



PLANNING COMMISSION

July 18, 2019

A regular Planning Commission meeting was held in the City Hall Council Chambers, Petoskey, Michigan, on Thursday, July 18, 2019. Roll was called at 7:00 P.M. and the following were:

Present: Emily Meyerson, Chairperson
Betony Braddock
Dean Burns
Bob Kronberg
Chad McDonald
Rick Neumann
Ted Pall
Cynthia Robson
Eric Yetter

Staff: Amy Tweeten, City Planner
Rob Straebel, City Manager
Lisa Denoyer, Administrative Assistant

Upon motion made by Commissioner Pall, with support from Commissioner Robson, the minutes of the June 13, 2019 meeting were approved with corrections, 9-0.

**Case #230-19 Site Plan Review and Action for
114 Rush Street, Harbor Hall Foundation**

Chairperson Meyerson commented that this is the fourth time that the site plan has been before the Commission. A conceptual plan was presented, then there was a site plan introduction and at the last meeting, site plan action was tabled.

Staff stated that at the June 13, 2019 meeting, the Planning Commission requested a second legal opinion to verify whether the proposed uses were permitted based on the City's Zoning Ordinance. Staff informed the Commission that the second legal opinion was included in their packet and it confirms that the proposed uses are permitted. Staff then summarized the site plan stating that Parcel A would consist of a medical office and treatment housing while Parcel B would consist of a multi-family apartment.

Based on review of the plans submitted and dated June 7, 2019, staff believes the following conditions should be added to any motion to ensure the site development standards are met and should be completed before a zoning permit is issued:

1. The land division application is submitted to staff for review and approval and recorded before any zoning permit is issued;

2. The approval for the building on parcel B is for an eight (8) unit multi-family dwelling as defined by the ordinance only and cannot be licensed as a residential care and treatment facility;
3. A landscape plan is submitted with material sizes specified;
4. A detailed utility plan for water, sewer, electric and storm sewer must be submitted, reviewed and approved by the department of public works; and
5. The curb profile and sidewalks shall meet City specifications.

Chairperson Meyerson stated that the Commission had received public input at the prior three meetings, so asked that comments be based on the new information provided and opened up public comment.

Jeff Grantham, 801 Baxter Street, commented that he lives immediately adjacent to the proposed site and feels the most impacted even though the entire City and northern Michigan will be impacted. He is most concerned with who will be housed in the facilities as the men currently residing at Harbor Hall have been recruited to seek treatment here as a diversion from jail, prison, etc. and also has concerns about doubling in size. He stated the Master Plan, Zoning and Old Town Emmet never conceived this to be here. He asked the Commission to consider by whom the property will be occupied and stated that he is not sure there is enough housing or if these are the type of people we want staying here following treatment.

Cynthia McWatters, 1047 Lindell Avenue, stated that she disagreed with Mr. Grantham. She started her nursing career in southern Michigan and was taught that no matter who the patient was they are a human being and deserved to be treated like family. She has seen gentlemen from Harbor Hall and they have all been respectful.

James Dittmar, 914 East Lake Street, stated that he believes that this proposal has broad implications for the City and that the dorm style rooms are designed for four patients only and this is discriminatory against the general public. He urged Harbor Hall to adapt what they have to better serve the community.

