height

The Commission reviewed the proposed new language for Section 5.200 (6) and (7). Paragraph (6) outlines the use of existing sloping grades to measure building height. The Commission discussed how a building's height would be determined if the parcel had a sloping grade.

Paragraph 7 outlines what is permitted to be above the building's roof. For example chimneys and antennas can be taller than the allowable building height to meet BOCA codes. Turrets will be required to adhere to overall building height requirements.

- Section 5.219 (14) Flags

The proposed ordinance will allow "open" flags to be displayed. The flags will not interfere with pedestrians. The Commission agreed that the flags could be up to 15 square feet.

- Section 5.221(4)(b)

The Planner reported that he has met with the DDA and they voiced support to permit the use of reflective paint on signs. The Commission agreed with the change.

- Section 5.272

The proposed amendment adds the words "intended lot".

Member Cross asked if a performance bond could be required for large residential projects. If there is any damage to adjacent properties, such as soil erosion, the performance bond would pay for any needed repairs. The Planner advised the Commission that the ordinance presently has a performance guarantee for projects that require development plan. A performance bond can also be added as condition to a special use permit. Staff has reviewed other zoning ordinances and found only a few that require a performance bond for neighboring properties.

Member Cross wants the Commission to look at Pine River Channel's zoning. The Planner asked to discuss this and other property zoning changes under the master plan section of the agenda.

c. Motion

Motion made by Member Felter and seconded by Member Buday that the Commission has heard comments, reviewed the proposed amendment, added, deleted, made changes and recommendations and that the Commission accept the changes and recommend the amended amendment (Exhibit 1) be sent to the City Council for their approval.

Motion was adopted by the following yea and nay vote:

Yeas: Member Buday, Clock, Cross, Felter and Flanders

Nays: None

Abstain: Member Doan

Absent: Member Hess, Boog and Way

2. Review of draft vision statement for Master Plan

a. Staff update on master plan process

b. Review of website for Master Plan and timetable

The Planner advised the Commission that Staff is working with LSL Planning on the new Master Plan. They are working on the project almost every day. It is anticipated that the Planning Commission will have a draft plan to review at its June meeting. The draft plan will be reviewed by the County and adjacent Townships for sixty plus days. The land use map is a part of the master plan and individual lots could be re-zoned as a part of the land use map. Staff would like look at re-zoning the Belvedere and Chicago Clubs, as well as the City property along the Pine River Channel.

Staff has located a draft of "Goals, Objectives and Policies" reviewed by the Planning Commission in August 2006. Regretfully Staff can not locate a motion where the Planning Commission approved the document. Planner Spencer is asking that the Commission form a sub-committee to study the language. The Committee will consist of John Hess, Brownie Flanders and June Cross.

c. Discussion on draft vision statement

The Commission reviewed the draft vision statement dated April 12, 2010.

d. Motion

Motion made by Member Cross seconded by Member Clock that the draft vision statement (Exhibit 2) be approved as written. Motion was adopted by a unanimous voice vote.

H) OLD BUSINESS

1. Planners Moments Unit 12 Shoreline Buffers – Item tabled

I) STAFF UPDATES AND CORRESPONDENCE

1. Requests for research to be completed by City Planner. None.

J) REQUESTS FOR NEXT MONTH'S AGENDA.

K) ADJOURNMENT

Motion made Commissioner Cross and seconded by Commissioner Felter to adjourn. Motion adopted by unanimous voice vote.

Meeting adjourned at 9:46 p.m.

John Hess, Chairman

Linda Jo A. Weller, Recording Secretary

Carol A. Ochs, City Clerk

**CITY OF CHARLEVOIX
Ordinance No. ___ of 2010**

AN ORDINANCE TO AMEND TITLE V, PLANNING AND ZONING, CHAPTER 51,
ZONING. MULTIPLE SECTIONS CITED HEREIN.

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Amendment of Sections 5.5, 5.7, and 5.11 Definitions.

The following definitions are hereby amended:

Boat Docking Space: The space along a dock or similar structure where a boat may be moored. Each twenty-six (26) lineal feet of dock space or fraction thereof or sufficient size to dock a recreational boat shall be considered a boat docking space provided that spaces of less than twenty six (26) lineal feet shall be excluded. (See parking requirements in Article IV and Section 5.32(10))

Boat House: A building or enclosed structure used for the exclusive docking and/or storage of boats and other marine equipment.

Building Roof: The upper external covering of a house, or other building.

