



PLANNING COMMISSION

Thursday, September 20, 2018

1. Roll Call – 7:00 P.M. – City Hall Community Room
2. Approval of Minutes – August 16, 2018 Regular Meeting
3. Public Comment
4. New Business
 - (a) Review and discussion of the Zoning Ordinance fence regulations
 - (b) Officer elections
5. Old Business
 - (a) Addressing housing needs
6. Updates
 - (a) Green infrastructure follow-up training October 19
7. Adjournment



PLANNING COMMISSION

August 16, 2018

A regular Planning Commission meeting was held in the City Hall Community Room, Petoskey, Michigan, on Thursday, August 16, 2018. Roll was called at 7:00 P.M. and the following were:

Present: Gary Greenwell, Planning Commission Chairperson
Dana Andrews
Betony Braddock
Dean Burns
James Holmes
Emily Meyerson
Rick Neumann
Cynthia Robson
Eric Yetter

Staff: Rob Straebel, City Manager
Amy Tweeten, City Planner

Others Present: Greg Potter, McLaren Northern Michigan
Abby Badgley, 415 Kalamazoo Ave.
Tom Webster, 730 Kalamazoo Ave.
Marjorie Mehney, 802 Waukazoo Ave
Others who did not sign in

Upon motion and support, the minutes of the July 19, 2018 regular meeting were approved, with a small typo correction, 9-0.

McLaren Construction Update

Greg Potter, McLaren Northern Michigan Facilities Director, explained the expansion of the project to incorporate improvements to the existing building, increasing the project costs from \$124M to \$158M that created a four month delay in the make-ready work including landscape contracts. He presented updated elevations indicating the utility penthouse to be stepped back from the west end and interior images. The anticipated schedule would be to complete phase one construction by the end of this summer, phase two of the south addition to be completed spring of 2021 and the renovations of the existing building to occur 2021-2022. He noted the use of the property along Charlevoix Avenue for staging would be needed for a couple years and that the excavation for the foundation for the south addition will begin within a month.

Commissioners asked about the signage plan; the status of a helicopter landing; how the shuttle service was working; the design of the transformer enclosure; and whether a roof-top deck would be installed where the building step-back was created.

Mr. Potter will be working with staff to bring forward a campus sign plan, potentially for the September meeting. He reviewed the findings of the helicopter study and construction of a landing on top of the Emergency Department parking structure is the most likely location, but that at a cost of \$3M a funding campaign is required. He believed the shuttle service was working well, although

some colleagues were resisting, and stated there were no plans to put a viewing deck on the utility penthouse level.

The Commission thanked Mr. Potter for the update.

2019-2024 Capital Improvements Plan

The City Planner provided an overview of the \$38M six-year plan, emphasizing the 2019 projects that coincided with the MDOT US 31 realignment. Specifically, the replacement of the stair tower from Sunset Park to Bayfront Park, utility work, widening of the Little Traverse Wheelway from the tunnel to the waterfall area, and sidewalk on Washington Street from Petoskey to Howard. The Bear River Pedestrian Bridge was also listed for 2019, pending grant funding.

After a review of the succeeding five years of projects and how the six-year plan meets the goals, objectives and strategies of the City Master Plan, Commissioners asked about the salt shed area improvements and why they weren't being removed; why Kalamazoo Avenue and Greenwood Road were planned for reconstruction before E. Lake Street, which is in terrible condition yet proposed to be delayed another year; and the status of the Pennsylvania Park restrooms.

Staff responded that the salt sheds would no longer be removed, but replaced, and the entire area will be looked at to incorporate the trail and boat launch/ take out area. Kalamazoo is anticipated to be heavily used during the US 31 work and is also in bad shape, with higher traffic counts than E. Lake. Greenwood Road is anticipated to receive funding through the Bureau of Indian Affairs and has a critical water main that needs replacement. If possible, there may be some paving on upper E. Lake to carry it to the planned 2022 reconstruction. It is hoped the bathroom project will be bid out within the next month with construction in the fall and winter. If not, the project will have to wait until fall of 2019.

Commissioner Meyerson believed that the CIP should include more priority sidewalk segments, specifically Lockwood Avenue from Jennings to Spruce. She also had received a lot of questions about the connection of the Downtown Greenway Corridor through Pennsylvania Park, which she believes will be used by bikers.

At this time, Commissioner Meyerson made a motion to accept the 2019-2024 CIP as meeting the Master Plan Goals as outlined in the agenda memo, with the recommendation to City Council that the Lockwood sidewalk segment be added to the 2021 projects. Support for the motion was by Commissioner Robson and the motion carried 9-0.

Updates

As there were members of the public present, Chairman Greenwell addressed them before updates began.

Abby Badgley, 415 Kalamazoo, relayed her front-yard fence issues for her garden. She had appeared before the Zoning Board of Appeals, who had denied a variance for the fence and recommended she address the Commission and Council about the possibility of making changes to the ordinance. She believes that front yard gardens are wanted and fences are necessary to keep animals out, and asked if the ordinance could be changed to allow for agriculture.

Tom Webster, 730 Kalamazoo, had also received a notice from the Zoning Administrator. He lives on a corner so unable to have fences in two front yards, which precludes a garden due to the animals. He wondered if there were a certain style of fence that could be acceptable, and noted that growing food is important to those in the City that are low income.

City Manager Straebel noted that the Michigan DNR will be providing a presentation at City Council Monday night on keeping deer out of gardens.

Commissioners discussed the last fence ordinance process, that it was thoroughly researched over a two year period and that there was disagreement between the Commission and Council on the issue of front-yard fences. However, they were willing to look at it again through the lense of urban agriculture.

Marjorie Mehney, 802 Waukazoo Avenue, agreed there was a lot of wildlife in down, and that people want fences for privacy, but that front yard fences are an aesthetics issue and there is a need to understand why people don't want them.

City Manager Straebel then provided the Commission with a copy of a Declaratory Judgement the City had filed to determine the validity of the Petoskey Pointe PUD. The City Planner updated the Commission on the Redevelopment Ready Communities and Green Communities certifications.

Commissioner Robson made point of order that public comment should be an agenda item and not part of updates.

The meeting then adjourned at 9:01 P.M.

Minutes reviewed by Emily Meyerson, Commission Vice Chair/Secretary

DRAFT



BOARD: Planning Commission

MEETING DATE: September 20, 2018

DATE PREPARED: September 11, 2018

AGENDA SUBJECT: Review fence regulations

RECOMMENDATION: Discussion/recommendation

At its August meeting, the Commission indicated that it would be willing to revisit the issue of front-yard fences, specifically in regards to increasing interest in urban agriculture. Staff has compiled the minutes from the two-plus year discussion of fences from 2007-2009 as well as the current ordinance language and what was proposed by the Planning Commission to City Council. There are a few issues to be clarified, including:

- Gardens in the front yard are allowed, it is only fencing around gardens that are restricted under the current ordinance definition (“Fence: An artificially constructed barrier erected to enclose, screen, or separate parcels *or portions of parcels*”).
- Wildlife is an issue for gardeners throughout the city, but there are ways to address wildlife (see enclosed information), including the use of raised beds with netting.
- The ordinance does not specify fence type or duration, and trying to define “decorative” can be subjective and difficult. The question of temporary fences has been brought up, but more often than not, temporary fences become permanent.
- Corner lots have the biggest challenge as fences are not allowed in either front yard.

Staff recommends the Commission determine whether they wish to address fencing in front yards altogether, only “temporary fences” used for agriculture, fences in corner yards, or leave the ordinance as it is.

Sec. 1712. - Fences (single- and two-family residential).

Fences shall require a zoning compliance permit issued by the Zoning Administrator and shall comply with the following regulations and requirements:

1. *Definition.*

- a. Fence: An artificially constructed barrier erected to enclose, screen, or separate parcels or portions of parcels.

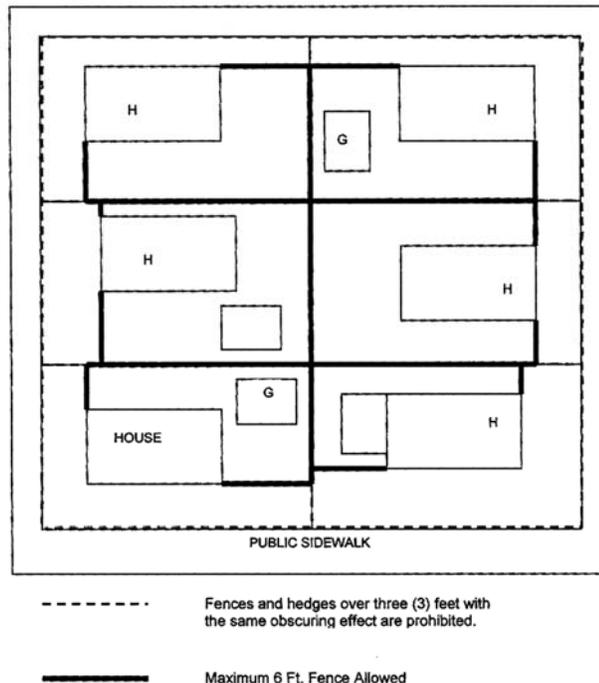
2. *Location.*

- a. Front Yard. Fences are not allowed within a front yard or corner-front yard, also defined as the area in front of the primary structure or that fronts a public street. Continuous hedges with the same obscuring effect as a fence greater than 3 feet are not allowed in a front or corner-front yard (see section 1712, Figure A).
- b. Fences shall be located so as to not obstruct the clear vision corner or corner clearance as defined in section 1714 of this ordinance.
- c. Fences may be placed up to a lot line in side and rear yards, however, the finished side of the fence shall face the adjoining property or the public right-of-way.
- d. No fence shall be erected in such a way as to obstruct the vision of motorists exiting driveways.
- e. Any fence placed within the city right-of-way shall be removed at owner's expense.

