

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING MINUTES
Monday, October 10, 2011 – 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, Michigan

A) CALL TO ORDER

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

B) ROLL CALL

Commissioners Present: Larry Boog, Dan Buday, Sherm Chamberlain, Judy Clock, Becky Doan, John Elzinga and John Hess
Commissioners Absent: Francis (Brownie) Flanders (excused) and Toni Felter (excused)
Staff Present: City Planner Mike Spencer

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST – None.

Sherm Chamberlain advised the Commission that he has worked for Nick White in the past and surveyed the property at 211 Ferry Avenue several years ago but he has not done any work recently. The Commission concurred that a conflict of interest was not present.

D) APPROVAL OF AGENDA

The Commission approved the agenda as presented.

E) APPROVAL OF SEPTEMBER 28, 2011 MINUTES

The Commission reviewed the September 28, 2011 minutes.

Motion made by Commissioner Boog and seconded by Commissioner Clock to approve the September 28, 2011 minutes as presented. Motion was adopted by unanimous voice vote.

F) CALL FOR PUBLIC COMMENT NOT RELATED TO AGENDA ITEMS - None

G) OLD BUSINESS – None.

H) NEW BUSINESS

1. Project 2011-07DP Mixed Use Development at 211 Ferry Avenue

City Planner Spencer reviewed the development plan with the Commission. The property is zoned commercial and is a mixed use development as it will have a single family residence on the second floor and offices on the main level. There are many different uses surrounding the site – residential, commercial, offices and condominium.

The existing building will be removed and the new structure will have a slightly smaller footprint. A storm water management plan has been submitted as there isn't a storm sewer in the area. The Planning Department has received a couple of concerns from adjacent property owners about maintaining their views of Lake Charlevoix. Representatives of the Yacht Club, which is located adjacent to the site, stopped by the office to review the plans and to ensure that there were no conflicts with their operation. Mr. Spencer presented a couple of e-mails to the Commission. The Fire Chief has recommended that a fire suppression sprinkler system be added to the building.

The building will not be heavily used. The proposed offices will be used for computer equipment and staff will work on the computer network and its hardware.

a. Applicant presentation

Architect Nick White reviewed the project with the Commission. A recent change in the zoning ordinance (Chapter 51, Section 5.87) allows mixed use developments in the C-1 zone district. The proposed building will be an additional 20' from the rear residential properties. The second floor will be used as a single family residence. The main floor will be serviced daily. There are two garage areas that will house four vehicles. Yacht Club and Mr. Yenglin share a common drive.

b. Call for public comments

Marlene Maltese 104 Terrace Street addressed the Commission. The proposed building will block her Lake Charlevoix views. She read a letter to the Commission. Her house is a duplex and is taxed on her view. She asked that her existing view be maintained and the proposed building be lowered. She asked that the City require the Ferry Avenue property owners to clean up and trim the brush/trees at the back of their property and return the Lake Charlevoix views to them (Terrace Street property owners).

Barb Kluczynski, 108 Terrace spoke to the Commission. She is disappointed that the height of the structure will block her view of the lake. She asked if Mr. Yenglin would consider lowering the building's ceiling height to allow the overall roof height to be lowered. She does not wish to lose her view of the lake and have lower property values.

No other public comments were made.

c. Planning Commission determination of findings of fact

The Commission reviewed the project.

Commissioner Chamberlain has reviewed the site. The trees that are blocking the view are not located on the Yenglin property. The trees that are blocking the view are on an adjacent property. The building will have some impact, but the trees are the big problem and they are located on various lots.

Commissioner Buday asked for clarification on the issues raised in the Eppinga's letter. Mr. White confirmed that the building size has been decreased 20'. The gable on the south side of the building will impact the adjacent neighbor's views, but roofs have been sloped away from the neighbor's property to minimize the roof's impact. The current bluff height is 18' above the ground level. The building complies with the Code. Commissioner Buday asked for information on the parking requirements. City Planner Spencer advised the Commission that the Code requires 6 parking spaces and the applicant is providing 7 spaces.

Commissioner Clock asked for confirmation on the building's height. City Planner Spencer advised the Commission that the building is presently at the maximum height allowed by the Code.

Commissioner Boog asked for details on the building's height. Mr. White advised the Commission that the overall building height is 31' 10". The ordinance allows the building to be measured at the mid-point of the roof. The building will be approximately 12' higher than the existing building.

Commissioner Doan asked if the Terrace Street residents would lose their view. City Planner Spencer stated that he did not know. There are other objects that are obscuring the view. The City does not have an ordinance that regulates and protect views. In the past, property owners have worked with one another to maintain their views. The new building elevation will change the view.

Mrs. Maltese of 106 Terrace showed the Commission pictures of her property and its view. She stated that the view will be eliminated by the proposed building.

Mrs. Kluczynski of 110 Terrace advised the Commission that feels that the proposed building will remove her view too.

Mr. White stated that the proposed roof has a 5/12 pitch. The roof will be sloped to minimize the building's impact on views.

Commissioner Doan asked if there were any precedents on retaining views. City Planner Spencer stated that if the building meets the ordinance the building is approved. It is very difficult to regulate views. The building is 26' high at the midpoint of the roof and complies with the ordinance.

