

CITY OF CHARLEVOIX PLANNING COMMISSION MEETING MINUTES  
Monday, March 14, 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: Larry Boog, Becky Doan, Sherm Chamberlain, Judy Clock, Toni Felter, and John Hess

Commissioners Absent: Dan Buday (excused), June Cross (excused), Francis (Brownie) Flanders (excused)

Staff Present: City Planner Mike Spencer

C) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST – None.

D) APPROVAL OF AGENDA

Chairman Hess asked to add the election of officers to the agenda.

The Commission approved the agenda as amended.

E) APPROVAL OF JANUARY 10, 2011 AND FEBRUARY 14, 2011 MINUTES

The Commission reviewed the revised January 10, 2011 minutes.

Motion made by Commissioner Boog and seconded by Commissioner Clock to approve the January 10, 2011 minutes as presented. Motion was adopted by unanimous voice vote.

The Commission reviewed the February 14, 2011 minutes.

Motion made by Commissioner Felter and seconded by Commissioner Doan to approve the February 14, 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. Election of officers

The Commission shall elect a Chair, Vice-Chair and Secretary at the first meeting of each year.

Commission Boog nominated John Hess as Chairman and Francis Flanders as Vice Chairman.

Motion made by Commissioner Felter and seconded by Commissioner Clock to close nominations.

The Commission voted to approve the nomination of John Hess as Chairman and Francis Flanders as Vice-Chairman. Motion adopted by unanimous voice vote.

1. Review/Discussion of potential zone change from Diane Gustin – 106 Palmer Street

Diane Gustin spoke to the Commission about her desire to rezone her property at 106 Palmer Street. The house has had significant renovations the past couple of years and needs additional work to obtain an occupancy permit. The State of Michigan Tax Tribunal has suggested that the structure may have to be demolished and completely rebuilt. The Tribunal also stated that the value of the property lies with the land and not the house. She would like to take steps to make the property more marketable and feels that changing the zoning to allow duplexes (R-2A) will assist her in selling the property. The property has a great location and has room for 5 parking spaces.

Chairman Hess advised Ms. Gustin that a zoning change would require a public hearing. Ms. Gustin stated at this time, she is only asking for people's opinion. The DNR is across the street and is a commercial use. She has spoken to the neighbors about the rezoning and has received no objections. Ms. Gustin stated that if the next door neighbor said no to the rezoning, she'd drop the request and not pay the application fees.

City Planner Mike Spencer addressed the Commission. He asked Ms. Gustin to come and talk to the Planning Commission to see if there were any initial concerns or problems about her request before she submitted an application. Any potential zoning change should factor in neighborhood character, potential zoning problems, and guidance from the Master Plan. This is a single family residential neighborhood. The recently adopted master plan talks about factors that need to be taken into account when considering a rezoning. This is a non-conforming structure on non-conforming lot. The structure does not conform with R-2A setbacks. There also may be some drainage issues in the rear yard. The Commission reviewed pictures of the site.

Chairman Hess asked the Commissioners for their comments on rezoning 104 Palmer.

Commissioner Boog asked that if the property was in disrepair or unrepairable, how would rezoning the property help? Ms. Gustin stated that the property had a great beach location and the duplex zoning may attract a developer to fix it up. The existing building can easily become a two family residence.

Commissioner Doan asked if there is any medium density in the area.

The City Planner advised that the Master Plan designates the area as single family medium density but calls for the area to be zoned the same, single family residential.

Commissioner Clock had no questions.

Commissioner Felter asked for clarification on parking in the rear yard. Ms. Gustin stated that there was a cement parking area in the backyard prior to the house's renovation. The cement had to be removed to get large equipment into the rear yard to place the basement under the house. Commissioner Felter asked if the Future Land Use map indicated higher density in the Park Avenue area. The City Planner stated that the Master Plan does not recommend changing the density in the area.

Commissioner Chamberlain stated that unfortunately the proposal is against the new master plan. He finds it hard to go against the new master plan.

Chairman Hess asked if there were any comments from the audience on the proposal. No comments were available.

