

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING MINUTES
Monday, May 9, 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 7:00 p.m.

B) ROLL CALL

Commissioners Present: Dan Buday, Sherm Chamberlain, Judy Clock, June Cross, Becky Doan (arrived at 7:10 p.m.), and Toni Felter, Larry Boog, Francis (Brownie) Flanders, and John Hess

Commissioners Absent: None

Staff Present: City Planner Mike Spencer

City Planner Spencer informed the Commission that Commissioner Doan planned to arrive to the meeting late.

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST – None.

D) APPROVAL OF AGENDA

The Commission approved the agenda as presented.

E) APPROVAL OF APRIL 11, 2011 MINUTES

The Commission reviewed the April 11, 2011 minutes.

Chairman Hess entertained a motion to accept the April 11, 2011 minutes as written. A move by Commissioner Clock and seconded by Commissioner Chamberlain to approve the April 11, 2011 minutes. Motion was adopted by unanimous voice vote.

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

G) OLD BUSINESS

1. Review of Zoning Amendments

a. Staff Updates.

Chairman Hess asked for an update from staff.

City Planner Spencer reviewed portions of the discussions from the previous Planning Commission meeting and public hearings on the proposed zoning amendments. The Planning Commission and staff felt that more time was needed to solicit additional public input and time to review the amendments. The discussion was tabled until a full Commission was available.

The City Planner noted that previous meetings included discussions regarding open store fronts downtown. The City Planner outlined various phone calls he had recently received from prospective renters and/or buyers for said store fronts. City Planner Spencer said that he was unaware of any official occupancy in these buildings, but that interest has begun to increase. The City Planner also noted that there had been recent questions regarding the “Central Business District” area and its associated

boundaries. It was explained that the CBD's boundaries include the east and west sides of Bridge Street, from Antrim Street (being the southern boundary) to the Drawbridge (being the northern boundary).

Recording Secretary Note: Commissioner Doan entered the meeting at 7:10 p.m.

- b. Call for public comments.

Chairman Hess asked for public comments related to the agenda items.

Amendment #1 – Revising Section 5.46.

Ms. Dupont is the owner of Round Lake Bookstore and a member of the Retail Committee. Ms. Dupont outlined recent conversations the Retail Committee has had regarding the proposed amendment language. The Retail Committee decided that the language is vague and gives opportunity for more creativity with regard to stores and services on Bridge Street. Ms. Dupont stated that with a broader description of allowable retail allows for a variety of retail oriented businesses downtown. Further, Ms. Dupont is concerned that if offices are allowed on the main floors of downtown buildings parking will become an issue, leaving less open spaces for the retail shops. Ms. Dupont added that she used to visit Charlevoix as a boater and did not have the use of a vehicle, thus making retail shops within walking distance of downtown a necessity. Ms. Dupont closed with a statement asking the Planning Commission to not consider anything other than food or retail businesses downtown.

Jacque Dipert is the owner of The Clothing Company and a member of the Retail Committee. Ms. Dipert outlined the fact that downtown retail businesses rely on the summer traffic and without the summer traffic, retail business would not be able to survive. Ms. Dipert went on to discuss the vibrant weekends and nights that keep people excited to walk around downtown. Ms. Dipert expressed concern that if professional offices such as beauty shops and tour guides are allowed downtown, many of these types of businesses do not stay open late or on weekends causing there to be more dark store fronts than are already downtown. Ms. Dipert closed with a statement asking the Planning Commission to keep retail and food businesses downtown and to not allow professional offices. Ms. Dipert suggested using the phrase "primarily retail" in place of the current language of "strictly retail" in the zoning ordinance.