Commissioners Elzinga also expressed concern about the possible loss of views. He feels the Eppinga's will still be able to see the lake. The Terrace Street properties are quite bit away from the lake and at the time the homes were purchased there was a nice view but as things were built, the view was blocked.

Commissioner Clock asked for information on existing building ridge lines. Nick White advised the Commission that the existing building is 100' deep and the proposed building will be 80' deep. The existing ridge line is 100' long and the new building has proposed ridge line of only 25'. The first floor has a 10' ceiling and the second floor has a 9' ceiling, which are not excessive.

Commissioner Buday asked if the proposed gable was only decorative. Nick White told the Commission that the gable on the south side of the building is in place to shed water from the south entrance and to keep water from pooling at the door.

Chairman Hess asked if the building had a proposed firewall. Mr. White advised that no firewalls were proposed.

Chairman Hess asked if there were any other appurtenances proposed for the roof area (i.e., widow's walk). Mr. White stated that no additional items were planned to be on the roof.

Chairman Hess asked who owns the easement located adjacent to the south line of the property. Commissioner Chamberlain stated that there is a gap in the legal descriptions and there is a 10' strip of land south of Yenglin's that is not titled to the applicant.

Nick White informed the Commission that Mr. Yenglin is planning to remove the two existing trees located west of the existing building. The Commission reviewed the drainage plan and the location of the trees. The land to the south of the applicant's property has a number of trees.

Chairman Hess asked if the City could draft a letter to the Register of Deeds which confirms that the building is only allowed to have a single family residence.

Commissioners Boog asked the applicant to consider removing the roof gable and creating a roof for the south entrance so that the gable would not impact the views. Mr. White stated that he'd discuss it with the owner.

Commissioner Doan asked if the building roof could be lowered to accommodate the neighbor's view. Mr. White stated that the roof can not be lowered; the roof has been designed using a minimum pitch.

Commissioner Buday asked if the lot had any slope. Mr. White advised that there is a bluff in the rear yard area, but the building will be east of the bluff. The building will be located on a flat area.

The Commission reviewed the Development Plan approval is based on the standards outlined in Section 5.188 (2) of the ordinance.

- (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 Diversified Planning Development Plan application does comply with the site related requirements of the C-1 zoning designation and all other site related requirements of this zoning ordinance. Sections 5.82(19) and 5.102(3), 5.102(6), and 5.87(1) allow for mixed use developments with a single family residential dwelling over professional offices. The plans meet all setback and height requirements for the Professional Office district, which applies to mixed use developments in a C-1 zone. All other minimum standards included in Article V General Provisions have been met. The site plan delineates the required 6 parking spaces in accordance with Section 5.214(4)(c). A landscaping plan has been provided meeting the minimum requirements of 5.202.

- (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 Diversified Planning 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 September 26, 2011 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. The recommendations provided in the grading and storm water management plan, completed by Performance Engineers, will adequately disperse storm water so that neighboring properties and the City right-of-way will not be affected. The City Fire Chief recommended that the structure include a sprinkler system meeting NFPA requirements since there are offices and residential uses within the same building.

- (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 Diversified Planning 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 Diversified Planning 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 two entry points to the property and a shared drive with the Charlevoix Yacht Club to access the rear portion of the structure in the event of a fire. The driveway approaches are 12' wide which is a 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 Diversified Planning Development Plan application is compatible with adjoining property and land uses. The area proposed for construction is flat and steep slope on the west portion of the property will be stabilized by a retaining wall, identified on the site plan. The landscaping plan is consistent with the surrounding landscape. The Planning Commission finds that this standard has been met.

d. Motion

Motion made by Commissioner Clock and seconded by Commissioner Elzinga to approve Project 2011-07 DP with conditions that a sprinkler system be added to the building and that a deed restriction be placed on the property that the building is limited to a single family residence and based on specific findings of fact that prove the project does meet the review standards in 5.188(2.) Motion was adopted by a unanimous voice vote.

The Planner offered to write a letter to the property owners on Ferry Avenue asking them to work with the Terrace Avenue property owners to trim the brush/trees to improve their views.

I) STAFF UPDATES

1. Miscellaneous Items

City Planner Spencer reminded the Commission that the November Planning Commission meeting will be held on November 2nd.

The Planner is working on the Commission's research items and hopes to have it completed before the next meeting.

2. Update/Discussion on Zoning Board of Appeals membership

The Commission discussed the vacant Zoning Board of Appeals position and whether a Planning Commissioner should sit on the ZBA. The majority of the Commission feels that a Planning Commissioner should sit on the ZBA. The item will be on the next agenda.

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING MINUTES
Monday, October 10, 2011 -- 7:00 p.m.
Page 6

J) REQUEST FOR NEXT MONTH'S AGENDA OR RESEARCH ITEMS

K) ADJOURNMENT

Motion made by Commissioner Chamberlain and seconded by Commissioner Doan to adjourn. Motion adopted by unanimous voice vote.

The meeting was adjourned at 8:14 p.m.

John Hess, Chairman

Linda Jo A. Weller, Recording Secretary

Carol A. Ochs, City Clerk