

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Tuesday, April 23, 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 6:00 p.m. by Chair John Hess.

II. Roll Call

Chair: John Hess

Members Present: Toni Felter, Dan Buday, Becky Doan, Judy Clock, John Elzinga, Sherm Chamberlain

Members Absent: Adam Whitley

City Planner: Michael Spencer

III. Inquiry Into Potential Conflicts of Interest

None.

IV. Approval of Agenda

No changes were requested by the Commission.

V. Call for Public Comment Not Related to Agenda Items

Chair Hess opened the meeting to public comment at 6:04 p.m. There were no public comments.

VI. New Business

A. Public Hearing on the 2013 Draft Zoning Ordinance

(1) Staff Updates

Planner Spencer advised the Commission that legal review had been delayed due to illness; therefore, an additional Public Hearing will be required to review legal counsel changes. As Planner Spencer reviews legal counsel's changes, he will only be pointing out to the Commission those changes that are substantive. Changes that are minor or grammatical will not be specifically identified.

(2) Call for Public Comment

Chair Hess informed the audience that he would like to receive comments as issues or topics arise. This will keep the flow of discussion smooth, rather than having the Commission discuss several topics and then needing to revisit these topics during public comment.

(3) Review proposed changes

(a) Article 2

i. Section 5.8. Definitions E – F

- Legal counsel recommends changing the definition of "Easement" to read: "A grant of one or more rights over, across or under land which benefits other land or which grants rights to the public or a utility." The Commission requested the definition be changed to read "... which benefits and/or burdens other land owners or which ..."

ii. Section 5.7. Definitions C – D

- The Planner's Office has reviewed the Child Care Organizations Act, and there is not a specific regulation in the Act which limits periods of supervision to less than 24 hours. The Commission generally agreed to remove this reference from subsections (1), (2), and (3) of the definition of Day Care Facility.

iii. Section 5.15. Definitions T – U – V

- Legal counsel recommends removing the word "short" from the definition of Transient Housing. Planner Spencer also noted that the rental could be to local residents that need temporary housing, and recommends the following definition: "An apartment, condominium, single family home or similar dwelling unit rented out to individuals or groups." The Commission generally agreed.

Planner Spencer noted that under Article 8, General Provisions, a section has been added to more clearly define the differences between Transient Housing, Bed and Breakfast, and Hotel/Motel.

Don Voisin expressed concern over allowing transient housing in the R1 district. Mr. Voisin strongly recommended that a rental application should be required by the City, rentals should be a minimum of one week, safety inspections should be required, and adequate parking should be required. Mr. Voisin also stated that Hayes Township is now regulating rentals. Planner Spencer stated that Hayes Township has passed a separate ordinance, outside of zoning, which is basically a licensing process. Planner Spencer stated that the purpose of this section in the zoning ordinance is to clarify the difference between a bed and breakfast, hotel/motel, and transient housing. Planner Spencer reviewed Article 8, General Provisions, Section 5.78., Renting of Residential Properties.

Member Doan asked how many complaints have been received regarding transient housing. Planner Spencer stated that there have been two complaints in two years. Member Doan feels that, since only two complaints have been made, it is really not an issue.

Jeff Porter noted that the Clubs have a two-week minimum stay. Mr. Porter believes this eliminates many problems. Mr. Porter also believes that allowing long-term rentals in accessory structures, such as over a garage, would benefit the community.

Chair Hess asked for Planner Spencer's input on Hayes Township's approach to rentals. Planner Spencer stated that, due to the significant number of rentals in the City, it would be a significant undertaking; however, it could be done. Commission members were polled and generally agreed that that the current approach does work and additional requirements would be both overly restrictive and unnecessary.

The Commission reviewed the new Section 5.78. and did not have any objections.