3. *Height, design and opacity.*

- a. Fences in a side or rear yard shall not exceed six feet in height and shall not extend beyond the principal structure into the front yard (see section 1712, Figure A).

SECTION 1712
FIGURE A



- b. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground.

- c. Fences of lots of record shall not contain barbed wire, electric current or charge of electricity; Electronic fences buried beneath the ground are not regulated by this Section.
- d. Fences may be placed on retaining walls, berms or similar features in the side or rear-yard with the fence height to be measured from the established grade.

(Ord. No. 708, § 1, 6-1-2009)

PLANNING COMMISSION

May 17, 2007

A regular meeting of the City of Petoskey Planning Commission was conducted in the City Hall Community Room at Petoskey, Michigan, on Thursday, May 17, 2007. Roll was called at 7:43 P.M.

Present: Dean Burns
William Fuller
Gary Greenwell
John Murphy
Frank Wangeman

Absent: Gordon Bourland
Judy Hills
John Jorgensen
Laurie Krzymowski

Staff: Amy Tweeten

Others present: Christina Hughes, Randall Hood, Becky Goodman

Upon motion made and seconded, minutes of the Planning Commission meeting of May 17, 2007, were approved.

Schedule Public Hearing 1000 Bayview Road

Robert Runco and Randy Hood have made application for a Special Condition Use to operate an outdoor used automobile Dealership at 1000 Bayview Road. Pursuant to

Section 1702(5)(e) of the Petoskey Zoning Ordinance, a Special Condition Use is required because the former Tallberg Chevrolet at this location was an existing non-conforming use in the B-3 General Business District that had been out of operation for more than six (6) consecutive months.

The intent of the applicant is to operate only a used car dealership - automobile repairs are not allowed in the B-3 District.

A public hearing is required before consideration of a special condition use. The applicant has requested a special meeting of the Planning Commission to address this matter at its earliest convenience. Staff had polled the Commission and determined that a quorum could be reached for a special meeting on Monday, June 4, 7:30 p.m., which would meet all ordinance and statute requirements for public hearing notification.

Commissioner Burns made a motion to schedule the public hearing for Monday, June 4th at 7:30 p.m. with support from Commissioner Fuller.

A vote was called and the motion passed on the following:

AYES: Burns, Fuller, Greenwell, Murphy, Wangeman (5)

NAYS: None (0)

The applicant, Mr. Hood, asked whether the Commission had any questions for him.

Staff noted the newspaper article indicated that Mr. Hood would like to eventually do detailing and repairs at this location, however, he needed to be aware that major automobile repair shops are not permitted in the B-3 District, only automobile dealerships. Mr. Hood responded that he had a secondary location for this type of work.

Commissioner Fuller responded to the petitioner's comments in the newspaper that he has been frustrated by the amount of time it's taking to get permission to sell vehicles outdoors and stated that the Commission had done nothing to delay Mr. Hood but to the contrary had agreed to hold a special meeting to hear this request. He believed that the petitioner's remarks were not warranted.

Fence Committee Recommendations

Staff indicated that this item was postponed from last month's meeting until all members of the fence sub-committee could be present.

The issues that the committee believes need clarification in the ordinance are fence locations and whether or not allowed in the front yard, where fences are allowed in relation to lot lines on all property lines, the height of fences and corner clearance. The committee had consensus on most items, but the Commission will need to determine which language to send to hearing on the front yard issue.

Commissioner Burns made a motion to postpone action/discussion until the next regular meeting when more Commissioners can be present. Support was from Commissioner Fuller. A vote was called and the motion passed on the following:

AYES: Burns, Fuller, Greenwell, Murphy, Wangeman (5)

NAYS: None (0)

Becky Goodman asked when the public would be able to give their input. Staff responded that the Commission is working on what language they will send to public hearing which will begin the public input process. Ms. Goodman stated that she would not like to see an ordinance that prohibited fences in the front yard.

Downtown Blueprint

The 2007 Downtown Blueprint includes specific actions, recommendations, strategies to keep Petoskey a vital downtown and an

important attraction of the community. Since the Commission is updating the community comprehensive plan through the Blueprint Petoskey process, staff recommends that the Commission adopt the document as the downtown component of the Blueprint Petoskey Economic Development Element.

Commissioner Fuller stated that he had read the document and thought it was a good guideline, but suggested that this item be postponed until more Commissioners are in attendance.

Commissioner Burns asked what happens if this plan is adopted. Staff responded that as any plan, it establishes a list of priority activities and projects to continue the revitalization of the downtown, however, it is possible that some will not be completed and other projects

unforeseen at this time may become higher priority. It is a guide for the community that projects should be evaluated against. As a component of the comprehensive plan, it is only binding in that City actions should not be in direct contradiction to the goal of downtown revitalization.

Staff indicated that the Management Board has adopted this as a guide. The Commission will be discussing the draft economic development element at its August Blueprint Petoskey meeting, but staff sees no reason to postpone adoption of the downtown component until then.

Commissioner Burns made a motion to adopt the Downtown Blueprint 2007 as the Downtown component of the Economic Development Element for Blueprint Petoskey. Support was from Commissioner Murphy. A vote was called and the motion passed on the following:

AYES: Burns, Fuller, Greenwell, Murphy, Wangeman (5)
NAYS: None (0)

Discussion on Sexually
Oriented Business Ordinance

Staff stated that as previously discussed, Emmet County has recently adopted a new ordinance pertaining to sexually oriented businesses as a result of a challenge to their

zoning ordinance. Communities can regulate these uses, however, given the propensity for first amendment violation challenges that regulations tend to receive, it is important that the negative effects of these uses are well documented. Identifying acceptable locations for these uses is another, and more time consuming, aspect of writing the ordinance.

Staff had provided the Commission with summaries of secondary effects land use studies that had been compiled by the County as a first step in educating them to the impacts other communities have documented. Staff is working on a draft of an ordinance with the City Attorney and will be doing more of the location analysis work in the coming month.

Commissioner Murphy asked if more recent/updated studies could be found. Chairperson Greenwell stated a lot of the information provided is used for setting case law and defined where, when etc.

Commissioner Fuller asked about Blair Township and their ordinance.

Staff indicated that she will provide additional studies to the Commission and will hopefully have a draft of the ordinance at the next regular meeting.

Update on Blueprint Petoskey

Staff stated that there will be a Commission Blueprint Petoskey meeting on June 12 to discuss the natural, historic, cultural resources

element draft will be discussed. There will also be upcoming meetings on the Local Roads Study the last week of June.

Since there was no further business to come before the Commission, the meeting was adjourned.

BOARD: Planning Commission

MEETING DATE: September 20, 2007 **DATE PREPARED:** September 11, 2007

AGENDA SUBJECT: Fence Regulation Text Amendment

RECOMMENDATION: Discuss/ Make Recommendation to City Council

Based on discussion at the July and August Planning Commission meetings, the attached text and figures have been drafted for consideration at the scheduled September 20th public hearing.

Several months ago, staff had brought to the attention of the Commission, at the request of a Commissioner, the existence of illegally placed front-yard fences within the community and sought direction from the Commission on enforcement measures. At that time, the Commission set up a subcommittee to review the current text in order to determine whether changes or clarifications were necessary. The committee reviewed other community ordinances and photos of fences within the City of Petoskey as well as in other communities. The committee then made a recommendation to the Commission to make several changes to the text to clarify existing language. However, the committee did not reach a consensus on whether fences should or should not be allowed in the front yard. The Commission then reviewed the proposed text and discussed it further, resulting in the current text version.

The purpose of the proposed text amendment is to clarify allowable placement and height of fencing in relation to front, side and rear lot lines, to remove hedges from the fence regulations, to remove the 2 acre/ 200 feet frontage exemption and to revise the corner clearance requirements for single and two family residential properties.

Upon completion of the public hearing, the Commission will need to make recommendation to the City Council on proposed zoning text amendments.

BOARD: Planning Commission

MEETING DATE: October 16, 2008 **DATE PREPARED:** October 6, 2008

AGENDA SUBJECT: Proposed Ordinance Changes

RECOMMENDATION: Hold Public Hearing/Recommend Changes to City Council

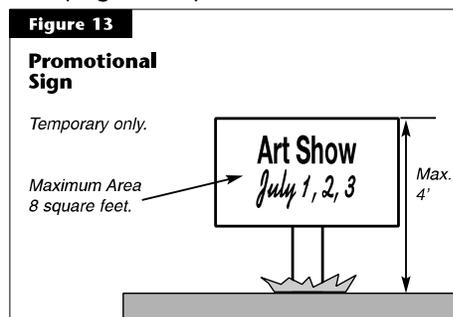
After discussing these items further at the August 21st and September 18th meetings, the Commission scheduled a Public Hearing on the following changes to the Sign and Zoning Ordinances.

SIGN ORDINANCE CHANGES

The intent of the Promotional Event Sign language change is to expand the definition of a temporary sign to include banners that may be posted on poles as well as mounted on a building, to include other forms of temporary signs, to increase the display period from the current 7 days in a 90-day period to 14 days in a 120 day period, and to require a permit to display a temporary sign. The amendment would also allow non-profits an opportunity to request a longer display period.

