CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, December 9, 2019 - 6:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

A. Call to Order/Pledge of Allegiance
The meeting was called to order at 6:00 p.m. by Chair Chamberlain.

B. Roll Call

Chair:	Sherm Chamberlain
Members Present:	Ben Edwards, Toni Felter, Brian Gelb, David Gray, Dennis Halverson, Jennifer Muladore, RJ Waddell
Members Absent:	Philip Parr
Staff Present:	Kathy Egan, Community Development Director (by telephone); Jennifer Neal, Community Planner; Jonathan Scheel, Zoning Administrator

C. Inquiry into Potential Conflicts of Interest
Chair Chamberlain stated he would be abstaining from voting on the Midtown Development site plan review because his employers have done work for the developer on this project.

D. Approval of Agenda
Motion by Member Felter, second by Member Edwards to approve the Agenda as presented. Motion passed by unanimous voice vote.

E. Approval of the Minutes
1. November 11, 2019 Meeting Minutes
Member Edwards stated that he was not present at the November meeting so the references in the minutes to him speaking were inaccurate, and needed to be changed to Member Muladore.

Motion by Member Muladore, second by Member Gelb to approve the minutes of November 11, 2019 as amended. Motion passed by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. New Business
1. 2020 Meeting Schedule
Chair Chamberlain asked for public comments on the meeting schedule and there were none.

Motion by Member Waddell, second by Member Gray to approve the Resolution to approve the 2020 Meeting Schedule as presented on page 7 of the agenda packet. Motion passed by unanimous roll call vote.

H. Old Business
Chair Chamberlain recused himself.

1. Continued: Site Plan Review Midtown Development, Inc., 115 Pine River Lane – Residential Development
Member Waddell recalled previous meeting minutes including:

- Parking - Section 153.187 (h) indicates 1.5 spaces per unit which with 14 units there should be 21 parking spaces; Section 153.189 indicates that a parking space is 9' x 18', the spaces for several units are 34' long which makes them 2' short of the standard for parking; total of 16 spaces as opposed to the 21 required. Section 153.189 does allow vehicles to park over the parking space if it's not into the bushes, so at the end of the driveway there is an extension of gravel and a small retaining wall for parking over on units 1-6 and 10-14; but Section 153.189 (A)(c) states that it must be pavement and the plan show it as rocks and Section 153.027 (e) says "you cannot park in the setback" so the units on the east side the setback is 10' and the end of the parking area is right at the setback so there is no extra space for them to park; the other side is at 12'.
- Standard is a 24' road for perpendicular driveways; the road is 20' wide and there is an allowance that the Commission could make if there were a 7' to 10' sidewalk but there is not a sidewalk, there is a paved area from each driveway to the front door, but if you look at the plan there's a row of bushes and then there's a tree, then another row of bushes so there is no sidewalk for that on the main north/south road, on the east/west road for units 7 & 8 at the very top there is a fence so there's no way to get a 24' road there. Member Waddell did not feel that the proposed parking met the standards.
- Member Waddell stated that they were stopped at the October meeting for not meeting the standard on the north property line where the property abuts the R-1 property because it needed a 6' fence and then the bushes needed to be planted 4' from the fence. In November the proposal was the curved road with the plantings in the middle where the road is 7.5' from the north property line. He stated at this point it was open for the Commission to discuss whether they feel what's proposed is acceptable and to the intent of the plan. The two ends of the fence are still within 2' of the north property line which is R-1 and there's obviously no way to plant bushes along the fence.
- Member Waddell stated at some point the Commission would need to look at the Master Deed which included a clause that says they have the right to expand from 14 units to 20 units which does not meet the current proposed site plan. He stated there were things in the Master Plan that affect planning that the Commission needed to review.