Larry Rochon, 641 Harbor View Lane, President of Harbor Hall Board, stated that he has been on the board for 28 of the 45 years that it has existed; he has seen thousands of men come and go, and many of them are on the road to recovery and living here. He addressed recent comments in the newspaper stating that Harbor Hall does not recruit clients from the criminal justice system; they are from northern Michigan and mid-state. Harbor Hall does not have a contract with the corrections department and many patients are from Emmet and Charlevoix County. In response to the comment that they should build on 40 acres on a farm field, he stated that most of "these people" have been isolated their whole lives. Mr. Rochon stated that many area businesses employ members of Harbor Hall, they have an impeccable record with public safety and the statement that patients intimidate women and children is untrue – they have never received a complaint. He explained that shortly after purchasing the property they went to the City and met with the City Manager, City Planner, Department of Public Works and the Mayor to discuss the possibility of vacating Rush Street. The City Manager recommended taking the request to City Council and during this time Harbor Hall was reclassified as a boarding house, therefore, excluding them from the B-2B District. H-1 and H-2 Districts allow treatment centers but McLaren owns all of the property in these districts. Shortly thereafter, Harbor Hall went to City Council and action was tabled. City Council recommended having a neighborhood public meeting and in December 2018, Harbor Hall mailed out 458 invitations. Only five people showed up and no one from City staff, City boards and commissions or the Mayor have ever come into Harbor Hall. A request for reasonable accommodation was made to the Zoning Board of Appeals and they approved up to eight beds. Therefore, they went back to the drawing board to design a site plan that fits into the B-2B District. This is a medical facility and multiple family housing/workforce housing. Mr. Rochon asked the Commission to approve the site plan after 2 ½ years of resistance.

Chairperson Meyerson asked if it was a treatment facility to which Mr. Rochon replied no.

Nan Casey, 114 East Lake Street, stated that she felt so strongly about Harbor Hall's mission and has visited there numerous times, as well as volunteering at the Emmet County Jail and Brother Dan's Food Pantry. She and her husband decided to rent one of their homes to Harbor Hall members only following their 90-day treatment. They rented their house at a reduced rate, helped them find jobs and even bought a vehicle for a gentleman that needed transportation to work. In the end, it was a 100% failure as every single person relapsed. This experience was devastating for her and her husband and they are no longer renting to recovering members from Harbor Hall. She believes they have a great mission, are very structured inside and they use resources of the City. This is a very difficult decision for the Commission and she urged them to take the time they need to make their decision. She also stated that she has called five different times to schedule a tour and has never received a call back and that in the past three years that she has been visiting Harbor Hall she has yet to meet anyone from Petoskey, most are from southern Michigan.

Brian Wagner, 200 West Lake Street, asked the Commission to look into the stigma of addiction and criminals. There are hundreds of people in treatment, one in seven people are directly impacted by addiction, and one in three are indirectly impacted. He has met people who have gone through Harbor Hall and some of the best people have been through recovery. One couple he met are spokespeople for addiction and have been in recovery for 35 years. Mr. Wagner stated that stands for what Harbor Hall is doing and recently received a tour of the facility.

Mark Bielaczyc, 816 Grove Street, stated that he liked hearing the discussion on addiction and treatment but that is not the issue before the Commission. Harbor Hall has been here for years and has been investing in the community. They are a good neighbor, have met every requirement by the Commission and therefore, should be approved.

Laura Steele, 909 Sunset Court, stated that she believes it is a community issue, not a neighborhood issue. She has run into men from Harbor Hall while out walking her dogs and she felt very uncomfortable. She is not prejudice, but uncomfortable. She stated that she is glad to have a facility in the area but a residential area is not the place for it. Ms. Steele also commented that she never received an invitation to Harbor Hall's public meeting.

James Ehrnst, 702 Elizabeth Street, stated that he has lived across the street from Harbor Hall since 1984 and has seen them grow and receive three or four variances over the years. He does not believe that Rush Street is an alley and would like to see it improved and sidewalks added. He does not like the apartments and has concerns about how it will affect the image of Petoskey and if there will be enough parking. He has had good and bad experiences with Harbor Hall.

There being no further comments the meeting was closed for public comment.

Chairperson Meyerson stated that the Commission is here to discuss and review the site plan and determine if the standards for approval have been met. The City Attorney concurred with staff's opinion, as did an outside attorney.

Commissioner Pall stated that the first and most comprehensive analysis of the proposed Harbor Hall expansion was done for the Zoning Board of Appeals in July 2018 by Paul LeBlanc, PLB Planning Group and explained how it differed from the most recent analysis by Emily Palacios, Miller, Canfield, Paddock and Stone, P.L.C. While Mr. LeBlanc stated references for his analysis, Ms. Palacios did not and Mr. LeBlanc states that this is a residential care and treatment facility, which argues against Ms. Palacios opinion. Commissioner Pall stated that people are not allowed to live or stay overnight in a medical office and the mix of uses changes what the use is.