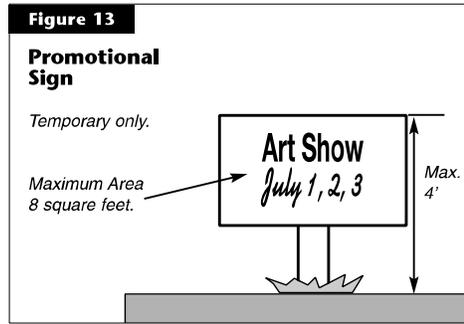
The current Section 2.1.51 of the Sign Ordinance currently reads:

- (51) **Promotional-event Sign.** A non-commercial, off-premise sign that is temporarily implanted in a yard or curb lawn area for a community event. (Figure 13)



The text is recommended to read:

- 2.1(51) A) Promotional-Event Sign- Directional.** A non-commercial, off-premise sign that is temporarily implanted in a yard or curb lawn area for a community event and regulated by Section 5.1(5) (Figure 13)

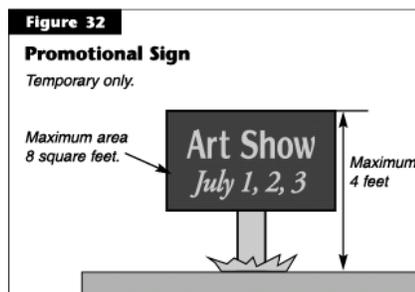


B) Promotional-Event Sign

A temporary sign advertising short-term sales, promotions or special events on private property and regulated by Section 7.1(3).

Sections 5.1(5) and 5.1(6) currently read:

- (5) **Promotional-event Signs.** Promotional-event signs that provide directions to a community event in the City, that is sponsored by a unit of government or a non-profit organization, shall be permitted for a period not to exceed five (5) days. Such signs for events such as art fairs, circuses, festivals, etc., shall be permitted, not exceeding eight (8)-square feet in area and four (4) feet in height. The number of signs, sign area, and sign location shall be approved by the City prior to installation. Promotional-event signs shall be removed within 48 hours after the event that they identify. (Figure 32)



- (6) **Banners.** Banners may be displayed only on a building wall as a part of a sign's permitted changeable-message area, for not more than seven (7) days in any ninety (90)-day period.

Sections 5.1(5) and 5.1(6) are recommended to read:

- 5.1(5) **Promotional-Event Signs- Directional.** Promotional-event signs that provide directions to a community event in the City, that is sponsored by a unit of government or a non-profit organization, shall be permitted for a period not to exceed five (5) days. Such signs for events such as art fairs, circuses, festivals, etc., shall be permitted, not exceeding eight (8)-square feet in area and four (4) feet in height. The number of signs, sign area, and sign location shall be approved by the City prior to installation.

Promotional-event signs shall be removed within 48 hours after the event that they identify. (Figure 32)

5.1(6) Promotional-Event Sign

A temporary sign advertising short-term sales, promotions or special events on private property and regulated by Section 7.1(3).

The new Section 7.1(3) of the Sign Ordinance is proposed to read:

7.1(3) Promotional Event Signs

Signs for advertising short term sales, promotions or special events, are allowed on private property within the City of Petoskey only under the following conditions:

- a. A permit shall be required to display any temporary sign. The permit application shall specify dates of display and a mock-up of the proposed sign and sign placement.
- b. Display period cannot exceed 14 days in a 120 day period.

An exception for the time restrictions for banners may be granted by the Sign Committee to non-profit organizations such as museums, churches and public service organizations which use the banner or banners to inform the public of an exhibition or event. Such signs shall be permitted two weeks before, and during the exhibition or event, and must be removed within two (2) days after the end of the exhibition or event.

- c. A temporary sign, whether a banner or other, shall not exceed thirty-two (32) square feet or 20 feet in length; sign may be double-sided.
- d. No more than two (2) signs shall be displayed on any property or parcel at one time and shall not be placed within the vision clearance area as defined in section 1714 of the Zoning Ordinance
- e. If building mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground-mounted, the top of the sign shall be no more than eight (8) feet above ground level.
- f. Shall be removed within two (2) days of the conclusion of the event.

ZONING ORDINANCE CHANGE; FENCES

Changes to the proposed amendment to the Zoning Ordinance pertaining to fences were discussed at the August 21 and September 18 Commission meetings, resulting in the following recommended text amendment.

Sec. 1712. Fences (Single and two-family residential).

Fences shall require a zoning compliance permit issued by the Zoning Administrator and shall comply with the following regulations and requirements:

A. Definitions

- 1. Fence: An artificially constructed barrier erected to enclose, screen, or separate parcels or portions of parcels. Intended primarily for security, screening or privacy and constructed of

materials such as chain link, solid wood slats or other similar security or privacy fences.

2. Fence, Decorative: A fence, no more than four (4) feet in height measured from the grade to the top of the highest fence post, and intended primarily as an ornament or accent on a parcel such as a picket, wrought iron, split rail or similar material that is typically not found in security fencing. Decorative fences shall be designed and constructed in a manner which allows objects on the other side to be clearly seen.

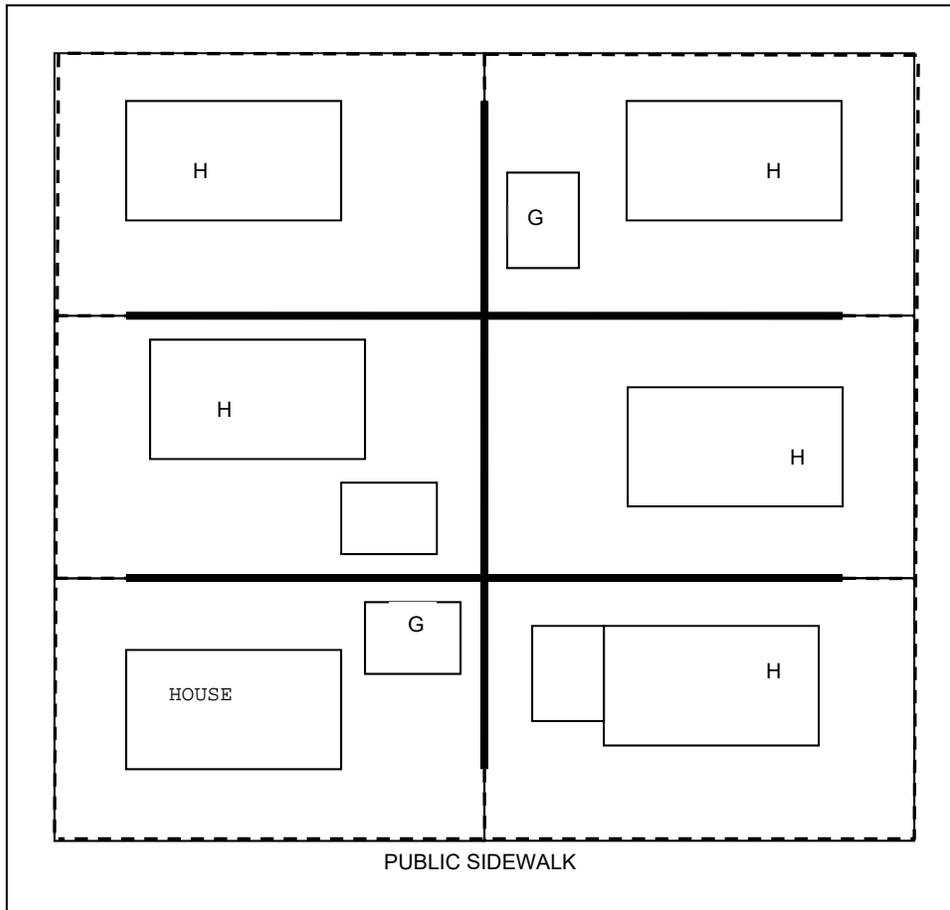
B. Location

1. Front Yard. Only decorative fences are allowed within a front yard, or that area in front of the primary structure (see Section 1712 Figure A).
2. Fences shall be located so as to not obstruct the clear vision corner or corner clearance as defined in Section 1714 of this ordinance.
3. Fences may be placed up to a lot line in all yards, however, the finished side of the fence shall face the adjoining property or the public right-of-way.
4. No fence shall be erected in such a way as to obstruct the vision of motorists exiting driveways.
5. Any fence placed within the City right-of-way shall be removed at owner's expense.

C. Height, Design and Opacity

1. Fences in a side or rear yard shall not exceed six (6) feet in height and shall not extend beyond the principal structure into the front yard ((see Section 1712 Figure A).
2. Decorative fences are allowed in a required front yard or corner-front yard but shall not exceed four (four) feet in height and shall not obstruct vision to an extent greater than fifty (50) percent of their total area. A front-yard fence that does not exceed three (3) feet in height may increase the opacity to 75%.
3. Chain link fences are not allowed in the front yard.
4. "Living" fences, such as hedges, in required front yards do not have to meet the opacity standards of Section C.2 above, but they shall not exceed three feet in height and shall comply with the corner clearance requirements of Section 1714.
5. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground.
6. Fences of lots of record shall not contain barbed wire, electric current or charge of electricity; Electronic fences buried beneath the ground are not regulated by this Section.
7. Fences may be placed on retaining walls, berms or similar features with the fence height to be measured from the established grade.