Member Waddell summarized his training in planning, and stated that one of the Commission's main tenets and responsibility beyond just meeting the standards is that they are supposed to believe that what they are doing is for the health, safety, and welfare of the community; and if they don't feel that a proposal promotes the health, safety and welfare of the community then they can't accept that. He proceeded to reiterate his concern about sidewalks as the Zoning Ordinance indicates that "there should be safe and efficient access" and he did not feel with a 20' road and no sidewalk that it was safe and the north/south road is 170' long from Pine River Drive to the top of the hill with 11 driveways. He stated there was a potential 80+ residents that could be living in the development. He stated that the Master Deed does allow for parking in the road for delivery and unloading. He felt it was too much traffic, cars, people and other things to create a safe environment. He stated that the Fire Chief had also expressed concern about the lack of sufficient fire suppression and the design of the development in its location.

Zoning Administrator Scheel read a letter from a neighbor at the back west corner of the property, Ms. Alberta Bier. Ms. Bier stated in her letter that the property line was in the middle of a large chestnut tree and Zoning Administrator Scheel stated that 2-3 weeks ago half of the subject tree did collapse and Ms. Bier did not want the existing half of the tree which was viable replaced with another tree.

Zoning Administrator Scheel stated that he consulted Shade Tree Commissioner Ken Polakowski, who is a licensed arborist and he advised that the maple tree was a very old tree and he felt that any damage to its root system would hasten its aging process and special care needed to be taken to save the tree. Member Halverson stated that although the tree issue was noteworthy, he did not feel that was something to hang a project by if there was some alternative to compensate for the tree. He stated the re-occurring theme that he continues to hear was the density and usage issue and the parking just didn't comply with the current ordinances. He stated that there were a lot of compromises at the expense of the economy of scale.

Member Edwards felt the City had standards for health and safety and the Commission needed to decide if the allowances were worth it to have a development in the downtown area. He stated that his overall sense is that it looks like a really nice development and it was a shame it can't meet the City's standards at this time. Member Muladore was concerned about health and safety and that an abundance of cars, potential of extra crowding, lack of parking, and the Fire Chief's opinion that if there was a fire the Fire Department couldn't get in and it could be a safety issue even though it does meet the standards and codes. Member Gray stated the safety issue was a big concern for him as well. Member Felter stated that she would challenge the developer to create something that would be safe there. She totally agreed that the City needed housing, preferably affordable, but it needs to be safe and she thought this was too much housing in one small area. Member Gelb stated that the same issues continue to come up and a lot of the issues boil down to density and not enough room for parking.

Tim Burden, President of Midtown Development, Inc., stated that the City wanted additional housing and the first plan that he brought forward showed 14 single-family homes so he thought that was safer, but the City didn't allow units less than 22' and his plan was 20'. He stated that the landscape ordinance requires trees on the sidewalk and if they're weren't trees on the sidewalks there would be 28' there, not 20'. He stated they met with the Fire Department and they approved the plan and then the Fire Chief sent the letter previously discussed. He stated he was frustrated as he had a lot of time invested in these plans and he reviewed changes that have been made to the plans at the request of the Commission, City staff and the neighbors. Mr. Burden stated that he did not understand the stated health and safety issues as he felt this was a safe environment. He hoped that the Commission would find a way to approve the plan with some modifications so he can get going on the project.

The public hearing was opened.

Harry Golski, Attorney representing the Lake House Association – the property owners immediately to the west of the subject property, stated that they all want the property developed and it was presently approved for seven units. He recalled at the previous Commission meeting, the Commission was concerned that 14 units didn't turn into 28 units and he was expecting to see proposed changes to the Master Deed as discussed at previous meetings, but the changes were not included in the revisions. He stated what was included in the amendment were provisions for a rental agent and that two or more residential units may be situated in a single structure. He stated the duplex was two units, the lock-off area on the second floor made three to four units, so according to the proposed amendment not only did it not restrict the rental of the second floor units, it gives legal authority to rent the units. He felt that the amendment to the Master Deed was worthless and explained his reasons for same. He stated that the arborist's report based on his faulty understanding of the placement of the tree was worthless. He referenced his November 20th letter to the Planner and the Commission and he felt the density issue was controlled by the setback requirements under the Zoning Ordinance. He explained his interpretation that the setback between the units and the Lake House Association should be 25'.

