

**Meeting of
May 21, 2012**

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday, May 21, 2012 at 5:00 P.M.

Call to Order

Chair Neidhamer called the meeting to order at 5:00 p.m.

Roll Call

Present: Gretchen Crum, George Ellwanger, Chris Frasz, Lori Meeder and Tom Neidhamer
Absent: Jim Kozlowski, Jane MacKenzie, John McCahan (arrived: 5:03 pm), and Joe St, Dennis

**Excused Absence(s)
MOTION

2012-05-21-2
Crum moved, Meeder seconded, PASSED UNANIMOUSLY a motion to excuse the absence of Kozlowski and St. Dennis.

Meeting Attendance

City Officials/Staff: Planning Director Scott McPherson and Recording Secretary Pat Haver
Public Present: Twelve

**Consent Agenda
MOTION

Item #B from the consent agenda, Lot reconfiguration request from Irene Brannon, has been removed and will be placed under New Business, 7C

2012-05-21-3
Meeder moved, Ellwanger seconded, PASSED UNANIMOUSLY a motion to approve the consent agenda. Approval of the April 16, 2012 Planning Commission minutes as presented.

**Comments on
Non-Agenda Items**

None

**Reports of Officers, Boards
and Standing Committees**

None

Unfinished Business

None

**New Business
Election of Officers**

Planning Director Scott McPherson advised every May the election of officers must be held. As the current chairman is an elected city commissioner, while there is nothing stated that he can not be the planning commission chair, it is not recommended that he hold the office. After board discussion, it was determined not to postpone due to the absences of commission members. **Motion by Crum, seconded by Meeder** to nominate Jane MacKenzie as Chair.

2012-05-21-7A(1)

Roll Call:

Aye: Crum, McCahan, Meeder
Nay: Ellwanger, Frasz, Neidhamer
Absent: Kozlowski, MacKenzie, and St. Dennis
Motion does not carry – tie vote

Motion by Neidhamer seconded by Ellwanger to nominate Gretchen Crum as Chair.

2012-05-21-7A(2)

Roll Call:

Aye: Ellwanger, Frasz, Neidhamer

Nay: Crum, McCahan, Meeder

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion does not carry – tie vote

Due to the tie votes **Motion by Crum, seconded by Meeder** to nominate Tom Neidhamer as Chair.

2012-05-21-7A(3)

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

Motion by Meeder, seconded by Frasz to nominate Jane MacKenzie as Vice Chair.

2012-05-21-7A(4)

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

**Public Hearing for
Conditional Rezoning
Request for 1 Water
Street submitted by Catt
Development**

Planning Director Scott McPherson presented the application for a conditional rezoning request for the 1 Water Street property. The original project was approved back in June 2009. Restaurant and office spaces portion has been constructed. The second phase was the proposed 37 room hotel/condominium units. A new application has been submitted to replace the hotel/condominium structure with 13 resort cottage structures with extended stay on the upper floors, and the lower floors will have motel rooms, commercial spaces, along with a shower facility for the marina. One of the primary concerns is the view shed. In the first plan, the required 30% side yard setback; the planning commission approved a diminished amount down to 23%, and a waiver was given. The new plan is diminished also, but does afford a view corridor through the buildings. The other issue of concern was the parking. The application does state that they would be able to provide 106 spots, consistent with the uses that will be provided; along with the consideration of the 20% reduction for mix uses plus the allowance of 14 parking spots that are off site. In the CBD there is the ability for the commission to waive or reduce the amount of parking if they find that surrounding public parking and walk ability is available. The Main Street group reviewed, and recommended approval of the proposed plan, as the project falls within the Downtown Development Authority. As the uses are uses by right in the CBD, it is not a requirement to go through a conditional development review, but would recommend that final site plan approval be received by the planning commission prior to construction.

Development Team presentation

Glen Catt - I know last month there were some concerns about financial aspects and funding, and a letter from Northwestern Bank is included in your packet. There are two units on the corners that have shared walls, so will need a cash customer or someone that has the ability to get a non-conventional mortgage.

Doug Mansfield - Mansfield & Associates

This proposed plan goes back to vintage motor courts with walking promenades of stamped concrete, along with independent parking for the units. Commercial uses with 400 to 500 square foot units, could house galleries and shops, the lake side and interior will have downstairs motel units, and one with the marina shower house. The plan does accommodate fire trucks if they become necessary. We do have 106 parking spaces, and the view corridor is about the same with views at the southern edge, and between the buildings. The profile of the proposed units is 20% lower than the original 4 story hotel. All of the buildings will have sprinkler systems, and fire separation walls and ceilings.