**SECTION 1712
FIGURE A**



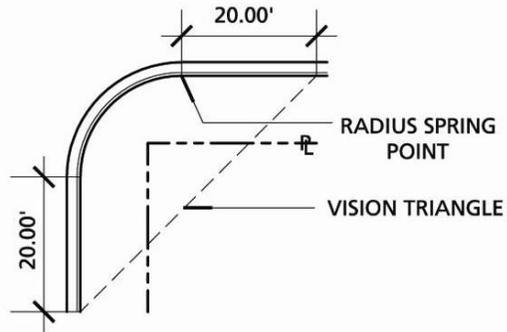
----- Only a decorative fence, 4 Ft in height, 50% open allowed

————— Maximum 6 Ft. Fence Allowed

Sec. 1714. Corner Clearance.

Any vision obstruction to vehicular traffic, including fences, walls, shrubbery, hedges, trees or signs above a height of two (2) feet from the street midpoint height are not permitted within the Vision Triangle. The Vision Triangle is the area at an intersection formed by extending a straight line 20 feet along the back of each curb from its radius spring point and connecting these two points (see Section 1714 Figure A). Obstructions identified by City staff to negatively impact public safety shall be removed at the property owner's expense.

**SECTION 1714
FIGURE A**



PLANNING COMMISSION

December 20, 2007

A regular meeting of the City of Petoskey Planning Commission was conducted in the City Hall Community Room at Petoskey, Michigan, on Thursday, December 20, 2007. Roll was called at 7:30 P.M.

Present: Gordon Bourland
Dean Burns
William Fuller
Gary Greenwell
Judy Hills
John Jorgensen
Laurie Krzymowski
John Murphy

Absent: Frank Wangeman

Staff: Amy Tweeten

Others present: James Dittmar, Ryan Bentley, Jim Murray

Upon motions made and seconded, the minutes of the November 15, 2007 meeting were approved with a correction in the second to last paragraph on page one, replacing the word architect with the words, Chip Ironside, the designer.

Public Hearing Zoning Ordinance Changes

Chairperson Greenwell first opened the public hearing on the proposed Article 28, An Ordinance Amending the City of Petoskey Zoning Ordinance with respect to Sexually Oriented Businesses.

Staff reported that there is no change from the text the Planning Commission previously reviewed. The City of Petoskey Zoning Ordinance does not currently have any regulations pertaining to Sexually Oriented Businesses (SOBs), however, communities are allowed to regulate these uses in order to minimize the negative effects they have been documented to generate.

The purpose of this ordinance is to create regulations dealing with sexually oriented businesses. The Commission has received copies of reports, studies, other cases that have documented secondary negative effects to adjacent land uses. These reports have detailed increases in crime rates, negative impact on adjacent property values. The studies create two control areas that they study over time to determine whether there is a negative effect. The studies do show that in the area where the businesses exist there is consistently higher crime rates, property values are lower and it takes longer to sell or lease property in an area where these types of businesses are located. Other studies also show that the impact of having more than one of these in a similar location is particularly detrimental to other commercial businesses and create what is known as dead zones that are actually more

negative to smaller communities. Many of the studies we've seen have been larger communities, but actually quite often these types of businesses are more negative on the smaller communities because the commercial areas are that much smaller and there's that much less distance to give to them. The control areas do have higher police calls, the crimes that are prosecuted are perpetrated by typically young transient single males and the customers for these types of businesses are not from the neighborhood, they are usually from outside the neighborhood as well as outside the community. They are bringing in people from outside the community that are creating negative impact on adjacent properties. And because of this dead zone impact that is one of the reasons you have the requirement that two of these businesses have to be so far apart. In developing this ordinance, Emmet County's ordinance was used as a base and we looked at what are defined as the sensitive land uses in particular that are negatively impacted by such businesses. We went through and identified sensitive uses being day care centers, churches, schools, libraries, cemeteries and public assembly locations. Starting with sensitive uses within the City, distances were identified that have been held up in court as legitimate distances to keep these businesses from the sensitive land uses to minimize negative impacts. From that starting at that point and utilizing the standard 1,000 foot radius from all the sensitive land uses, we would not have anywhere in the city for these uses. So then we started removing some of the land uses, particularly the cemeteries and public assembly areas and then we actually decreased the radius for State licensed day care centers to 500 feet. Those measures and looking at where in the City will be the least negative impact, where will it be furthest from a primarily residential neighborhood is how we came up with the language for the ordinance.

The SOB uses are permitted as a use by right, they are not a special condition use. In Section 2801, which is the permitted location of sexually oriented businesses, they have to be either in a B3, B-3B, I-1 or I-2 zoning district, at least 500 feet from a residentially zoned district, 500 feet from a PUD that is planned strictly residential, 1,000 feet from a house of worship, public library or public or private educational facility serving persons 17 and under, and 500 feet from a state licensed day care center and it has to be 1,000 feet from any other business of that type. That is the result of the land use map exercise. The remaining ordinance language is primarily a description of what types of businesses this ordinance pertains to.

Staff indicated that the way it is now, the location that businesses could locate would be the B3-B district and there is no magic number that says you have to provide so many places, but we are providing places and we will have to periodically update the map in case a new day care center moves in or moves out or additional areas open up. Staff believes that the proposed ordinance does protect the community from the documented secondary negative effect while maintaining the first amendment rights for sexually oriented businesses.

Since there were no questions or comments from the public, Chairperson Greenwell closed the public hearing.

City Attorney Jim Murray commented that staff did an excellent job of summarizing this. He also stated that the City should keep in mind that they do not have to make new findings and make your own studies, you can rely on the relative methods and studies that are referenced in this proposed ordinance. He indicated that the proposed ordinance is appropriate for the City of Petoskey.

Commissioner Jorgensen commented that if a business wanted to locate in the B3-B district, that district is one of the more strictly zoned and the Planning Commission does have a say in how businesses are designed and what it looks like in this particular district.

Mr. Murray indicated that the map will need to be updated as businesses are added or removed.

Discussion followed regarding a missing number in the proposed ordinance. Staff indicated that the final ordinance will be correctly numbered.

Commissioner Fuller asked Mr. Murray if this ordinance is defensible. Mr. Murray indicated yes it is, with the law that exists today.

A motion was made by Commissioner Burns to recommend the ordinance for adoption to City Council. Support was from Commissioner Fuller.

A vote was called and the motion passed on the following:

AYES: Bourland, Burns, Fuller, Greenwell, Hills, Jorgensen, Krzymowski, Murphy (8)

NAYS: None (0)

Staff stated that after reviewing and discussing the issue of fences for several months, the Planning Commission voted at its November meeting to schedule a public hearing on the enclosed, revised language pertaining to fences. The purpose of the proposed text amendment is to clarify allowable placement and height of fencing in relation to front, side and rear lot lines, to remove hedges from the fence regulations, to remove the 2 acre/200 feet frontage exemption and to revise the corner clearance requirements for single and two family residential properties.

The language that is proposed for the public hearing is:

Section 1712.

1. Fences are permitted subject to the following restrictions: Within a front yard, or that area in front of the primary structure, only fencing four (4) feet in height or less is allowed. (see Section 1712 Figure A).
2. Fences that do not enclose property may be placed along side lot lines but shall not exceed four (4) feet in height from the front property line to the front of the house and not exceed six (6) feet in height from the front of the house to the rear property line (see Section 1712 Figure A).
3. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground.
4. No chain link fence shall be erected in any front yard.
5. Fences of lots of record shall not contain barbed wire, electric current or charge of electricity; Electronic fences buried beneath the ground are not regulated by this Section.

6. Fences may be placed up to a lot line, however, the finished side of the fence shall face the adjoining property or the public right-of-way.
7. Any fence placed within the City right-of-way shall be removed at owner's expense.
8. No fence shall be erected in such a way as to obstruct the vision of motorists exiting driveways.
9. Zoning compliance permits are required for all above-ground fences.

Section 1714. Corner Clearance.

Any vision obstruction to vehicular traffic, including fences, walls, shrubbery, hedges, trees or signs above a height of two (2) feet from the street midpoint height are not permitted within the Vision Triangle. The Vision Triangle is the area at an intersection formed by extending a straight line 20 feet along the back of each curb from its radius spring point and connecting these two points (see Section 1714 Figure A). Obstructions identified by City staff to negatively impact public safety shall be removed at the property owner's expense.

Chairperson Greenwell then closed the public hearing.

Commissioner Murphy stated that he is still opposed to this ordinance and feels that fences do not make a walkable community.

Commissioner Jorgensen stated he shares some of Commissioner Murphy's concerns, but his biggest concern is open space in the fencing, which is difficult to define the decorative aspect of it, but feels that solid fences are not appropriate, but will vote for approval of the ordinance.

Commissioner Burns made a motion to recommend to City Council to adopt the revised language pertaining to fences in Section 1712 and 1714. Support was from Commissioner Jorgensen.

Discussion followed.

Commissioner Fuller asked staff what would have to be provided for a fence permit.

Staff responded she would ask for a drawing showing placement of the fence on the property and also a picture of the type of fence.

A vote was called and the motion passed on the following:

AYES: Bourland, Burns, Fuller, Greenwell, Hills, Jorgensen (6)

NAYS: Krzymowski, Murphy (2)

Parks and Recreation
Master Plan

The Parks and Recreation Master Plan Update process has been on-going for several years. The Parks Commission is the City body charged with developing the plan in conjunction with staff and sending it to Council for approval. As noted in the current Blueprint Petoskey draft, the master plan is referenced and will ultimately be incorporated into the Natural Resources element of the comprehensive plan.

CITY OF PETOSKEY

ORDINANCE NO. _____

AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF PETOSKEY CODE, ZONING ORDINANCE.