Mr. Burden stated that the original condominium documents allowed for expansion into another parcel, but they were not trying to add any other units on this site. He explained that the seven units originally proposed were 3,000 sq. ft. each, now they have fourteen 14 units at 1,100 sq. ft. each.

Kristin Jones, 113 Pine River Lane, stated that there were 28 outside lockable doors proposed in this development and the deed restriction referenced today talks about short-term rentals. She stated that the proposed units were short-term rental units for vacationers, but she felt protected by the R-4 zoning as this was not a hospitality area.

The public hearing was closed.

Member Halverson cited the density, parking issues and the lack of restrictions on creating two units out of one unit and the lack of any kind of control after its built further compounds any concern over safety and fire/EMS access. He stated that he did not see any step by the developer to satisfy the Commission's concerns.

Mr. Burden stated that there is only one entrance into these units there is a door on the inside to the upstairs which can be removed. He stated that the documents the attorney prepared were in draft form "and they just say they are rentable" and he was not given any direction from the Commission as to what to bring back from the last Commission meeting. He stated he was not interested in starting all over with this project and would consider some modifications to the use and density.

Member Waddell stated that the Commission could address what they want to see on Mr. Burden's plan, accept the plan with stipulations, or deny the proposal based on it not meeting the standards for parking, the back property line and the health/safety welfare issues.

Motion by Member Felter, second by Member Halverson to deny this development based on the parking and the north property line not meeting standards, lack of walkable sidewalks and fire safety issues.

Motion passed by a 6 to 1 vote with Member Edwards voting against the motion, Member Chamberlain abstaining, and Member Parr absent.

Chair Chamberlain returned to the meeting at this time.

2. Rooftop Usage Discussion

Jennifer Neal, Community Planner with Networks Northwest, began the discussion and explained that Commission members were given a Rooftop Usage Chart to guide discussion including the types of buildings, building standards, and uses that should be permitted on rooftops. She stated that they wanted to address several items from the previous discussion as well as expand the discussion to include examples of rooftop uses. Discussion followed regarding uses, compatibility with surrounding buildings include noise, height and design guidelines (permanent/temporary structures, railings, etc.), and visual impact from the street (screening). Three rooftop examples from Traverse City were provided that included bar/ restaurant, hotel and townhome development.

After discussion, the Commission determined that requests for rooftop uses/rooftop development would have to come back to the Commission to go through the full site plan review and approval process for a Level B site plan. Chair Chamberlain stated that a definition would need to be added to define an additional or new rooftop usage as a significant change which would have to come back for review. She stated that the next step would be locating comparable rooftop ordinances. Planner Egan stated that when she looked for rooftop usage ordinances she only found examples in much larger cities.

Planner Neal mentioned a rooftop application in Alpena that retrofitted their building to include a greenspace on the roof and open deck event space. The Commission's focus on rooftop usages would be on commercial properties and they were asking staff to look at rooftop usage regulations from Traverse City and Alpena.

I. Staff Updates

1. ZBA Meetings Report

Zoning Administrator Scheel stated that the ZBA had a meeting in November that had to do with three variances for existing fences off of Dixon Avenue; all three variances were denied by the ZBA. He stated that they were also served today with a lawsuit on a property on Dixon involving a lot split in the 1980's, and over the years there have been several civil lawsuits on the property as well.

J. Request for Next Month's Agenda or Research Items

Member Waddell requested that the Commission members receive a copy of the letter from Mr. Golski regarding the Midtown Development project. Selection of Officers would be on the agenda next month as well. Zoning Administrator Scheel briefly reviewed upcoming enforcement actions on properties throughout the City.

K. Adjournment by 8:00 PM Unless Extended by Motion

Motion by Member Felter, second by Member Edwards to adjourn the meeting. Motion passed by unanimous voice vote. Meeting adjourned at 7:56 p.m.

Joyce M. Golding/fgm — City Clerk

Sherm Chamberlain — Chair