Chairperson Meyerson asked Commissioner Pall if he wanted to put a condition that the mixed use building not be licensed as a residential care and treatment facility to which he responded no.

Commissioner McDonald stated that he supports approval with the addition of staff conditions.

Commissioner Neumann stated that he disagreed with staff that there are no natural or historic features on the property as there is a small concrete block building that is a historic structure but he does not believe it is significant enough to affect the project. He stated that mixed uses in the same building could be found all around the City.

Chairperson Meyerson stated that she believes that staff's review hits all points but would like to add a condition that lighting fixture plans be submitted to staff for review and approval.

At this time, Commissioner Neumann made a motion, with support from Commissioner Burns, to approve the site plan for 114 Rush Street dated June 7, 2019, based on the findings in the staff agenda memo and that the standards of approval in Sections 200, 17.16(3), 1704 and 3003 of the Zoning Ordinance could be met with the following conditions:

- 1) The land division application is submitted to staff for review and approval and recorded before any zoning permit is issued;
- 2) The approval for the building on parcel B is for an eight (8) unit multi-family dwelling as defined by the ordinance only and cannot be licensed as a residential care and treatment facility;
- 3) A landscape plan is submitted with material sizes specified;
- 4) A detailed utility plan for water, sewer, electric and storm sewer must be submitted, reviewed and approved by the department of public works;
- 5) The curb profile and sidewalks shall meet City specifications; and
- 6) Lighting plan be submitted for review and approval by staff.

Motion carried 7-2, with Commissioner Pall and Commissioner Robson voting against the motion.

Public Hearing and Direction on Zoning Ordinance Language for Medical Marijuana Provisioning Centers

Staff stated that this is the sixth time this ordinance has come before the Commission and explained that they have seen different versions of the ordinance, different buffers and that overall the provisions allow for a special condition use in the B-3 District and PUD, if it is an approved use.

Staff then reviewed Section 3202 of the ordinance, which states the following site development performance standards for all uses:

- (a) Only one medical marijuana facility per parcel or lot.
- (b) A separation distance of five hundred (500) feet is required from any other medical marijuana facility or marijuana establishment.
- (c) A medical marijuana facility is not permitted within one thousand (1000) feet of any private or public elementary or secondary school (K-12).
- (d) The distances described in this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this section above to the nearest portion of the building or unit in which the medical marijuana facility is located.
- (e) The separation distances contained in this section are applicable to marijuana facilities and establishments located in adjacent governmental jurisdictions.

- (f) A medical marijuana facility is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages or a fueling station that sells alcoholic beverages.

Commissioner Burns asked that the word "feet" be added to Article XXXII, Section 3202(b).

At this time, the meeting was opened for public comment.

Reg Smith, 600 Arlington Avenue, Chairperson for the Downtown Management Board, stated that this was a hot topic at the ward conventions and proposed that the City set a time to get this information out to the public. He suggested a publication in the News Review, displaying maps at City Hall and using plain language to help fully inform the public as the online maps are hard to read and understand.

Michael Kazanowski, 441 State Street, commented that he was glad that the Commission narrowed down the areas for dispensaries. He and his brother have been in the industry for some time and they imagined that they would be allowed in the "medical zone" of West Mitchell Street. He believes the community will be very opinionated and that the dispensaries should be located in a place where they can be patrolled by public safety.

James Ehrnst, 702 Elizabeth Street, stated that he feels staff and the Commission are not looking at the business model and should be promoting it. The buffers are too restrictive and do not provide a very good chance for survival. He would like to see the buffers removed, as he believes they are unjust and unfair.

Chairperson Meyerson responded that there is only one buffer and it is 1,000 feet from schools.