THE CITY OF PETOSKEY ORDAINS:

1. Article XVII, Section 1712 of the Zoning Ordinance of the City of Petoskey is amended to read in its entirety as follows:

Sec. 1712. Fences (Single and two-family residential).

Fences shall require a zoning compliance permit issued by the Zoning Administrator and shall comply with the following regulations and requirements:

1. Definitions
 - a. Fence: An artificially constructed barrier erected to enclose, screen, or separate parcels or portions of parcels. Intended primarily for security, screening or privacy and constructed of materials such as chain link, solid wood slats or other similar security or privacy fences.
 - b. Fence, Decorative: A fence, no more than four (4) feet in height measured from the grade to the top of the highest fence post, and intended primarily as an ornament or accent on a parcel such as a picket, wrought iron, split rail or similar material that is typically not found in security fencing. Decorative fences shall be designed and constructed in a manner which allows objects on the other side to be clearly seen.
2. Location
 - a. Front Yard. Only decorative fences are allowed within a front yard, or that area in front of the primary structure (see Section 1712 Figure A).
 - b. Fences shall be located so as to not obstruct the clear vision corner or corner clearance as defined in Section 1714 of this ordinance.
 - c. Fences may be placed up to a lot line in all yards, however, the finished side of the fence shall face the adjoining property or the public right-of-way.
 - d. No fence shall be erected in such a way as to obstruct the vision of motorists exiting driveways.
 - e. Any fence placed within the City right-of-way shall be removed at owner's expense.
3. Height, Design and Opacity
 - a. Fences in a side or rear yard shall not exceed six (6) feet in height and shall not extend beyond the principal structure into the front yard (see Section 1712 Figure A).

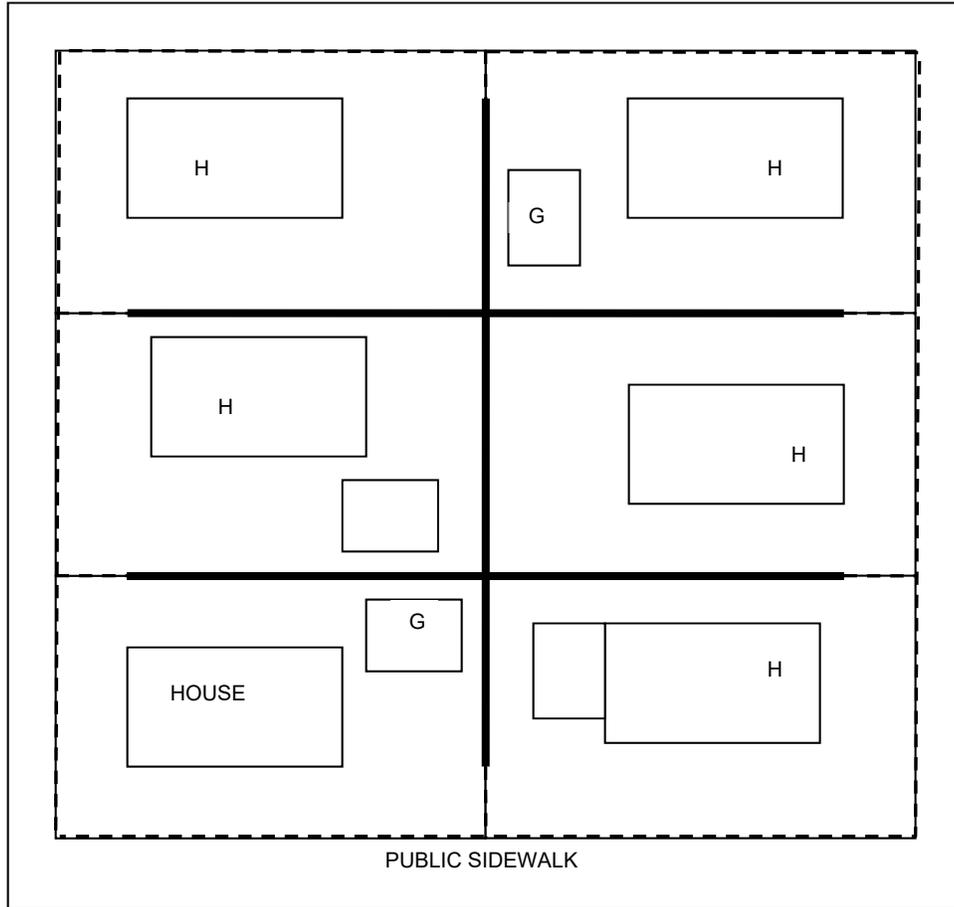
- b. Decorative fences are allowed in a required front yard or corner-front yard but shall not exceed 4 (four) feet in height and shall not obstruct vision to an extent greater than fifty (50) percent of their total area. A front-yard fence that does not exceed three (3) feet in height may increase the opacity to 75%.
 - c. Chain link fences are not allowed in the front yard.
 - d. "Living" fences, such as hedges, in required front yards do not have to meet the opacity standards of Section C.2 above, but they shall not exceed three feet in height and shall comply with the corner clearance requirements of Section 1714.
 - e. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground.
 - f. Fences of lots of record shall not contain barbed wire, electric current or charge of electricity; Electronic fences buried beneath the ground are not regulated by this Section.
 - g. Fences may be placed on retaining walls, berms or similar features with the fence height to be measured from the established grade.
2. Article XVII, Section 1714 of the Zoning Ordinance of the City of Petoskey is amended to read in its entirety as follows:

Sec. 1714. Corner Clearance.

Any vision obstruction to vehicular traffic, including fences, walls, shrubbery, hedges, trees or signs above a height of two (2) feet from the street midpoint height are not permitted within the Vision Triangle. The Vision Triangle is the area at an intersection formed by extending a straight line 20 feet along the back of each curb from its radius spring point and connecting these two points (see Section 1714 Figure A). Obstructions not in conformity with this ordinance identified by City staff to negatively impact public safety shall be removed at the property owner's expense.

SECTION 1712

FIGURE A

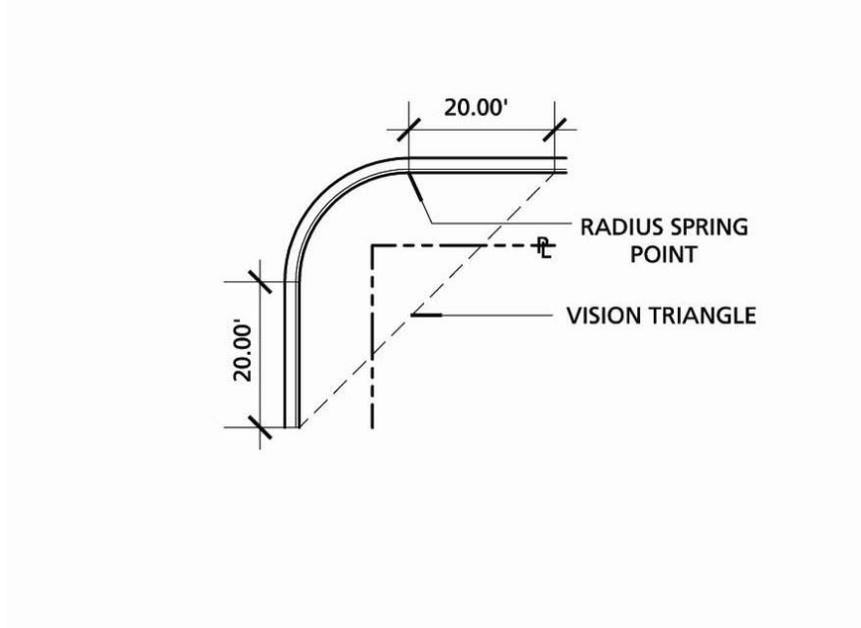


----- Only a decorative fence or living fence as defined in C2 and C4 above

————— Maximum 6 Ft. Fence Allowed

SECTION 1714

FIGURE A



3. This Ordinance shall take effect fourteen (14) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Enacted and Ordained by the City of Petoskey Council on the _____ day of _____, 2008.

Dale Meyer, Mayor

Alan Terry, Clerk-Treasurer

City Council Minutes
July 7, 2008

Defer Fencing and Corner Clearance
Amending Ordinance 702

The City Manager then reported that, at the recommendation of the Planning Commission, the City Council was being asked to consider a proposed ordinance, also as drafted by Plunkett Cooney, that would amend City Code zoning provisions to change fencing and corner-clearance regulations.

The City Manager also reported that development of this proposed amending ordinance was in response to concerns about potential problems or experience with current City Code provisions that were believed inconsistent with actual practice or perceived needs; that provisions of the proposed amending ordinance had been the subject of discussions by the Planning Commission at several of the Commission's meetings; and that a public hearing also had been conducted for the proposed ordinance.

The City Manager summarized the proposed ordinance as an amendment to City Code zoning provisions that would revise regulations associated with fencing at single- and two-family residential properties to limit fence heights to four feet within front yards and six feet in side and rear yards; limit fence heights to eight feet at public areas; prohibit chain-link fencing within front yards, all barbed wire and electrically-charged fencing, unfinished sides of fencing facing adjoining properties, fencing placed within rights-of-way, and fencing that obstructs vision at driveways; that zoning-compliance permits would be required prior to erecting above-ground fencing with underground, electronic fencing not regulated; that included were corner-clearance restrictions for fences, walls, shrubs, hedges, trees, and signs greater than two feet in height that could block motorists' vision; and that these recommended zoning-text changes had been developed in response to concerns about illegally placed front-yard fencing and what had been considered inconsistencies in text and administrative practices.