- iv. Section 5.6. Definitions A – B
 - Legal counsel has recommends that the definition of accessory building and accessory structure not be the same. Planner Spencer has proposed modified definitions for both Accessory Building and Accessory Structure; however, he would like to review these definitions with the consultants before having the Commission comment on this change.
- vi. Section 5.7. Definitions C – D
 - Legal Counsel presented a revised definition for Driveway which eliminates the words “located and constructed in accordance with the requirements of this ordinance.” The Commission had no objection to the change.
- vii. Section 5.9. Definitions G – H
 - Legal counsel recommends changing the definition of “Household.” Planner Spencer will discuss this item with legal counsel. Chair Hess asked that Planner Spencer do additional research, as this definition has been subject to appeals several times.
- viii. Section 5.15. Definitions T – U – V
 - Legal counsel recommends changing the definition of “Temporary Use.” Planner Spencer has eliminated he words “and that may be subject to specific regulations” to satisfy legal counsel’s comments.
- ix. Article 1 General Comments
 - Member Doan asked for a status update on the State law of “Senior Housing.” Planner Spencer reported that he could not find Senior Living in the state definitions. The definition is based on the State law, but is specifically identified in the Zoning Enabling Act. Member Doan will draft a revised proposed definition for the Commission to consider which reflects her concerns.
 - Mr. Porter asked the Commission to consider a definition for “Residence” to replace the definition of “Household.” Because we have Residential Zones identified by R1, R2, R2A, and R4, Mr. Porter believes it makes sense to use the term Residence instead of Household. Chair Hess suggested adding a definition for Residence that indicates it is the same as Household. Planner Spencer will

look up “residence” in Webster’s dictionary and Black’s Law dictionary to see if that definition would suffice.

(b) Article 4, Residential Districts

i. Section 5.27. Area, Height and Placement Requirements, Subsection (4) R4 District Additional Requirements, (a) Development Standards.

- As requested, the Planner’s Office has done a study of the current concentration allowed in R4. The calculations show approximately 28 units per acre; however, most of those are small condominiums and some are operated as hotels in the summer. The Commission can: (1) limit the number of dwellings per acre, (2) eliminate the concentration requirements and focus on height and lot coverage requirements, or (3) specify standards for type of housing development. Currently, the City focuses on height and lot coverage requirement. The Commission generally agreed to stay with height and lot coverage requirements and to eliminate the development standard of concentration.
- Legal counsel recommends eliminating the word “consider.” If a developer need only “consider” these factors and is not required to take any action to meet certain minimum requirements regarding the factors then the wording has no regulatory meaning: It is merely advisory.

Mr. Porter suggested the City adopt architectural standards. The Commission discussed pros and cons.

Nancy Carey, a local realtor, assured the Commission that developers do consider the nature of a community before designing a development.

Mary Eveleigh noted that the Commission “... may require ... vegetative screening ...” and suggested that the ordinance be more specific about desired vegetative buffers, focusing on native species.

The Commission generally agreed to eliminate the development standard to “... consider the surrounding land features ...”

ii. Section 5.27., Area, Height and Placement Requirements, Subsection (4) R4 District Additional Requirements, (b) Development Requirements.

- Planner Spencer recommends revising this section to create a standard for all developments, regardless of the height of surrounding buildings. Member Chamberlain suggested consulting the fire department for a recommended safe distance. Planner Spencer reminded the Commission that the distance also covers green space, not just fire safety. The Commission generally agreed to create a standard not based on the height of surrounding buildings. Planner Spencer will do some research to determine a recommendation.
- Legal counsel recommends deleting the section on “recreation,” as it is a consideration, not a standard. The Commission generally agreed, and asked Planner Spencer to keep track of these items so that standards can be developed in an advisory document.
- Legal counsel commented that, in many communities, the Planning Commission is the deciding authority on development plans. In Charlevoix, the Planning Commission makes a recommendation to City Council, which then makes the decision. Planner Spencer noted that the system has worked well in the past, and that because the Planning Commission is appointed and the Council is elected, this practice makes the deciding authority responsible to the voting public. On the other hand, the Commission usually has more expertise in the area of zoning than Council. Planner Spencer noted that the current process is not more costly or time consuming to the developer; however, the Planning Commission is more familiar with zoning laws and the City’s Zoning Ordinance than Council. For this reason, the Planning Commission’s recommendation includes findings of fact and references to the appropriate zoning laws.

Chair Hess polled members to get their input on changing the process or keeping it as is. Five Commissioners were supportive of keeping the process as is, and two asked for Council’s input before making a decision.

Nancy Carey stated that there had been an instance in the past where a project had been delayed by three years because City Council did not adopt the Planning Commission's recommendation. Ms. Carey believes that, if the Planning Commission has the knowledge and the ability to make these decisions, they should.

As directed by several members, Planner Spencer will get more information from City Council and present it to the Commission at the next meeting.

