

# PLANNING COMMISSION

## Minutes

July 20, 2006

### I. ROLL CALL

Fred Walstrom	Present
Andrew Bowman	Present
Jack Deegan	Present
Jeff Ford	Present
Mary Ellen Hughes	Present
Laura Kors	Present
Sheryl McCleery	Present
Peter Sears	Absent
Sara Smith	Present

Also present were City Planner Larry Nix, City Attorney Jim Ramer and City Manager Fred Geuder.

Chairman Fred Walstrom called the meeting to order at 6:00 p.m.

### II. MINUTES

Motion by Sears, seconded by Bowman, to approve the minutes of the June 15, 2006, meeting, with the following correction: delete the word "could" in the first sentence of the first paragraph on Page 4. Motion carried.

### III. PUBLIC COMMENT AND CORRESPONDENCE

None.

### IV. NEW AND OLD BUSINESS

#### A. Public Hearing on Proposed SLU-2006-02, Proposed Accessory Living Quarters at 305 East Third Street (Pfander)

The City Manager noted that this was a public hearing required for consideration of accessory living quarters. He noted that the Zoning Board of Appeals had denied this request on July 12<sup>th</sup>, but the applicant is considering an appeal of that ruling. Because the Public Hearing was already advertised, the Manager suggested that the Planning Commission proceed, because the Planning Commission action would be independent of the Zoning Board of Appeals, and if the ZBA reversed itself, the applicant would still need Planning Commission approval.

Jeff Ford noted that he was the agent/builder for the applicant and would have to abstain from the vote.

No written comments were received.

Pringle Pfeifer asked if a variance were possible, since the existing building was in violation of the setback.

The City Attorney noted that the general rule is that an existing non-conforming structure cannot be expanded by right. However, the applicant can apply for a variance, and must then demonstrate a practical difficulty as to why the variance should be granted.

Motion by Bowman, seconded by McCleery, to close the hearing. Motion carried.

B. Consideration of SLU-2006-02

Planner Larry Nix noted that Accessory Living Quarters are a permitted special land use in the R-2 zoning district, and the Planning Commission is required to hold a public hearing.

The existing garage (accessory building) is less than the required 10' off of the rear and side yards, so a variance would be needed in addition to Planning Commission approval.

Nix noted that there is no problem with the use, and the proposal meets all of the special land use requirements in his opinion. While the applicant could potentially tear down the existing garage and relocate a structure that is within conformance, it would cause a number of practical construction difficulties, including re-locating it part way into the bluff.

Sara Smith asked whether the proposal met the criteria of the bluff ordinance.

Nix noted that by using existing foundations, the applicant is in compliance with the bluff ordinance.

Walstrom noted that the Use issue to be determined by the Planning Commission is independent of the variance issue which must be decided by the Zoning Board of Appeals.

Motion by Sears, seconded by Hughes, to adopt SLU-2006-02, as presented, with the following conditions noted:

1. That the Planning Commission has reviewed the Special Land Use criteria, and determined that the applicant is in compliance with those criteria.
2. That the applicant be required to sign an affidavit acknowledging the restrictions imposed on Accessory Living Quarters.
3. That approval is subject to the applicant obtaining a variance from the Zoning Board of Appeals.

Motion carried, 7-0, Ford abstaining.

C. Consideration of Lot Split Request for 346 West Third Street

The City Manager noted that the property proposed for the split is in the estate of Jack Melching. The parcel is composed of Lots 7 & 8, of Block 7, of the Southard & Crandall plat. Both platted lots are 52.8' wide by 132' deep. Because the parcel is zoned R-1-C, with a minimum lot width of 65' specified, the parcel can only be split with City Council approval.

The City Manager noted that a similar split in this area was done recently. And this area has been the recent discussion by the Planning Commission and City Council for the proposed R-1-D district, which would enable 50' lots. However, since no zoning code amendments have been approved, the City must use the present rules and process.

The City Manager noted that most of the homes located in the plat are on 52.8' lots, and he feels that the character of the neighborhood will be best served by approving the proposed split. He further recommended that a lot split should be approved only if the house and any accessory buildings are removed, due to their deteriorating condition.