City Councilmembers then discussed the proposed ordinance including concerns about current language and interpretation of City Code provisions as well as issues associated with front-yard fences.

Mayor Meyer then requested public comment and heard Jill Schodde, 911 East Mitchell Street, report that she favored the proposed fence-provisions ordinance; and that both she and her son, who lived at a separate City residence, wished to install what they considered to be decorative fences within their front yard areas.

Following this discussion by the City Council, in accordance with City Charter provisions, further consideration of the proposed ordinance was deferred until the July 21, 2008, meeting of the City Council.

August 4, 2008

Resolution No. 18201
Refer Fencing and Corner-Clearance
Amending Ordinance Back to
Planning Commission

The City Manager next reported that, at its meeting of July 7, 2008, the City Council also had considered and then had deferred action concerning a proposed ordinance, as recommended by the Planning Commission for

adoption by the City Council, that would amend City Code zoning provisions to revise regulations associated with fencing at single- and two-family residential properties to limit fence heights to four feet within front yards and six feet in side and rear yards; limit fence heights to eight feet at public areas; prohibit chain-link fencing within yards, all barbed wire and electrically-charged fencing, unfinished sides of fencing facing adjoining properties, fencing placed within rights-of-way, and fencing that obstructed vision at driveways; that zoning-compliance permits would be required prior to erecting above-ground fencing; that underground, electronic fencing would not be regulated; and that, also included within the proposed ordinance, were corner-clearance restrictions for fences, walls, shrubs, hedges, trees, and signs greater than two feet in height that could block motorists' vision.

The City Manager further reported that these recommended zoning-text changes had been developed in response to concerns about illegally-placed, front-yard fencing, and what had been considered inconsistencies in zoning-ordinance text and administrative practices, and the City Planner reported that these recommended zoning-text changes had been developed in response to existing fences and as a result of property owners wishing to install fences, knowing that others had done so. The City Planner then reviewed how the proposed ordinance had evolved over the last year during Planning Commission discussions.

City Councilmember Dittmar reported that he believed that fences restrict neighborhoods; reviewed what he believed to be negative aspects of fencing; and reported that he did not support front-yard fences, suggesting that such discussion concerning fencing be deferred until form-based zoning could be considered.

City Councilmember Wills reported about problems that he believed were associated with corner lots and problems associated with people trespassing across properties; and reported that he favored this proposed amending ordinance.

City Councilmember McWatters asked how decorative fencing was to be defined as a result of the proposed ordinance (the City Planner reported that the Planning Commission had decided that it did not wish to specify fencing materials).

In response to Mayor Meyer's call for public comments, Dr. Pall reported that he was not in favor of fences, and that he was not in favor of this proposed amending ordinance; and Mr. Rashid reported that he did not believe it in keeping with the character of Petoskey to have fences; that he believed that fences could pose a safety hazard for children as they rode bicycles along sidewalks; and that he did not support this proposed amending ordinance.

City Councilmember Wills then moved that the following resolution be adopted:

BE IT RESOLVED that the ordinance as recommended by the Planning Commission that would amend City Code zoning provisions concerning fencing and corner clearances be and is hereby adopted.

Said resolution failed due to lack of support.

City Councilmember Wills then reported that he wished the Planning Commission to revisit proposed front-yard fencing provisions.

City Councilmember Johnson reported that he believed that the proposed amending ordinance included beneficial portions, but that he also would like to see revisions.

City Councilmember McWatters reported that she did not support the proposed amending ordinance.

City Councilmember Johnson then moved that, seconded by City Councilmember Wills, the following resolution be approved:

BE IT RESOLVED that the City Council does and hereby refers back to the Planning Commission for further review the proposed ordinance as recommended by the Planning Commission and presented to the City Council on July 7, 2008, that would amend City Code zoning provisions pertaining to fencing and corner clearances.

Said resolution was adopted by the following vote:

AYES: Dittmar, Johnson, Wills, Meyer (4)

NAYS: McWatters (1)

December 1, 2008

Defer Fencing and Corner-Clearance Amending Ordinance

The City Manager reported that, after initially receiving a recommendation from the Planning Commission in July, 2008, that the City Council amend City Code fencing and corner-clearance provisions, the City Council had reviewed a proposed amending ordinance at two of its meetings before referring this matter back to the Planning Commission in August; that the City Council had been provided a proposed amending ordinance as part of December 1 meeting-agenda materials, as prepared by Plunkett Cooney, and as recommended by the Planning Commission for the City Council's consideration, that now provided a more detailed definition of decorative fencing and that permitted only decorative fences to be installed within front yards; that, because the City Council could not adopt a proposed ordinance at the same meeting at which it was introduced, this draft could be reviewed at this December 1 meeting of the City Council, with action deferred; and that the City Council also had been provided with the draft ordinance that previously had been considered by the City Council.

Following discussion by the City Council, Mayor Meyer asked for comments from those persons who were in attendance and heard Dr. Pall ask if existing fencing would be exempt from regulations of the proposed ordinance (the City Manager responded that existing fences would be exempt from the proposed ordinance, but that replacements of existing fencing would be required to meet provisions of the proposed ordinance); reported that he believed that the fence-density language that had been included in the proposed ordinance was too vague and could cause difficulty in enforcement; and that he would prefer a fence-height restriction of three feet rather than the four feet that had been proposed.

City Councilmember Dittmar requested that Planning Commission-meeting minutes be provided to the City Council prior to the next City Council meeting that pertained to this most recent proposed ordinance.

Following discussion by members of the City Council, in accordance with City Charter provisions, further consideration of the proposed ordinance was deferred until the December 15, 2008, meeting of the City Council.

December 15, 2008

Take No Action Concerning Fencing and Corner Clearance Amending Ordinance

The City Manager then reported that, at its meeting of December 3, 2008, the City Council had considered a proposed ordinance that had been recommended by the Planning Commission that would amend City Code zoning provisions concerning fencing and corner clearances and that would provide a detailed definition of decorative fencing and permit only decorative fences to be installed in front yards; and reported that, because an ordinance cannot be adopted at the same meeting at which it is introduced, the City Council had deferred final action concerning this matter until December 15.

The City Manager also reported that proposed amendments to fencing and corner-clearance provisions had been recommended by the Planning Commission in July, 2008, but had been referred back to the Commission by the City Council in August; that the Planning Commission again had considered this matter in September and October prior to recommending the current proposed amendments; and that the City Council had been provided copies of the proposed ordinance, and at City Councilmember Dittmar's request, excerpts from minutes of August, September, and October Planning Commission meetings.

City Councilmember Dittmar then reported that he believed that front-yard fences currently were not permitted; that he believed that front-yard fences affected neighboring properties; that he believed that front-yard fences affected the character of a community; that he believed that individual freedom must be balanced with preserving the character and value of a neighborhood; and that he supported most of the changes that had been recommended by the draft ordinance but that he did not support the ordinance as it was proposed for front-yard fencing. City Councilmember Dittmar then distributed to members of the City Council copies of a diagram that had been included along with the text of the proposed ordinance that had been modified by City Councilmember Dittmar to depict a proposed compromise to the ordinance that reflected that front-yard fencing be restricted to the front of the building, and that front-yard fencing and opaque shrubbery be restricted to a three-foot height maximum instead of four-foot heights that had been proposed.

City Councilmember Dittmar then moved that, seconded by City Councilmember McWatters, the following resolution be approved:

BE IT RESOLVED that an ordinance to amend Appendix A of the City of Petoskey Code, Zoning Ordinance, be adopted as had been recommended by the Planning Commission, but revised so that no front-yard fences be placed within the front-yard footprints of buildings and maximum-height restrictions of three feet be imposed for front-yard fences and front-yard opaque shrubbery.

City Councilmember Wills reported that he could support a three-foot maximum-height restriction, but that he disagreed with restricting front-yard fencing on corner lots to the front of the building because he believed that this restriction would not allow for protection against foot traffic from crossing corner areas of yards.

City Councilmember Johnson reported that he believed that his neighborhood could be changed drastically by these proposed amendments; that he believed that, if a person believed that a hardship existed, that that person could ask for a variance from the Zoning Board of Appeals.

Mayor Meyer asked for public comment and heard Ms. Robson report that she believed that existing front-yard fencing within her neighborhood on Grove Street was unattractive; that she believed that front-yard fence maintenance could be problematic; and that she would suggest front-yard fencing be prohibited as currently was stated in City Code zoning provisions (the City Manager reported that he did not believe that the Zoning Board of Appeals would have within its authority to permit the installation of a fence within a front yard should the City Council amend the City Code accordingly; and that he believed that this variance request would differ from routine granting of variances from City Code provisions by the Zoning Board of Appeals, but that he could request Plunkett Cooney to opine concerning this matter); and Ms. Robson then reported that she believed that, if there was a question as to whether the Zoning Board of Appeals could grant such variance requests, she recommended deferral of this matter until a legal opinion could be obtained.

Said resolution then failed by the following vote:

AYES: Dittmar, McWatters (2)

NAYS: Johnson, Wills, Meyer (3)

Following further discussion, City Councilmember McWatters moved that the ordinance be adopted as presented but that no front-yard fence placement be permitted within a building's front-yard footprint. Said motion failed due to lack of support.

Following additional discussion, City Councilmember Wills then moved that the proposed ordinance be adopted as presented, with the exception that front-yard fencing and front-yard opaque shrubbery be limited to three feet in height. Said motion failed due to lack of support.