Chairman Hess stated that no matter what is said this evening; Ms. Gustin has the right to apply to have her property rezoned. That's her right. He feels the request is "spot zoning". The surrounding

neighborhood is single family residential. The proposal does not adhere to the master plan and in order to make it comply with the master plan, the master plan would have to be changed. The Commission needs to continue looking at long range community plans and how things fit in the community.

Ms. Gustin asked if the existing homes near the Library are allowed. Chairman Hess advised Ms. Gustin that the existing apartments have been there for a long time and are grandfathered.

Chairman Hess reminded Ms. Gustin that this has been a straw vote of the Commission and is not binding.

The City Planner advised Ms Gustin that she can rent out the entire house for vacation property. But the zoning does not permit her to rent out individual rooms or divide the house into two dwellings, unless the property is rezoned.

Chairman Hess reminded Ms. Gustin that if she wishes to apply for a rezoning, she is welcome to do so.

2. Public Hearing on 2011 Zoning Amendments

a. Staff Presentation

The City Planner reviewed the proposed three amendments with the Commission.

**Zoning Amendment -- Revising Section 5.96 (1) Other Development Regulations**

b. Call for public comments

Chairman Hess opened the public hearing.

John Yaroch addressed the Commission. He feels the proposed change to Section 5.96 could help the retail community. He spoke to the Planning Director of Harbor Springs and they do not have any restrictions that the only retail stores should be on the main street. It allows offices in their downtown area. Mr. Yaroch showed the Commission an excerpt of the Harbor Springs' zoning map. These uses bring people into the downtown community on a daily basis. He'd likes the proposed list of allowable uses and supports the Planning Commission having the ability to determine if a use is comparable to those listed. He would like to add real estate, real estate rental offices and banks to the list. He would like to fill the vacant store fronts.

Mark Snyder addressed the Commission. He suggested that the ordinance verbiage (Section 5.96) be less restrictive. Charlevoix needs viable businesses that operate twelve months a year, to enhance the downtown area. He supports the placement of professional offices on Bridge Street.

Alicia Mosher voiced support of the placement of professional offices along Bridge Street.

Kirby Dipert, owner of three downtown stores, spoke to the Commission. Charlevoix is a seasonal town. He would like the Commission to reconsider the verbiage (Section 5.96) of the proposed ordinance. He is concerned about the long term effect to the retail community. Presently, there are stores that close in the winter months, but there are only four spots that do not have signed leases. By the time Memorial Day weekend comes, the empty stores will be filled. Charlevoix is a pedestrian town. He is concerned about having a number of professional offices in downtown Charlevoix. Mr. Dipert asked why appliance stores were excluded from the list.

City Planner Mike Spencer stated that the goal is to have items that people can carry out of the store. The master plan calls for appliance stores and other large stores to be on the out skirts of the downtown area.

Mr. Dipert asked why Jefferson Beach Yacht Sales was allowed to place a store on Bridge Street. The present ordinance permits only retail stores, if the store sold marine related items, it would be different. He also noted that the City Code does not permit bikes on the sidewalk, so why would we want a store that sold bikes, mopeds, or Segways on Bridge Street. He supports the Code's current language.

Mr. Dipert asked that the Commission only list suggested uses and to enact language to allow the Planning Commission to authorize a special use permit.

Public Hearing was closed.

c. PC discussion/questions

The Planner stated that Charlevoix is a resort community and the lists of permitted uses are items that visitors would use. He asked the Commission to make a decision on the draft language. The DDA has stated that they do not want professional offices along Bridge Street.

Commissioner Felter asked if a furniture store would be permitted. Mr. Spencer did not think it would be allowed. A store that sells smaller pieces might be permitted. The Planner asked for direction from the Commission on the amendment.

Commissioner Boog stated that he feels professional office patrons would not come out of the office and go down the street to purchase items from other downtown businesses. He would rather not have them in the downtown area.

Commissioner Doan stated that 2<sup>nd</sup> floor offices should be permitted. She has mixed feelings if offices should be permitted on the main floor.

Commissioner Clock feels that if there are too many offices in the same area, people will not walk down the block. People who want specific services will find them; they will not walk into the office off the street.