The City Manager noted correspondence in favor of the proposal from Jim Dika, owner of the property adjacent to this parcel.

Jerry Adams, owner of 369 West Third Street (across from the parcel), noted that he was in favor of the proposal. He asked whether the property had been sold.

The City Manager noted that the request for the lot split was from the attorney for the estate, so it is assumed that the parcel has not yet been sold.

Motion by Bowman, seconded by Smith, to recommend City Council approval of the proposed lot split at 346 W. Third St., with a condition that all buildings on the parcel be removed prior to approval of the lot split. Motion carried.

D. Update on Zoning Code Amendment for the R-1-D District

The City Manager noted that the recommended approval of the R-1-D zoning district had been turned down by City Council. The concern noted by City Council was that creation of the new district might open the door for a similar higher density subdivision elsewhere in town. So it was suggested that the City Manager and City Attorney look for an alternative way to accomplish the idea in the Southard & Crandall subdivision only.

The City Manager noted that the City Attorney had come up with the idea to have wording added to the pre-existing lots provisions of the zoning code so that lots in the Southard & Crandall Subdivision could use the lesser setbacks as had been proposed with the R-1-D idea. Since the alternative approach was quite different from the previous approach, the Planning Commission would have to go through the public hearing process again.

Motion by Kors, seconded by Bowman, to direct the City Manager to schedule a public hearing on the proposed zoning code amendment for the Southard & Crandall plat. Motion carried.

E. Zoning Code Discussion—Hotel Concept

Bowman noted that he would abstain from discussion, as he will be an agent for sales of the hotel units.

The City Manager reviewed what the Planning Commission had discussed to date.

Discussions to date have centered around what amendments to the City's Zoning Code would be need to enable *consideration* of a proposed three-story hotel downtown. If the code were amended, the applicant would then need to go through planning process, as well as going to City Council for approval.

Amendments needed to consider the concept would include:

1. Defining a Condo-Hotel: the significant issue that has not been decided is whether or not to limit the days per year (or season) that owners could use their units, and if there were no limitation, whether there are enough restrictions so that a comfort level exists that the project is a hotel.
2. Process: there seems to be a consensus that the process would be to approve the potential for a Planned Development CBD Overlay District. That district could allow a three-story, 39' tall project on a minimum one-half acre parcel in a CBD area to be defined. The process would involve a Planning Commission review, with a recommendation to the City Council, and then City Council consideration following at least one public hearing. If approved, the City would enter into a written agreement with the applicant laying out the terms of the agreement. The Planning Commission needs to determine the area within the CBD where this could occur, before a public hearing can be held.
3. Parking Requirements: the applicant has suggested changes to the parking requirements for hotels. If the Commission is comfortable with this proposed change, it would be included in the amendments.

The City Manager suggested that Rob Mossburg of the Cottage Company make a presentation, which may help the Planning Commission in their deliberations.

Mossburg noted that key elements of his proposed project would include the height/story factor and what restrictions were imposed (or not imposed) on potential owners of the units, and how this directly related to the marketing efforts.

Mossburg made the following presentation. Mossburg showed a rendering of the potential building and noted its historic design roots.

#### Benefits of the Project

- A \$15-20 million investment downtown
- Current hotel is outdated
- Economic benefits
- The existing hotel is a condo-hotel
- A hotel serves a need in the area
- A condo-hotel seems to fit the Harbor Springs mantra of "ownership"

- Amenities such as an Indoor Pool and Spa may attract visitors in the Shoulder and Off-Seasons
- The Cottage Company is qualified to make the project succeed

#### Economic Benefits

- Over the useful life of the project, roughly \$11-13 million in property taxes will be generated
- It will likely create 100+ construction jobs
- It will likely create 10-20 permanent full-time jobs
- Hotel Sales Taxes will benefit the Convention and Visitors Bureau
- Hotel Guest Expenditures in the area will be both direct and will create a ripple effect