Kirby Dipert is the owner of Charlevoix Wear and Color Wear and a member of the Retail Committee and Downtown Development Authority. Mr. Dipert mentioned that he had spoken to the Planning Commission several times in the past and wanted to provide a recap of his recent conversations with the Commission. Mr. Dipert mentioned that the City of Charlevoix Zoning Ordinance passed in 1978 allowed "strictly retail on the first floor of the central business district/Bridge Street buildings." Mr. Dipert pointed out that this section of ordinance went through minor modifications in 1991 and kept its overall intent "to create a vibrant retail district downtown." Mr. Dipert stated that the DDA has reviewed and evaluated the proposed changes provided by the City Planner and some members agreed with portions of the proposed language while other senior members would like to see the language either unchanged or modified to say "primarily retail purposes on the downtown business district first floor." Mr. Dipert mentioned that during the last Planning Commission meeting he attended, the members were divided on their interpretation of the amended language provided by the City Planner. Mr. Dipert mentioned conversations he had in the past with HyettPalma, Inc., who were hired to "evaluate downtown" Charlevoix, and HyettPalma, Inc. applauded the retail community on Bridge Street for staying "strictly retail." HyettPalma, Inc. advised that the City of Charlevoix look to side streets, such as State Street, for locations of service related business close to downtown but still keeping Bridge Street "strictly retail." Mr. Dipert went on to say that he thought the current attempt to make the zoning ordinance more clear only made it more unclear, creating too many "what if scenarios." Mr. Dipert gave an example of a "what if scenario" stating that a beauty shop could be considered a salon to one person and a tattoo or body piercing parlor to another. Mr. Dipert

recommended keeping the current language in the zoning ordinance or amending the language to read "primarily retail" rather than "strictly retail" as proposed by the Retail Committee.

Mary Eveleigh is a resident of Charlevoix and serves on the City of Charlevoix Zoning Board of Appeals. Ms. Eveleigh stated that she had worked in the retail industry in downtown Charlevoix for eight years. Ms. Eveleigh stated that she agrees with Ms. Dipert that downtown Charlevoix is vibrant at night and that "non-retail" businesses would cause store fronts to be dark at night taking away from the beauty of the city. Ms. Eveleigh feels that retail shops keep Charlevoix beautiful and keep people coming downtown. Ms. Eveleigh stated that people come downtown specifically for the food and retail businesses. Ms. Eveleigh mentioned that she had attended the "Cool Cities" public meetings in the past and that Charlevoix was commended for keeping retail downtown. Ms. Eveleigh stated that she understands that store fronts need to be filled but that they should stay "strictly retail."

City Planner Spencer explained that the proposed amendment language permitted uses do not include professional offices other than those outlined in "subsection (g) Travel agencies and/or tour guide offices." The City Planner stated that "allowable uses" are directly listed in the amendment and he does not believe that they make the language any more vague than saying "primarily retail," as the Retail Committee proposed. City Planner Spencer went on to say that the current meeting's intent is to clarify the zoning ordinance, and that his decisions are based on the best intent of the community. The City Planner stated that the City staff or Planning Commission cannot dictate store hours but do have noise ordinances and restrictions in place as general guidelines within the City Code.

c. Planning Commission discussion.

Chairman Hess asked for discussion from the Planning Commission.

Chairman Hess stated that government should not be involved in making store hours mandatory but that the Downtown Retail Association is more than welcome to get together and try to regulate store hours as they see fit.

City Planner Spencer provided the Commission with a description of the current City of Charlevoix Zoning Ordinance, specifically Section 5.96.

Commissioner Cross agrees with most of the amended language and mentioned that in the past, beauty shops in the downtown area have stayed open late and sold retail product. Commissioner Cross stated that filling the empty storefronts would be good for property owners as well as consumers.

Commissioner Chamberlain stated that he was in favor of the amended language and thought that the addition of professional offices downtown would bring people into the City. Commissioner Chamberlain mentioned that a lack of downtown parking was an issue in the past but the recent addition of the public lots eases the tension on the Central Business District. Commissioner Chamberlain acknowledged that large amounts of money have been spent on the seasonal community in Charlevoix in recent years but there are still vacant storefronts.

Commissioner Boog stated that he thought if parking spaces were full from patrons visiting professional offices it may take business and traffic away from the downtown retail community.