Height of Building: The vertical distance measured to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height level between eaves and peak for gable, hip, and gambrel roofs, from the specific existing grade line set forth by section 5.200(6) of this ordinance. (For calculation of building height, see section 5.200)

Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the soil and the vegetation. On an inland lake which has had a level established by law, it means the high established level. On a river or stream, the ordinary high water mark shall be the ten year flood limit line. The ordinary high water mark shall be at elevation 581.5 feet (International Great Lake Datum, IGLD- 1985) for Lake Michigan, the Pine River Channel, Round Lake, and Lake Charlevoix. (740§1, 06/15/09)

SECTION 2. Repeal of Section 5.12 definition of "Water Mark"

Water Mark: The water mark shall be at elevation 581.0 NVGD in the location it existed at the adoption date of this amendment.

SECTION 3. Addition to Section 5.5 adding a definition of "accessory structure."

Addition to Section 5.11 adding a definition of "setback."

Accessory structure: A subordinate building or structure devoted to an accessory use on the same lot as the main building.

Setback: The minimum required horizontal distance, extending upward to the maximum building height and downward to the lowest part of any foundation, from the edge of any structure to the applicable ordinary high water mark, or property line of a lot, within which no buildings or structures may be placed.

SECTION 4. Amendment of Section 5.32(10). Allowable uses in R-1.

(10) One boat house per lot subject to Section 5.176(6), docks, boat launch ramps and piers are permitted as accessory structures subject to the regulations provided in this chapter and subject to any applicable federal and state regulations or laws, and providing further that for each one and one-half (1½) boat docking spaces in excess of two (2) spaces, there shall be provided one (1) on-site parking space accessible to the user of the docking space.

SECTION 5. Addition of Section 5.142 (7) Allowable uses in M-C

Boat houses, as defined by this chapter, may be constructed as part of the principal building or may be an accessory structure.

SECTION 6. Amendments and additions to Section 5.176 Accessory Buildings.

5.176. Accessory Buildings.

- (1) Authorized accessory buildings may be erected as part of the principal building or may be connected to the principal building by a roofed porch, patio, breezeway or similar structure or may be completely detached from the principal building.
- (2) Where an accessory structure is attached to the principal building, such accessory building shall be considered part of the principal building for purposes of determining yard dimensions and building height; unless the attached accessory building is connected to the principal building by a roofed porch, patio, breezeway or similar structure. Attached accessory structures located in the rear yard connected to the principal building by a roofed porch, patio, breezeway or similar structure shall not exceed 16 feet in height and shall not be located closer than 20 feet from the rear property line.
- (3) If the attached accessory building is a boat house, as defined by this chapter, the side yard requirements shall apply and there shall be no rear yard setback from the ordinary high water mark.
- (4) No detached accessory building shall be located nearer to a side lot line than the permitted distance for the principal building on the same lot, unless such accessory building shall be completely to the rear of all portions of the principal building, in which case it may be located not nearer than ten (10) feet to any side lot line, except on the street side of a corner lot where a twenty-five (25) foot side yard shall be provided and maintained.
- (5) No detached accessory building, excluding boat houses, shall be located nearer than six (6) feet to any rear lot line, except that when such accessory building shall be a garage which is entered at right angles to an alley, it shall be located not nearer than twenty (20) feet to said rear lot line.
- (6) No accessory building shall project into any front yard.

- (7) Boat houses, as defined by this chapter, shall be considered an accessory building, and shall require a special use permit. Boat houses, as defined by this chapter:
- i. Shall not be located below the elevation of the ordinary high water mark.
 - ii. Shall be a maximum of 2000 square feet in area.
 - iii. May contain one bathroom, which shall not be located over the water.

SECTION 7. Amendments of Section 5.198 Setback from Waterbodies.

5.198. Setback from Waterbodies. Notwithstanding other provisions of this chapter, all principal uses located in the R-1 and R-4 districts shall have a setback of fifty (50) feet from the ordinary high water mark of Lakes Michigan and Charlevoix and Round Lake, as well as the Pine River Channel Marine-Commercial district. (Ord. 593, §1, 03-16-92)

SECTION 8. Amendment of 5.188(5) Development Plan Review

Section 5.188 is hereby amended to read in its entirety as follows:

- (5) The City Council may require that a performance guarantee be furnished to ensure compliance with the requirements and conditions imposed under the City's Zoning Ordinance. The amount of the performance guarantee shall be set forth by the City Council, and shall be an amount acceptable to the City in covering the estimated cost of improvements associated with the project for which zoning approval is sought. This performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or a surety bond, and shall be deposited with the clerk of the City. The performance guarantee shall be deposited at the time of issuance of the permit authorizing the activity or project. The City shall not require the deposit of the performance guarantee before the date on which the City is prepared to issue the permit. The City shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvement as work on the required improvements progresses.