Public hearing opened at 5:48 pm

Ron Lewis - Representative of Harborage Bay neighbors to the South

(1) Getting the zoning changed from Waterfront Marina District to Central Business District, how does it affect existing marina? **McPherson** - It is still an allowed use, the marina is separate from the land, so is not affected by zoning change.

(2) Timing to start construction - **Catt** - Looking at starting this fall

(3) Common border - We would like to have a meeting with you to discuss the details of the border. **Catt** - We want that also.

Jim Baumann - Chamber of Commerce Director. I just attended a placemaking summit that spoke specifically about this type of project, "walkable urban development" the old concept of sprawl does not work any longer. What is not to like, more density, less height, less bulk, and this will be good for the downtown, and has the potential to bring more retail downtown.

Don Ryde - Café Sante. I liked the older project alot. This one is just beautiful; this will be a big plus for the whole town, and will upgrade the waterfront.

Public hearing closed at 5:55 pm

Board Deliberation

Neidhamer - Our task is to approve or disapprove as presented.

Meeder - Is there flexibility with lower units from retail/motel as market dictates?

Catt - Correct, they will have the option for commercial spaces vs motel room. The flexibility will remain with the units.

McPherson - Sidewalk placement will have direct access to units with a small yard area between the front and the sidewalk? **Mansfield** - An entrance will come off of the side of the unit from the walk. They will have a small sign bracketed off of the building itself.

Meeder - I think this is beautiful and like the design. Board agrees.

Usage

Ellwanger – Very happy with the design, it makes sense. Board agrees

Viewshed

Neidhamer – To clarify, if it changes zoning? **McPherson** - the viewshed in the WMD specifically requires 30% setback. CBD there is not a requirement. Does not require you to approve/waive if it goes below 30%. However, it is a change and appropriate to consider the impact.

Meeder – like the viewshed better, with the different points, and doing the math is not that much different.

Frasz – This is my biggest area of concern. For me seeing the lake and having access to the view is important to me and others. We need to do whatever possible to maintain public access to views with the sidewalk or in front of the development on the lakeside and down the south side of the property border. Having access to the lake is in the Master Plan.

Catt – In the last project, one of the things we did was “trade” making the marina dock public so the lakefront side of the project could remain private.

Frasz – I remember the conversation, but not the trading point. If we made that decision as a board, we should honor that.

Catt – I think it would be more important for the public to be able walk out to the end of the dock, instead of the walkway in front of the units on the lake side. I placed the stipulation that the marina dock would be public in the previous development plan. I believe more people will be using the dock than the walkway on the lake side. I don't want to take away the public aspect of the marina access on the dock.

McPherson - I remember the discussion. It was offered, and we accepted.

Catt – We put the dock access in writing in the development agreement, so that it could never be taken away. They can go all the way down to the dock to the “T” at the end, except the fingerlings.

McPherson – It was a condition and approval of the previous plan. This was verified reviewing the previous minutes.

Parking

Neidhamer – Willing to give up the lot across the street. It's in the best interest of the city to not have a parking lot on one of the main streets in the city, and the possibility of bringing in businesses into town. Board agrees.

Motion by Crum, seconded by Meeder to approve the 20% reduction in parking based on the mix use variance for collective uses.

****MOTION**

2012-05-21-7B(1)

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

Motion by Ellwanger, seconded by Meeder to waive the reduction of required parking under Section 10.5 based on the mixed use of the marina slips, proximity to downtown and additional public parking spaces.

****MOTION**

2012-05-21-7B(2)

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

Architecture Pattern Board Presentation

The Main Street Design Committee unanimously approved the submitted building materials and finishes. The reduction in height is not an issue; landscaping, lighting, signage will all be reviewed at the final site plan review.

Mansfield – We have designed this project with a historically Bar Harbor feel, which is appropriate for the cottage feel with green space.

Frasz – Who will be responsible for the sidewalk in front of the retail spaces?

Mansfield – The developer will be it is in the development agreement.

At this point the board went through Section 2.5C items 1-12

2.5 C. For amendment requests to change, create, extend or reduce a mapped zoning district, the Planning Commission and City Commission shall use the following as a guide:

1. The proposed zoning district is more appropriate than any other zoning district, or more appropriate than adding the desired use as a conditional land use in the existing zoning district.