Commissioner Pall commented that the proposed areas would be located along major thoroughfares.

Melisa Bertram, 511 East Front Street, Traverse City, stated that she would like to see the I-1 District added as it would open up 20 to 30 more properties.

Jason Horton, Bay Mall, stated that he has been contacted about a possible location at Bay Mall and asked about the requirements for a PUD overlay in the B-3 District.

Staff responded that a PUD overlay is not required in the B-3 District and that the use would have to be listed as an approved use in the PUD, which would require a special condition use, and that Bay Mall is not in a PUD.

Chairperson Meyerson commented that a PUD amendment would have to be made to include it as an approved use.

Mike Tiedeck, 614 Rose Street, gave a bit of history on the use of alcohol, cannabis, tobacco, opioids, etc. and how humans have used them for a millennium. He stated that the problem is not the drugs; it is the people who pedal them and the effects of marijuana come out on the small end of the scale compared to the others. He has never seen or heard of anyone overdosing on marijuana.

Brian Wagner, 200 West Lake Street, stated that he supports the use of medical marijuana and that in the past six months Walgreens, CVS and Rite Aid have all started selling legal marijuana.

Adam Kazanowski, 441 State Street, stated that he believes the buffers need to be implemented and that the Commission needs to make sure their decision is made for the community.

Betsy White, 927 East Lake Street, stated that as a MSW, teacher and community member she believes the buffers are important and that marijuana has a detrimental effect on young brains and can change the brain of adolescents.

Marshall Dines, 619 Rose Street, voiced concerns for business downturn as he has already seen prices for properties skyrocketing. Everything is based on what a property sold for previously. He believes the area needs to be broadened to four locations and believes the 1,000-foot buffer is arbitrary.

Craig Arnott, stated that State Law regulates the 1,000-foot buffers. When Proposal 1 was passed it required a 1,000-foot buffer for recreational use so the City may as well set the buffer now as a single facility can sell medical and add recreational marijuana later, if approved. He stated that he looks forward to coming back with a special condition use application.

Commissioner Braddock asked if there are any other buffers required by the State.

Mr. Arnott responded that there are not.

Jerry Griffin, GMG Public Affairs, recommended leaving the buffer and broadening the area. He stated that the more you try to squeeze into an area the greater the price inflation. He believes that the more area that is allowed, the less likely it will be to drive up the property prices.

Nancy Johnson, 550 West Lake Street, asked if West Lake Street was an area in consideration, suggested that the City make the public more aware and agreed with allowing facilities in the medical area. She voiced concerns about the possibility of a PUD change on West Lake Street as the traffic is already outrageous and no matter what business goes in it will only increase.

Staff responded that the old Petoskey Manufacturing office is a PUD and could conceivably request a change.

James Dittmar, 914 East Lake Street, stated that the Commission is not really talking about allowing but expanding, as there are already growers and CBD is allowed. Marijuana laws are rapidly changing with the latest news stating that medical and recreational will become one. Mr. Dittmar voiced concerns that the public is not involved and stated that a recent survey was conducted that strongly contradicts zoning.

Michael Shumway, 907 Lindell Avenue, asked when defining the B-3 District if the Commission considered an analysis for how many facilities the community can support or how many can be placed in an area based on restrictions.

Staff responded that City Council asked for one to two locations that would allow three to four facilities.

Michael Kazanowski stated that he is concerned with the idea of opening up more areas as it will tie up more real estate and drive up the prices on property in more areas.

At this time, the meeting was closed for public comment.

Commissioner Yetter stated that City Council chose to opt in on medical marijuana and asked the Planning Commission to find locations for four dispensaries. He believes they have found the best locations.

Commissioner Braddock stated that she agrees and the Commission has spent a lot of time and discussion on this matter and is comfortable with sending it to City Council.

Commissioner Kronberg asked if it would be possible to invert and enlarge the map to show where the dispensaries could go to help people understand it better.

Commissioner Pall recommended a black and white map with only the proposed locations in color.