SECTION 9. Addition of Sections 5.200(6) and 5.200(7) Building Heights.

Section 5.200(6) is hereby added to read in its entirety as follows:

- (6) The measurement of maximum allowable building height as it is measured from existing grade is set forth by the following:
- i. On lots with little or no change in grade, building height shall be measured from the centerline grade of the street on which the lot fronts.
 - ii. On lots having an average sloping grade of five (5) percent or less, building height shall be measured from the front of the building line of the proposed structure.
 - iii. On lots having an average sloping grade of more than five (5) percent, building height shall be measured from the average elevation between front and rear building lines or between side building lines, whichever dimension reflects the greater degree of slope.
- (7) In calculating the height of a building, chimneys, plumbing vents, and antennas shall not be considered building roof when their extension above the roof deck is required to meet State or local building, plumbing, and/or safety codes.

Turrets, cupolas, widow's walks, and similar architectural features, not including mechanical equipment, chimneys, plumbing vents and similar appurtenances, shall be considered

building roof for height calculation purposes. The maximum height of turrets, cupolas, widow walks, or similar architectural features shall not exceed the "height of building, overall" as defined by Section 5.7

Intrusions below grade about the building for stair or window wells, courts or yards, designed in basements or cellars, to accommodate the minimum glazing area requirements of the BOCA/National Building Code shall not be considered when calculating building height. Building height for buildings having ground floors in two (2) or more horizontal planes at differing elevations may be calculated as if each ground floor plane area were a separate building.

Section 10. The addition of 5.219(14) Signs Excluded from Permits and the amendment of Section 5.221(4)(b) Illumination/lighting of signs:

Section 5.219(14) is hereby added to read in its entirety as follows:

- (14) One (1) commercial flag per business in the CBD, no larger than 15 square feet, which only states "Open". The "Open" flag shall be placed in a location where it does not interfere with pedestrian traffic.

Section 5.221(4) is hereby amended to read as follows:

- (b) Signs must be lighted indirectly and not internally. Indirect lighting shall be directed either downward or upward onto the sign face and shielded so that it illuminates only the sign face and does not shine directly into a public right-of-way or residential premises. Signs may be illuminated using a high intensity reflective surface or lettering.

SECTION 11. Amendment of 5.272 Zoning Permits

Section 5.272 is hereby amended to read as follows:

No building or structure shall be erected or installed on any such lot, unless or until a zoning permit has been issued by the city for such building or structure. No permit shall be issued by the City of Charlevoix or any official thereof for the construction, erection, alteration, placing or moving of any building or structure on any parcel of land unless such structure or building is designed and the proposed location on its lot, or its intended lot, is arranged to conform with the provisions of this chapter, except that no permit shall be required for alterations which do not result in change in height, floor area, lot coverage, location of walls or other structural alterations.

SECTION 12. Severability.

No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 13. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment by the City Council.



EXHIBIT 2

CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720

VISION STATEMENT

Charlevoix will strive to be the focal point for the region and build on its distinctive character, downtown, and diverse neighborhoods; while respecting its unique setting and environment and creating a foundation for future economic prosperity and personal success.

This vision will be realized by actively working toward the following overarching community goals.

- A commitment to establishing a diverse, regional economic development strategy that preserves and enhances our area as a tourist and second home destination, but also evolves to encourage year-round sustainable business development in Michigan's new economy.
- Cooperation and collaboration with surrounding municipalities, governmental agencies, non-profits, and private sector organizations on a variety of issues such as land use planning, economic development, transportation, public services and amenities, infrastructure replacement or expansion, and natural resource protection.
- Providing high quality public services, infrastructure, utilities, and amenities to our community in a sustainable, open, and cost effective manner.
- A commitment to protecting natural resources and achieving high environmental standards in municipal facilities, utilities, stormwater management, land use policies, and educating the public.
- Establishing policies that protect and enhance Charlevoix's small town character, unique downtown, cultural and historic resources, and scenic beauty.
- Establishing policies that encourage higher density, infill development of vacant land, and/or redevelopment of properties consistent with surrounding land uses and neighborhood character.
- A commitment to following smart growth principles including pursuing mixed uses downtown, making development decisions predictable and cost-effective, providing alternative forms of transportation and a walkable city, a variety of housing options, expanding cultural and recreational activities in City parks, and encouraging community participation in planning and development decisions.