No further action was taken, and it was the consensus of members of the City Council that this recommendation of the Planning Commission not be considered further.

March 16, 2009

The Acting City Manager next reported that the Resolution No. 18285 City Council had considered an amendment to Refer City Code Fencing Provisions zoning provisions as had been recommended To Planning Commission For Review by the Planning Commission in July, 2008, concerning residential fencing and corner clearances, but that this matter had been referred back to the Planning Commission in August for further review; and that the Planning Commission again considered the matter in September and October, prior to recommending a revised amendment to the City Council in December, 2008, which the City Council again turned down.

The Acting City Manager also reported that there appeared to still be interest in having the Planning Commission revisit this matter with direction from the City Council to the Planning Commission for possible changes to the December, 2008, version of the proposed ordinance; and that City Councilmember Fraser had asked that the Planning Commission consider a revision that would

prohibit front yard fences, while allowing back and side yard fences up to the front plane of the dwelling.

The Acting City Manager also reported that the City Council had been provided with background materials that had included agenda memos and minutes from the City Council and Planning Commission meetings concerning this matter; and that the City Council was being asked to consider a proposed resolution that would request the Planning Commission to revisit the December, 2008, proposed ordinance and consider provisions proposed by the City Council.

City Councilmember Fraser reported that he had requested that fencing provisions be revisited by the Planning Commission; that he believed that the Planning Commission and the City Council had had much discussion concerning these provisions; and that he believed that minor changes to the fencing provisions could resolve this matter.

Following further discussion, City Councilmember Dittmar moved that, seconded by City Councilmember Fraser, the following resolution be approved:

WHEREAS, the City of Petoskey Planning Commission proposed an ordinance amending City Code zoning provisions concerning fencing and corner clearances in July and December, 2008; and

WHEREAS, the City Council turned down the proposed ordinances in August and December, 2008, respectively; and

WHEREAS, the City Council desires to consider a separate version of an ordinance amending City Code zoning provisions for fencing and corner clearances:

NOW, THEREFORE, BE IT RESOLVED that the City of Petoskey City Council requests that the Planning Commission revisit this proposed ordinance taking into consideration an ordinance that is up-to-date and enforceable; that prohibits front- yard fencing; that provides for side- and rear-yard fencing up to the property line; and provide the rationale to the City Council that Planning Commission used to amend the ordinance.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

May 13, 2009

The Acting City Manager reported that the City Resolution No. 18307 Council at its May 4, 2009, meeting discussed Defer Fencing, Corner Clearance proposed revisions to City Code zoning provisions relating to fences; that the City Planner had revised the text of the ordinance proposed to the City Council by the Planning Commission late last year and had forwarded proposed changes to the City Attorney for review; and that the City Council, as requested, had been provided a revised ordinance, as approved in form by the City Planner and City Attorney, for its consideration.

The Acting City Manager also reported that, if the City Council approved the revised language, the May 13 meeting would qualify as the first of two meetings that were required prior to adoption of an ordinance; that State zoning law required that a notice of public hearing be published in the local newspaper 15 days in advance of the meeting date; and that this public hearing could be scheduled for the June 1, 2009, City Council meeting, at which time the ordinance could be acted upon.

The City Council then revised the proposed ordinance to delete the second sentence in (1) (a) Definition of Fence, and to denote all areas that a maximum 6-foot fence would be permitted in

Section 1712, Figure A. Following discussion, City Councilmember Marshall moved that, seconded by City Councilmember Johnson, that Ordinance 708 be approved:

Initial Motion - Resolution No. 18307

RESOLVED that Ordinance No. 708 language that would amend Appendix A of the City of Petoskey Code, Zoning Ordinance, be approved as submitted by the City Attorney and City Planner with revisions that the second sentence in Section 1712(1)(a) Fence be deleted and that Section 1712, Figure A, be revised to denote all areas that a maximum 6-foot fence would be permitted and that this matter be deferred to the City Council meeting of June 1, 2009, for further action.

Said resolution was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

June 1, 2009

As the first item of business, the Acting City Resolution No. 18309 Manager reported that, at its May 13, 2009, Conduct Public Hearing and meeting, the City Council conducted the first of Adopt Ordinance 708 - Fencing two meetings required to act upon a proposed and Corner Clearances ordinance that would revise City Code zoning provisions relating to fences and corner clearances; that the City Council had been provided a revised proposed ordinance as recommended by the City Council at its May 13 meeting; that this proposed ordinance had been approved as to form by the City Attorney; and that a notice of the public hearing concerning these proposed revisions had been publicized May 15.

The Acting City Manager also reported that, following the public hearing, the City Council could act upon the proposed ordinance concerning fences and corner clearances that would become effective fourteen days following its adoption by the City Council.

Mayor Pall then opened the public hearing and the following comments were heard from those persons in attendance at the meeting:

Sherry Loar-Trudell, 801 East Sheridan Street, reported about several criminal and nuisance incidents that she believed had occurred in and near the front-yard of her corner-lot residence; that she objected to the City Council's proposed prohibition of front-yard fences; that she requested the City Council to consider her rights to protect her property with fencing, as well as her Fourth Amendment rights; that she believed that the City staff had installed retaining walls in front-yard corner-lot areas; and that she did not currently have a fence in her front yard, but that she planned to install a front-yard fence when she was financially able to do so.-2-

Jim Harrington, 1226 Hill Street, reported that the proposed zoning ordinance would permit him to install a fence on his property where the current zoning ordinance would not; and that he supported this proposed ordinance concerning fencing and corner clearances.

B. Jeremy Wills, D.D.S., 204 State Street, reported that his corner-lot residence was exposed on three sides to public rights-of-way because of an alley that ran parallel on one side yard and public streets on his front and second side-yard area; asked if an alley would determine that his side yard was also a front-yard area (Mayor Pall stated that while he did not have a legal opinion concerning alleys, he believed that a side yard alley would not be defined as a street in determining a front-yard definition); that he believed that front-yard fencing would prohibit pedestrians and cyclists from trespassing on his lawn; that he believed that fencing improved the aesthetics of some homes; that he did not consider corner-lot side yards as front-yard areas; and that he did not believe that corner-lot properties should be restricted from installing fences.

There being no further receipt of public comments, Mayor Pall closed the public hearing at this time. Following discussion by City Councilmembers concerning these public comments, City Councilmember Fraser moved that, seconded by City Councilmember Johnson, that the following ordinance be adopted as written:

ORDINANCE NO. 708

**AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF PETOSKEY CODE, ZONING
ORDINANCE (Fences and Corner Clearances).**

Said ordinance was adopted by the following vote:

AYES: Dittmar, Fraser, Johnson, Marshall, Pall (5)

NAYS: None (0)

Oh Deer... Not My Garden!

How to keep deer away with barriers and natural deer repellents.



Nothing can be more picturesque than the sight of a deer loping through a field – unless it is on its way to the garden and chews your plants to the ground. That is when Bambi, the beautiful beast, turns into a destructive pest that you do not want around.

It is happening more and more as deer populations grow and humans build homes in what was once rural deer habitat.

What do deer eat? Anything vegetative, although they become less picky the hungrier they get. They also eat a lot. The average adult male can consume more than five pounds of food each day.

How do you keep deer out of the garden? No matter what method you choose, early intervention is best. It is much easier to deter deer before the herd has decided that your backyard is the best dining spot in town. There are several deer repellent options. They include:

Motion Activated Sprayers – Even deer do not like an unexpected cold blast of water. The sudden noise, movement and spray scares animals away, teaching them to avoid the area in the future.

Fencing – regular and/or electric fencing can be used to help deter deer from entering your garden or backyard. Check your local ordinance for restrictions on fence heights.

Deer Repellents – Anything that is sprayed, dusted or left around plants to ward off deer. There are a number of deer repellents that can be used. You could purchase some from the garden store or hardware department. If so, use these products according to their instructions. Alternatives to use at home include mothballs (hang in onion sacks from low branches at deer height), prickly branches (use as a fence or barrier), decaying fish heads, blood and bone meal, garlic, fabric softener, etc. Not all of these options are environmentally friendly – mothballs are fairly chemically active and commercial options might contain unacceptable chemicals, depending on what is in them. Then there is the smell factor; if some things are too smelly, you are unlikely to want to sit in your garden and enjoy it!

- Many commercially available deer repellents include things like deodorized fox urine, coyote urine, or wolf urine. What these products have in common are that they are: (1) urine (2) of something that eats deer. This opens up a number of other possible ways to repel deer:

Ultrasonic Devices – Which don't play music for deer's ears, but, instead emit noise that they cannot stand. Kind of like playing "Heavy Metal" for your grandmother who loves Lawrence Welk.

Netting – Great for small trees. Tree Netting allows them to get sun and rain, but keeps the deer away. Easy to use — safe and humane! Fishing line can also be used.

Grow plants that deer dislike – This comes with a big caveat – deer, if hungry or curious enough, will eat almost *anything*. As such, none of the plants that might deter them are a sure thing but you can at least try. Some of the plants that deer seem to not like include ornamental grasses, iris, foxgloves, black-eyed Susan, daffodils, California fuchsia, yucca, herbs and plants with a strong fragrance, such as sage, chives, lemon balm, bee balm, lavender, etc. They also dislike plants with thorns, such as purple coneflower but delicious roses seem to be a marked exception to that!