Commissioner Flanders stated that he thought more boating services were needed near downtown to appeal to seasonal boating traffic at the City Marina. Commissioner Flanders would like to see these types of businesses close to downtown on side streets but not on Bridge Street. Commissioner Flanders

stated that he supports the Retail Committee's proposed amended language or would approve of the Zoning Ordinance staying in its current form.

Commissioner Clock stated that she understands the current issues facing the downtown retail community but would like to further define what are considered "allowable uses" in the proposed amended language.

City Planner Spencer stated that restaurants are considered to be "services" and not "retail" according to the United States government's definition. The City Planner went on to say that the current language in Section 5.96 of the zoning ordinance states that "strictly retail" is allowed downtown.

The Retail Committee agreed that they have no issues with food service being included in the Central Business District and considered part of the "strictly" or "primarily" retail language.

Commissioner Doan stated that she agreed with the current "strictly" retail language in the Zoning Ordinance. Commissioner Doan stated that her exception to the current language is for beauty salons and barber shops to be allowed on Bridge Street downtown.

Commissioner Buday stated that he would like to see the definition of "retail" in the Zoning Ordinance and City Code. Commissioner Buday went on to say that the City needs to help provide a vibrant retail, food service, etc. community but that "permitted uses" may need to include the phrase "not limited to." Commissioner Buday posed the question to staff: Are "ebay" shops considered retail? The City Planner answered by saying, "ebay" shops are not retail in his opinion but his opinion may not be the same as others involved in the current discussion. Commissioner Buday mentioned to City Planner Spencer that if a business was not included in the "allowable uses" section of the ordinance, the prospective business should be able to seek an interpretation if their business fits in the definition of "allowable uses."

Commissioner Felter asked if it would be possible to incorporate the phrase "primarily retail" in the language because she thought it would be best to somehow give "retail" businesses first options and opportunities downtown. The City Planner stated that it is difficult to say that any one business is more "retail" than another. Commissioner Felter agreed with the proposed amended language, although she would like to remove "professional offices" from the "allowable uses."

Mr. Dipert (Retail Committee member/public) stated that to create a vibrant primarily retail and food service community, other possible retail options will need to be listed in the language. Mr. Dipert mentioned that the DeWitt parking lot has opened additional parking for everyone in the downtown retail district. Mr. Dipert felt that businesses such as, specialty grocery stores, butcher shops, health food stores, etc. would fit into the Retail Committee's proposed language and allowable uses.

Chairman Hess stated that he did not believe hair salons and barber shops created more people moving around and shopping downtown. Chairman Hess thought that bike shops, hair salons, bait shops, etc. would be best suited on side streets and not on Bridge Street. Chairman Hess mentioned that he would like to see retail businesses with specific bags and people walking around holding the bags promoting business downtown.

City Planner Spencer stated that hair salons were included in the proposed amended language due to the mass number of weddings in Charlevoix and Castle Farms during the summer season. City Planner Spencer feels that the wedding party would spend time downtown at the salons and in turn, shop at other retail and food service businesses.

The Retail Committee members in the audience stated that their proposed language would also include: "create a vibrant retail district downtown by encouraging primarily retail and food service businesses."

Chairman Hess stated that he does not agree with the language of “encouraging primarily retail.” The Chairman feels that the language is too vague and open to potential lawsuits versus the City. Chairman Hess feels that the “allowable uses” need to be directly defined in the zoning ordinance and that it would be conducive to define the word “retail” directly in the ordinance as well.

City Planner Spencer proposed the amended language: “To create a vibrant downtown district consisting of primarily retail and food service businesses that enhance the City’s economy by defining the specific uses intended to increase consumer traffic.” The Planning Commission agreed with this language and subsections (a), (b), and (c).

Commissioner Doan proposed moving “Internet Cafés” from subsection (h) to (a). The Commission agreed to move the subsection from (h) to (a).

City Planner Spencer explained that the intent of the amended language is to provide for “smaller scale consumer product.”

Commissioner Buday suggested changing the language in subsection (a) from “food service and beverage uses” to “food and beverage services” and, subsection (b) remove the word “selling.”