- (c) Article 5, Nonresidential and Mixed Use Districts
 - i. Section 5.31. Schedule of Uses
 - Michael Esposito noted that in Section 5.30. Intent, (4), the Marine Commercial district allows single family homes; however, in Table 5.31 single family dwellings are not a permitted use. Planner Spencer will correct the table.
- (d) Article 9, General Site Development Requirements
 - i. Section 5.81. Landscaping
 - In subsection (2), Mr. Esposito noted that a performance guarantee is required if the Planning Commission allows occupancy before landscaping is complete. Mr. Esposito feels this requirement is excessive for the issue of landscaping. Additionally, this section refers to "ground cover." Mr. Esposito asked if grass is considered ground cover. Planner Spencer reported that grass is ground cover. Member Buday noted that the term "ground cover" is in bold, indicating that it is a defined word, but that no definition for the word in is in the Definitions section of the ordinance.
 - Subsection (7) requires that three canopy trees and one evergreen or two ornamental trees, for a total of four to five trees, be planted for every 100 feet of lot frontage. Mr. Esposito believes that the Marine district should be treated differently and that there will be significant outcry if trees block the view. Planner Spencer stated that there are smaller species that could be planted in this area and would not block the view. Mr. Esposito reiterated that there are species that would block the view; the ordinance does not stipulate that the trees should be a specific species or size.
 - Subsection (11) requires that landscape plans for properties greater than one acre be prepared by a licensed landscape architect. This adds cost to the overall development, and Mr. Esposito feels it is an unnecessary expense.
 - ii. Section 5.83. Trash Receptacles
 - Subsection (1) specifies building materials for the screening of trash receptacles; however, the building materials listed conflict with those listed in Section 5.81.(10)(e)1.c. Section 5.83. specifies brick or split face block; Mr. Esposito believes that screening can be done with wood or plastic wood and look very nice.
- (d) Article 10, Off-Street Parking, Loading, Access and Circulation
 - i. Section 5.94., Off-Street Parking Facility Design
 - Subsection (3) allows for permeable paving to be approved by the Planning Commission; however, it does not encourage the use of permeable paving. Because permeable paving is both better for the environment and more costly, Mr. Esposito believes there should be incentive to developers to use this type of paving. Mr. Esposito offered some suggestions for how the use of permeable paving could be encouraged.
- (e) General Comments
 - i. Mary Eveleigh addressed the Commission, asking that native trees and vegetation be encouraged on the water facing side of water front properties to address run off and erosion issues. Additionally, Ms. Eveleigh suggested that the use of pesticides, herbicides and other supplemental nutrients should be restricted to prevent run off into the water.
 - ii. Ms. Eveleigh asked if sea walls are allowed (Planner Spencer stated that they are) and noted that the Department of Environmental Quality (DEQ) encourages alternative shoreline management to prevent the use of vertical sea walls. Ms. Eveleigh asked the Commission to consider any means by which to protect the shoreline.
 - iii. Ms. Eveleigh reiterated previous comments that the Scenic Reserve districts needed to be preserved in the ordinance. The Commission discussed conservation easements and deed restrictions.

VII. Staff Updates

Planner Spencer reported that he had looked at the properties at the end of Kipke Lane. There are single family and multi-family dwellings at this address. If the Commission adopts Member Chamberlain's suggestion that this area be zoned R2A, the multi-family dwelling will still be non-conforming. Members of the Commission suggested that the property would be "less non-conforming," discussed future uses of the property, and the majority of members agreed that R2A would be appropriate zoning for this area. Planner Spencer will contact the property owner about the proposed zoning change.

Planner Spencer reported to the Commission about changeable message board signs: He has received both positive and negative feedback from business owners and the public. Planner Spencer asked for feedback from the Commission; members generally agreed to continue allowing these sandwich board signs.

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

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

- Look up a definition of "residence" in Webster's and Black's dictionaries.
- Develop a recommendation for distance between buildings in the R4 district.
- Speak to members of City Council to get their input on who should be the deciding authority on development plans.

IX. Adjournment

Chair Hess announced that, if there were no objections, the meeting would adjourn. There were no objections.
Meeting adjourned at 8:02 p.m.

Stephanie C. Brown

Deputy City Clerk

John Hess

Chair

Carol A. Ochs

City Clerk