Staff responded that she could do that but has concerns that people will think that they are the final locations, therefore, complicating things.

Commissioner Pall suggested adding Section 3202 on the map as well.

Chairperson Meyerson suggested labeling the map "for discussion purposes".

Commissioner Neumann stated that he has come to the conclusion that maybe the Commission should broaden the zones, that major arteries are logical locations, and B-3B and B-3A are along corridors. He does not believe I-1 should be added, as it could one day be residential along the river.

Commissioner Burns concurred with Commissioner Neumann.

Commissioner McDonald stated that the ordinance is very thorough but does not prohibit home delivery. He asked if this would fall under a licensing ordinance or if it should be a prohibited use.

Mr. Arnott responded that it is permitted through a State review process but a dispensary would have to apply.

Commissioner Pall stated that he believes there has been good discussion but he is not excited about broadening the area. The Commission could spend more time discussing it but he is not opposed to moving forward.

Commissioner Robson stated that she would like to expand the area to include the B-3B and B-3A Districts so that there is less real estate pressure and the B-3B District is a good location near the hospital. She is not in favor of postponing action.

Chairperson Meyerson stated that she agrees with Commissioner Neumann to expand to the B-3B and possibly the B-3A Districts and that she is uncomfortable adding the I-1 District. She asked staff if the Commission could make a recommendation to City Council with changes.

Staff responded that the Commission is expanding significantly but could approve the ordinance as is with suggestions. She then read the allowed uses in the B-3A Resort Commercial District and retail is not a use encouraged in the district so did not feel it was appropriate to add provisioning centers which are a retail use.

Commissioner Pall expressed concerns with adding more districts as he believes there will be more real estate pressure.

Chairperson Meyerson informed the Commission that they could forward the ordinance to City Council with suggested changes and change the map for better communication or table discussion.

At this time, Commissioner Robson made a motion, with support from Commissioner Braddock, to recommend the ordinance as presented with minor corrections and recommend to City Council that they could broaden the area by adding the B-3B District. Motion carried 7-2, Commissioner Burns and Commissioner Pall voting against the motion.

Commissioner Pall stated that he is not in favor as this is not in the Master Plan and there are high addiction rates. The youth group SAFE in Northern Michigan, AAP and AACAP opposes it. It sets the

City up for further lawsuits over who gets licenses and which districts are allowed. Many communities in Colorado and certainly northern Michigan have not opted in with medical marijuana. A 3rd Ward survey that supports decriminalization did not by majority, support medical sales at dispensaries. This is consistent with a published survey in East Grand Raids where residents supported decriminalization but not dispensaries.

**Appointment of Vice Chair/Secretary for
Planning Commission and New Sign Committee Member**

Due to the resignation of Dana Andrews from the Commission, a new Vice Chair/ Secretary and a Sign Committee Member needed to be elected.

Chairperson Meyerson made a motion, with support by Commissioner Burns, to elect Cynthia Robson as Vice Chair/Secretary. Motion passed 9-0.

Chairperson Meyerson made a motion, with support from Commissioner Kronberg, to elect Betony Braddock to the Sign Committee. Motion passed 9-0.

Updates

Staff informed the Commission that the 2020 – 2025 Capital Improvement Plan would be coming to them in August for review, comment and recommendation to City Council.

LIAA has tentatively scheduled the Master Plan community sustainability forum for the Special September 5th Commission meeting with experts on social equity, public health, and urban forestry components of resiliency and sustainability planning efforts.

She stated that she anticipates site plans in the late summer/fall for 1300 Spring Street and conceptual plans for the Darling Lot to be provided to City Council at its August 5th meeting.

The Emmet County Master Plan open house will be held July 22, 2019 at the Emmet County Community Building.

The MSU Citizen Planner Program will be held on Monday evenings from late September to the end of October and staff informed Commissioners that there is funding for up to four Commissioners to attend.

The meeting then adjourned at 9:24 P.M.

Minutes reviewed and approved Cynthia Robson, Vice Chair/Secretary