The Commission agreed to keep subsections (a), (b), (c), and (d) and submit to Charlevoix City Council for review. The Commission agreed to remove subsections (e), (f), and (g) from the proposed amendment language.

City Planner Spencer explains his reasoning for the language in subset (3) stems from the potential need for future review of business that have not yet been discussed or invented.

Chairman Hess asked City Planner Spencer if special uses attributed to Section 5.96 of the Zoning Ordinance can be put in front of the Zoning Board of Appeals. The City Planner explained that special uses would be presented to the Planning Commission and the Circuit Court only, not the ZBA.

Amendment #2 – New Section 5.87, Standards for Mixed Use Developments. The City Planner reiterated that parking standards will hold true within Section 5.87. Commissioner Buday suggested changing the language within the amendment from “Commercial Service Commercial Zoning District” to “Commercial Service Zoning District.”

Amendment #3 – Revising Sections 5.43(3) and 5.48(3). The City Planner discussed his view on side versus front yard setbacks on corner lots exclusively. City Planner Spencer explained that the current Zoning Ordinance is extremely restrictive, using 35 foot setbacks (in R-1 zoned districts) and currently making most corner lots in the City non-conforming. City Planner Spencer stated that approximately 80% of the cases reviewed by the ZBA are on corner lots. The City Planner also discussed potential parking issues with corner lots and stated that alleys have different provisions from typical setbacks.

Chairman Hess entertained a motion to recommend approval to City Council of Amendments 1, 2 and 3. A motion was made by Commissioner Cross and seconded by Commissioner Chamberlain to recommend approval to City Council of Amendments 1, 2 and 3.

H) NEW BUSINESS

1. Presentation on Form Based Codes: Judy Clock

Commissioner Clock presented a project on "Form Based Codes" (FBC's). Commissioner Clock is currently in the process of working toward her "Master Citizen Certification" through the Michigan State University Land Policy Institute.

Commissioner Clock explained that there are two main facets of Form Based Codes. First, form structure looks at residences and business sharing the same building, and second, looks at what the code looks like (text, photos, etc.).

Commissioner Clock gave a brief history of FBC's and came to conclusions regarding her views of the future of FBC's. The Commissioner believes that due to the fact that the code is going to be rewritten, there is a great need to properly install FBC's using photos and diagrams. Commissioner Clock also stated that the entry and exit to the City, US 31, needs to be a main focal point of the new code because it is the first and last impression visitors receive when entering or exiting the City. The Commissioner also mentioned that there is a need to address the infill issues the City is currently facing, making some lots nearly unbuildable. Commissioner Clock posed questions such as: What would the City do when rebuilding after an event such as a major fire? What will the new designs look like and follow? How can the Charlevoix Industrial Park be accessed without a vehicle? How will FBC's be administered in the industrial zoning areas? Should residential neighborhoods have a similar look? Finally, Commissioner Clock stated that the US 31 corridor needs to be addressed immediately.

City Planner Spencer thanked Commissioner Clock for her research and presentation. The City Planner stated that City Staff needs to make decisions on where to enforce and apply FBC's within the City, such as downtown, the commercial district (downtown to M-66), and within streetscapes (curb and gutter). City Planner Spencer explained that the City does not currently address individual neighborhoods but only zones within the ordinance. City Planner Spencer noted that generally FBC's result in more attractive neighborhoods, better public safety, higher property values, and allow for a more detailed look at individual areas.

City Planner Spencer also noted that if FBC's are introduced in the City development plans will not go through the Planning Commission for review but instead, directly to the City Planner. The City Planner suggested paying close attention to market values and make sure to have options before installing FBC's.

City Planner Spencer provided an update on the Parks and Recreation Master Plan. The City Planner stated that the Plan will likely be presented to the Planning Commission in June 2011 and staff would be expecting comments on the plan.

2. Planners Moments: What is place making? – Tabled

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

J) ADJOURNMENT

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

The meeting was adjourned at 8:50 p.m.

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John Hess, Chairman

Patrick Kilkenny, Recording Secretary

Carol A. Ochs, City Clerk