Future Land Use map shows it in the downtown core, consistent with Master Plan. It was zoned CBD prior to the change in ordinance, and is not new to this parcel.

2. The property cannot be reasonably used as zoned, and the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under current zoning at the time of purchase or at the time of securing legal control of the property.

Documentation from banks and financial institutions that financial aspects have changed.

3. The proposed zone change is supported by and consistent with the goals, policies and future land use map of the adopted City Comprehensive Plan, including any sub-area or corridor studies. If conditions have changed since the Comprehensive Plan was adopted, as determined by the Planning Commission, the consistency with recent development trends in the area shall be considered.

Yes, the Waterfront Master Plan identifies this particular parcel as adopted in 2006, and shows the various uses, in compliance with the Future Land Use Plan.

4. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values, and is consistent with the needs of the community.

Yes

5. All the potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, hydrological and other environmental features.

Yes, as conditional zoning, this is an allowed use.

6. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the City. The Planning Commission may require a general impact assessment in accordance with the requirements of this Ordinance if it determines the proposed zoning change could have a negative impact upon traffic, public facilities, utilities, natural characteristics, populations' density, or other concerns. A traffic impact study in accordance with the requirements of this Ordinance shall be required if the proposed rezoning district permits uses that could generate one hundred (100) or more directional trips during the peak hour, or at least one thousand (1,000) trips per day more than the majority of the uses that could be developed under current zoning.
Proposed uses don't approach these thresholds. Along with the reduction in previously approved density.
7. The rezoning would constitute and create an isolated and unplanned "spot zone" granting a special privilege to one landowner not available to others.
Adjacent to CBD, planned for CBD, was previously CBD, totally consistent.
8. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the Schedule of Regulations.
Plan presented does meet all of the requirements.
9. There has been a change of conditions in the area supporting the proposed rezoning.
Financing, economic times, and needs have all changed.
10. Adequate sites are neither properly zoned nor available elsewhere to accommodate the proposed uses permitted in the requested zoning district.
It is one of the available pieces of waterfront property for this particular project.
11. There was a mistake in the original zoning classification.
Not true
12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
No plans have been submitted within the past year.

****MOTION**

The project does meet 11 of the 12 criteria.

Ellwanger moved, Meeder seconded a motion to recommend the conditional rezoning to the City Commission, with the stipulation that final site plan approval must be received from the Planning Commission prior to construction, and the previous development agreement remain in place that public shall have access to the marina dock.

2012-05-21-7B(3)

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

**Irene Brannon Lot
Reconfiguration Parcel #
051-369-346-00**

****MOTION**

This item was removed from the consent agenda for discussion
Frasz – I have a question on the vacated alley that was on the drawing. This has been split and under the ownership of the adjacent property owners. No access can be given back. **McPherson** – It was formally vacated long ago. With no further board discussion **motion by Meeder, seconded by Crum** to recommend approval of the proposed lot reconfiguration request from Brannon to the City Commission.

Planning Director McPherson believes that the process for our lot reconfigurations is cumbersome and can be streamlined by administrative review of the zoning staff. It is not discretionary; they either meet the requirements, or they do not. It can also be a financial and time hardship to the applicant to go through our current process of two board meetings. After additional board discussion this item to be put on a future agenda for discussion and possible change to the process and ordinance.

2012-05-21-7C

Roll Call:

Aye: Crum, Ellwanger, Frasz, McCahan, Meeder, Neidhamer

Nay: None

Absent: Kozlowski, MacKenzie, and St. Dennis

Motion Carries

Staff Report

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- The Devlon site has been cleared of the rubble pile and most of the asphalt. They are still pursuing Brownfield funding. Request for appeal at the State Court of Appeals is still pending. Need to look at other issues of the site, the unfinished building and fence.
 - Kirtland – The consultants will arrive tomorrow to set up monitors. They will monitor while the plant is running 24 hours with the machinery running and again for 24 hours while not. Phase II (emissions) will be looked at a later date, Kirtland is unsure when the stack testing will be done.

Good of the Order

None

Adjournment

The next regular meeting of the Boyne City Planning Commission is scheduled for June 18, 2012.

2012-05-21-10

Neidhamer moved, Meeder seconded, PASSED UNANIMOUSLY a motion to adjourn the meeting at 6:58 p.m.

****MOTION**

Pat Haver, Recording Secretary

Tom Neidhamer, Chair