Commissioner Felter supports offices on Bridge Street. She would rather see a professional office, than see a vacant store front.

Commissioner Chamberlain stated that real estate and property management offices are often open late and encourage individuals to be downtown. He is feels some types of professional office would create activity downtown; but some offices, like insurance and doctor offices do not.

Chairman Hess feels we need to create interest in walking downtown. Real estate does not draw people to come downtown. It does not create an Oleson's type of traffic. He would like to see good viable retail stores on Bridge Street.

The City Planner will meet with the Chamber's Retail Committee and DDA to receive additional input on the subject. He will also be placing an article in the Chamber of Commerce's newsletter to receive additional comments. The item will be on the Planning Commission's April 11<sup>th</sup> agenda. Written comments are encouraged.

**Zoning Amendment – New Section 5.87**

a. Staff Presentation

City Planner Spencer reviewed the proposed amendment. Current zoning ordinance allows Professional Offices (PO) and Single Family Residential (R-1) uses in the Community Service Commercial (C-1) zone district. The zoning also allows for a mix of these uses within the same building, such as converting a home or other structure into a mixed use development with a commercial business or offices on the first floor with a dwelling above it. This type of mixed use development is encouraged by the City Master Plan and examples can be found all over the City; however the current zoning is not specific as to which standards (R-1, C-1, or PO) apply to the development. The City needs to clarify which setbacks and structure height requirements (C-1, R-1 or PO) apply. This will make the standard clear for property owners and the City and will apply to the number of Bridge Street properties.

Proposed Language:

5.87. Standards for Mixed Use Developments.

- (1) Mixed use developments where a dwelling unit is proposed above professional offices in a Community Service Commercial Zone (C-1) shall comply with the setback, height, and lot coverage requirements of the Professional Office Zoning district.
- (2) Mixed use developments where a dwelling unit is proposed above any allowable use in the Community Service Commercial Zone (C-1) shall comply with the setback, height, and lot coverage requirements of the Commercial Service Commercial Zoning district.

b. PC discussion/questions

Chairman Hess asked if the City could use the base zone setbacks/height for any future development. Over time, a building's use can change as either professional office or commercial uses can be on the main floor. If the property is located in the C-1 zone district, than any development (whether the use was commercial, professional office or residential) would have to adhere to the C-1 setbacks and height requirements.

Commissioner Clock asked if Form Based Codes would solve the problem. The City Planner agreed that it would, but the use of Form Based Codes has not been approved yet.

**Zoning Amendment – Revising Sections 5.43(3) and 5.48(3)**

a. Staff Presentation

Mike Spencer, City Planner reviewed the language with the Commission.

Proposed Language:

- 5.33(3) *Side Yard:* There shall be a side yard of not less than fifteen (15) feet on each side of any dwelling or accessory building, excepting the street side of any corner lot. On corner lots the front yard shall be parallel to the street frontage upon which the traditional front endurance for persons, i.e. the front door, is located.

- 5.43(3) *Side Yard*: There shall be a side yard of not less than ten (10) feet on each side of any dwelling or accessory building, excepting the street side of any corner lot. On corner lots the front yard shall be parallel to the street frontage upon which the traditional front entrance for persons, i.e. the front door, is located. The side yard parallel to the other street frontage shall not be less than fifteen feet (15) feet.

Most of the City's development was done prior to the enactment of the current zoning ordinance. Property owners have had difficulty adhering to setback requirements on corner lots. Over 90% of the variances reviewed by the ZBA are due to corner lot setbacks.

b. PC discussion/questions

Chairman Hess voiced support of the proposal.

Commissioner Chamberlain feels the proposal is a good idea, if the property owner wants a garage, he would like the garage entrance at least 20' back from the road right-of-way.

Commissioner Clock feels room is needed to park vehicles on the apron.

The Planner will do additional research and the item will be on the Planning Commission's April 11<sup>th</sup> agenda.

3. Planners Moments: What is place marking? -- Tabled

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

J) ADJOURNMENT

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

The meeting was adjourned at 8:46 p.m.

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John Hess, Chairman

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Linda Jo A. Weller, Recording Secretary

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Carol A. Ochs, City Clerk