- Equally, be aware of which plants are likely to tempt deer to your yard. Plants such as tulips, chrysanthemum, hyacinths, roses, apples, beans, peas, raspberries, strawberries, sweetcorn, hosta, dogwood, fruit trees, Norway maple, yew, and azaleas positively radiate welcome signs to deer!^[2] Sometimes people plant these a long way from parts of the yard or garden to lure deer away; that's a risky strategy though as may just invite them to one end and encourage them to keep wandering through.

Other deer control methods include harvesting crops as early as possible, which gives deer less of an opportunity to dine on your vegetables and fruit. Grow "lure" crops a short distance from the plants you do want to protect (Be advised that a lure crop may backfire. While it may keep deer out of the corn for a season, providing food to deer will keep them coming back and in greater numbers, which may ultimately worsen the problem.)

The scent of humans or dogs used to be enough to drive away the hungriest of deer, but now deer are used to having us around, so hanging panty hose stuffed with human hair – an old-time remedy – no longer does the trick. More and more gardeners are turning to repellents. Deer repellents smell bad and taste worse, which is why they work. Their effectiveness depends on how much feeding pressure the deer face – how hungry they are – or how attractive your plants are to them.

It is hard to sort out which repellent to buy. Some studies recommend one thing while another one says something completely different. The best thing to do is experiment yourself and find out what deer in your area dislike. Keep in mind that what works can vary from year to year. Deer can become used to repellents, which means what first was a powerful deterrent could become less so over time. That is why it can be a good idea to rotate their use.

Repellents can range from a 99 cent bar of deodorant soap (Dial or Lifebuoy, which you hang near your plants by drilling a hole in the soap and attaching string.) to spray on applications that feature coyote urine. You can even make your own homemade repellent. Blend two eggs and a cup or two of cold water at high speed. Add this mixture to a gallon of water. Let stand for 24 hours. Re-apply as needed.

How often you have to apply repellents depends on the time of year, the amount of rain you're receiving (the more rain, the less effective the repellent is as it washes off), how anxious the deer are for food, as well as what type of deer are foraging on your property. Depending on the repellent used, you may have to apply it every couple of weeks or just every couple of months.

Some repellents are inappropriate for food crops. Repellents will not just repel the deer, but you too by making the plants and their fruits or vegetables taste bad. (If you can avoid the fruit or the vegetable, you can spray the rest of the plant and not damage the food.)

When applying deer repellents, always read the product label. Usually you will need to apply when its 40°F or warmer and your plants are dry. Avoid spraying when it is windy, as you will get more on you than on your plants. If treating young trees, apply the repellent on the entire tree. Older trees may only need treatment on new growth. Treat all trees up to six feet above the maximum expected snow depth. You may also need to reapply frequently especially after rain or irrigation.



BOARD: Planning Commission

MEETING DATE: September 20, 2018

DATE PREPARED: September 12, 2018

AGENDA SUBJECT: Election of Officers

RECOMMENDATION: Elect Chair and Vice Chair/Secretary

The Commission annually elects its officers. Current officers are Gary Greenwell, Chair, and Emily Meyerson, Vice Chair/ Secretary.

The role of the chair is to run the meetings, making sure everyone from the Commission and public is allowed an opportunity for input, and works with staff on the meeting agenda.

The role of the vice chair/secretary is to run the meetings in the absence of the chair and to review the draft minutes before they are sent to the Commission.



BOARD: Planning Commission

MEETING DATE: September 20, 2018

DATE PREPARED: September 12, 2018

AGENDA SUBJECT: Housing Needs

RECOMMENDATION: Discussion/ Direction

The Planning Commission has been discussing the need for workforce housing for several years, and has discussed various options to create such housing. As this is a subject that is not getting better, staff believes the Commission needs to continue to come up with possible solutions for the lack of housing in the City. Enclosed is an agenda memo sent to City Council in March of 2017 which has seen little action (on the part of Emmet County in funding a higher service level for public transportation), but has some concrete actions for discussion and direction.

Staff recommends that the Commission discuss and recommend actions to City Council.



BOARD: City Council

MEETING DATE: March 20, 2017

DATE PREPARED: March 15, 2017

AGENDA SUBJECT: Housing Presentation Follow Up

RECOMMENDATION: Discussion/ Direction

At its March 6th meeting, City Council heard a presentation by Sarah Lucas from Networks Northwest on housing issues facing the region. Housing issues have, and continue to be, addressed by the City in a number of ways, a summary of past and on-going actions is below. In addition, information from residential sales over the past three years is provided.

Approval Process

As mentioned by Sarah Lucas, a protracted approval process is costly and a deterrent to developers. It is also true that multiple family developments tend to face opposition from neighbors, whether the concerns are legitimate or not. Through the RRC process, we are examining our approval process to make sure it is efficient and educating boards and commissions on their roles and the importance of following established ordinances.

Accessory Dwelling Units

Accessory dwelling units (ADUs) are seen as a way to provide multiple generational housing or workforce housing by allowing an accessory unit on a single family parcel. ADUs were discussed by the Planning Commission in 2015, but not seen as a real solution to affordable housing needs given the cost of construction and number of residents that might want to construct. There was also a concern about them being used as vacation rentals rather than for family members/ workforce housing. Given number of violation notices sent to owners advertising on Air B&B and VRBO and calls staff receives from realtors and potential purchasers about the ability to use residential structures for vacation rentals, this is a legitimate concern. Some communities only allow ADUs on principal residence properties, but enforcement is always the challenge.

Density Restrictions

Zoning can be an impediment to affordable housing if it tightly restricts density, but staff does not believe this is the case in Petoskey. The City does not have large-lot requirements and our multiple family districts have density allowances between 10-15 units/acre (RM-1) and 16-27 units/acre (RM-2). We have also successfully used PUDs to allow higher density at Harbor Watch and Crestview Commons and there are no density limitations in the CBD, B2A or B2B Districts.

That said, the Commission has discussed adding the ability for incentives such as increased height in a PUD that included income-restricted units. However, in order for this to actually create units, the incentive has to provide sufficient economic benefit to the developer. This is an action that could be taken in a short timeframe, but would not in itself create affordable units.

Fees and Charges – Utility Connections

Affordable housing projects require incentives and subsidies. When the state is looking to provide grant funding, they want to see that the local community doing its part to encourage and support the development. A reduction in utility connection fees or other fees for affordable units is one way a community can contribute.

Inclusionary Zoning

This is a zoning policy that requires all new developments to have a certain percent of units affordable (generally between 51% and 80% of area median income (AMI)). This is not something we have considered as we are not experiencing a lot of new housing construction, but it is something that could be put in place.

Zoning Ordinance Amendments

The Commission has reviewed the single and multiple family zoning districts to determine whether regulations are inhibiting residential construction in general, as well as looking at regulations for different housing types. The regulations that have been amended include allowance for two-unit structures as a special condition use in all single family districts, elimination of density requirements in the B-2, B-2A and B-2B Zoning Districts, and allowance of home-based businesses in all residential districts. The Commission is currently reviewing the RM-2 District regulations for changes to boarding houses and other group housing that will be recommended to City Council in the very near future.

Payments in Lieu of Taxes (PILOTS)

PILOTS are required for a developer to receive low income housing tax credits, and create a mechanism for the community to receive some payment for services provided based on an established formula. It is a way to keep residential units affordable over time, rather than units starting out affordable and then going market rate. This is something the City has successfully used for the development of affordable housing at Riverview Terrace, Little Traverse Woods, and Crestview Commons apartments.

Grants for Rental Rehabilitation and Homeowner Improvements

The City received a Rental Rehabilitation Grant to renovate 7 apartments on Waukazoo Avenue. This program requires that 51% of the units be made available to renters making 80% or less of area median income for a period not less than 5 years. This is a program that will likely continue, and could be used again, however, it does not create permanent affordability.

The Emmet County Housing Council administers a 2-year homeowner loan program through MEDC that is available to homeowners that make 80% or less of area median income and assist with maintenance, repairs and weatherization. Emmet County also has an annual allocation that is used to supplement this program.

Sale of City Property

The City offered the City-owned lot on Washington Street for sale through a RFP process without any interest. The City could consider a partnership with a non-profit organization to have home construction on this lot – as well as other City-owned property- through land donation and a waiver of utility hook-up fees.

Identification of Priority Sites

Through the RRC program, the City has determined a site that would be ideal for workforce housing at 900 Emmet Street. The property owner is willing to work with a development team on a mixed-use development and there has been a moderate level of interest in the site. Affordable housing WILL require incentives of some nature.

Land Bank Authority

The Emmet County Land Bank Authority can accept tax-reverted properties and resell for desired development. Several Land Bank properties in the City have been sold to private and not-for-profit organizations. A property at 33 Bridge Street has taken several years, but will soon have single home construction completed by Northwest Michigan Community Action Agency for a buyer that makes 80% or less of the area median income. Others have been purchased and rehabilitated (419 Liberty Street), but some remain vacant lots (915 Petoskey Street).

Action

Actions by the City won't themselves create units. However, as housing is becoming a more critical issue for the entire region – particularly for the seasonal workforce- City Council could consider the following actions to be proactive.

- Revisit allowance of ADUs. There could be requirements created for lots of a minimum size, setbacks, owner-occupancy of one units, minimum occupancy period, etc.
- Adopt a PILOT policy to provide parameters under which a PILOT would be considered.
- Adopt a policy for the waiver or reduction of utility connection charges and other City fees for affordable housing projects.
- Actively participate with area governments to develop regional solutions such as a regional housing authority.
- Continue to support improved public transportation for Emmet County to address the housing cost/transportation need reality of the region.

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Enclosures