#### Factors Which Discourage Full-Time Residency

- The name will include “hotel”
- It is located in the CBD
- There will be a 24/7 front desk, hotel lobby, etc.
- Access to rooms will be by Electronic Card Access (no keys) changed weekly
- Daily maid service
- Parking will be unassigned
- No addresses will be assigned and no mail boxes will be available
- Access to the units is via interior corridors
- A standard furniture package is supplied to the units
- “Strangers” may be occupying adjacent units
- There is no direct telephone, cable or internet service (service is through the hotel)

#### Reasons Not to Restrict Owner Usage

- The Harbor Springs Market is unique
- Poor real estate market currently
- Competitive products in the greater area are free from restrictions (Inn at Bay Harbor, Mountain Grand Lodge, and Petoskey Point)
- Buyers don’t want restrictions
- No restrictions exist on the current property
- National/Local experience suggests 100% participation in a rental pool
- The current project has 100% owner participation
- Owners often rent in the peak seasons to maximum revenue
- Restrictions cause lenders to impose additional conditions—could derail the project

### Factors in Favor of a Three-Story Building

- Design can be more architecturally pleasing
- There is a historical precedent for three story hotels (many years ago)
- The Emmet, a three-story hotel, occupied the site at one time
- Corner buildings have been historically more prominent
- Proposal has limited or no impact on neighbors' views
- A number of existing buildings in the City exceed the height
- The "overlay" limitations limit the chances of "opening the door"
- Other practical difficulties exist for future three-story projects

### Mossburg's Summary

- Benefits to community are significant
- Economic impact is huge
- Full-time residency of units is unlikely
- Restrictions hinder marketability
- Benefits outweigh concerns

Walstrom asked the City Manager to review where we are.

The City Manager reviewed how the overlay process would work, and that the next step would be to put an ordinance into place, but that some consensus would need to be reached as to what would be included for public hearing.

Planner Larry Nix suggested that moving ahead with a public hearing on a code amendment would be the next step to set up a mechanism for consideration.

The City Manager suggested that if the City does not have a limitation on the stay, then 100% of the owners must participate in the pool when they are not occupying the units.

Laura Kors suggested that the City will need to consider whether an "overlay" district might spread, and if we let this one go forward, has the door been opened?

Walstrom pointed out that height is somewhat relative to topography.

Sheryl McCleery asked whether the ordinance changes would be legally defensible.

City Attorney Jim Ramer commented that overlay districts would generally be defensible limitations because they are permitted by state statute; there would be reasons to argue why the limits were set as they were. But he also noted that there is no guarantee that such limits would not be overturned.

The City Manager discussed with the Planning Commission the idea of holding a special meeting for the public hearing on the proposed ordinance.

A question was asked about the idea of requiring that only one unit be available for rental.

The City Attorney stated that the idea of "one unit" for rental does not exist in the code, but was given as an oral opinion for purposes of that particular proposal at that time.

The City Manager suggested that the following limitations be included in the proposed amendments:

- Place no limit on the number of days that a unit can be occupied by the owner; however when the unit is not in use by the owner, the units must be in the rental pool.
- Include factors which would discourage full-time residency as requirements in the condo-hotel definition.
- Amend the parking requirement as suggested.
- Include only the block where the existing hotel is sited for purposes of the overlay district.

It was noted that the proposed amendments could be changed after a public hearing, although depending upon the magnitude of the change, an additional public hearing might be needed.

It was the general consensus of the Planning Commission to proceed with a public hearing based on the City Manager's recommendations.

Motion by McCleery, seconded by Hughes, to schedule a public hearing for Thursday, August 17, 2006, at 3:00 p.m., to consider the zoning code amendments. Motion carried, Bowman abstaining.

#### V. MEMBER COMMENTS

None.

#### VI. ADJOURNMENT

There being no further business, the meeting was adjourned. The next regular meeting is scheduled for Thursday, August 17, 2006, at 6:00 p.m. A special meeting (public hearing) is scheduled for Thursday, August 17, 2006, at 3:00 p.m.

---

Frederick W. Geuder, City Manager