



**PLANNING COMMISSION
SPECIAL MEETING**

Thursday, December 2, 2021

1. Roll Call – 6:00 P.M.
2. Approval of Minutes – November 8, 2021 special joint meeting
3. Old Business
 - (a) Continued discussion of zoning ordinance amendments to remove barriers to housing development
4. Public Comment – This is an opportunity for the public to comment on items not on the meeting agenda
5. Commissioner Comments
6. Updates
7. Adjournment

Alternatively, you may join the meeting via the Zoom platform

Dial by Phone: 888-788-0099 US Toll-free

<https://us02web.zoom.us/j/86747410962>

Meeting ID: 867 4741 0962

Persons interested in addressing the Planning Commission during the meeting under public comment period can press the “raise hand” button in Zoom or by phone press *9.



CITY COUNCIL PLANNING COMMISSION

November 8, 2021

A special joint City Council and Planning Commission meeting was held in the City Hall Council Chambers, Petoskey, Michigan, on Monday, November 8, 2021. Roll was called at 5:30 P.M. and the following were:

Present: John Murphy, Mayor
Kate Marshall, City Councilmember
Derek Shiels, City Councilmember
Brian Wagner, City Councilmember, Petoskey, Emmet County, MI (remote)
Lindsey Walker, City Councilmember

Cynthia Linn Robson, Chairperson
Betony Braddock
Carolyn Dettmer
Rose Fitzgerald
Richard Neumann
H. Ted Pall
Charles Willmott

Absent: Richard Mooradian

Also in attendance were Interim City Manager/Clerk-Treasurer Alan Terry, City Planner Amy Tweeten, City Attorney James Murray, Attorney Matt Cross and Executive Assistant Sarah Bek.

Discuss City Council & Planning Commission Roles & Responsibilities

City Attorney James Murray gave a brief presentation on roles of City Council and Planning Commission as provided for in the Zoning Enabling Act. Councilmembers and Commissioners discussed various aspects of their roles and the process of how the zoning ordinance is changed.

Discuss Proposed Ordinance Amendments

The City Planner reviewed zoning amendments currently being discussed by the Planning Commission and to be presented to City Council in the near future. Councilmembers discussed proposed amendments with Commissioners and the City Planner.

Mayor Murphy asked for public comments and heard from those in support of changes in height that is needed to provide additional housing and heard from property owners that rent for both long and short-term purposes and how they are good for the community.

Discuss Current Zoning Issues & Possible Future Amendments

The City Planner reviewed possible future amendments to the zoning code that are currently being brought forward to the Planning Commission for discussion and possible consideration for amending. Councilmembers and Commissioners discussed the items.

There being no further business to come before the City Council and Planning Commission, this November 8, 2021, special joint meeting adjourned at 7:40 P.M.

John Murphy, Mayor

Alan Terry, Clerk-Treasurer



BOARD: Planning Commission

MEETING DATE: December 2, 2021

DATE PREPARED: November 23, 2021

AGENDA SUBJECT: Additional Ordinance Amendments to Remove Housing Construction Barriers

RECOMMENDATION: Discussion/direction

Background

The Commission began discussion of possible ordinance changes to the single family districts at its November 19 meeting and scheduled this special meeting to continue the review. Staff’s understanding of the direction provided on each item is noted in **bold** bullet.

Discussion

Staff recommended changes to the R-1 and R-2 Single Family Districts (red strikethroughs are existing language proposed to be eliminated and highlights are proposed new text).

1. Change the Intent statement to acknowledge that we currently have, and may allow additional, two plus unit dwellings and accessory dwellings.

Sec. 400. - Intent.

~~The R-1 and R-2 Single-Family Residential Districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.~~

The R-1 and R-2 Single-Family Residential Districts are intended to continue the historic development pattern of primarily single family detached dwellings, with limited two and three-unit dwellings and accessory dwellings along with other residentially related facilities which serve the residents in the district.

- **Postpone further discussion until decision on other proposed changes is finalized.**
2. Change the wording for the minimum single family detached dwelling size from 24’x24’ to 576 square feet. The language provides additional flexibility if someone wanted a dwelling with different dimensions. Another alternative would be to eliminate the minimum dwelling size altogether, while maintaining the other requirements.
 - Staff recommends changing the dimension, but leaving the minimum size at this time.

Sec. 401. - Principal uses permitted.

1. Single-family detached dwellings provided that such dwellings meet the following minimum standards:

- a. The dwelling and any additions to said dwelling shall be permanently anchored to a foundation. The foundation shall be constructed in accordance with the Michigan Residential Code and all state regulations.
- b. The dwelling shall have permanently attached steps connected to the exterior door areas or to porches connected to said door areas where there is a difference in elevation between the dwelling floor and exterior grade or porch of seven and one-half inches or more.
- c. The dwelling unit shall have a minimum ~~exterior width of 24 feet and a minimum depth of 24 feet~~ Attached garages shall not be included in width or depth measurements. **foot print of 576 square feet, not including an attached garage.**
- d. The dwelling roof shall meet the live load standards of the Michigan Residential Code.
- e. Wheels, towing or transportation mechanisms shall be removed from mobile- or modular-type dwelling units. The mobile or modular dwelling units shall be installed pursuant to the manufacturer's setup instructions.
- f. In addition to the requirements of paragraphs a., e. above, in the case of a mobile home, the mobile home shall be secured by an anchoring system compatible with those required by the Michigan Mobile Home Commission regulations. Mobile homes shall also comply with U.S. Department of Housing and Urban Development construction safety and energy standards. (Effective June 16, 1976.)

- **Concerns were raised about eliminating a minimum width dimension until there are residential form standards in place.**

3. Change Bed and Breakfast operations from a permitted to a special condition use, requiring notification of neighbors.

- **As the Bed and Breakfast licensing provisions require notification of neighbors within 300 feet of a proposed B&B, it may not be necessary to move to special condition use. Ordinance language enclosed.**

4. Move two-family attached dwellings to permitted rather than special condition use. This would mean that a two-family dwelling, or the conversion of a single family dwelling to two-units would be an administrative review. The standards for lot coverage, setbacks and parking would remain, but it would now be a use by right. The design parameters that were previously listed under attached accessory dwelling units are now included and a clarification of when a second entrance must be on a non-street front façade made.

Sec. 401. - Principal uses permitted.

8. Two-family attached dwellings subject to the following standards:

- a. All regulations as contained in article XVI, Section 1600, Schedule limiting height, bulk, density and area by zoning district, in accordance with the district in which the parcel is located.
- b. A two-family dwelling shall meet parking requirements of section 1704.
- c. A two-family dwelling shall not allow a garage to protrude beyond the front building plane.
- d. For conversion of an existing building, the second dwelling entrance shall only be located on a non-street fronting building façade.
- e. An exterior stairway to an upper level dwelling shall only be located on the side or rear of the structure and within the required building setbacks.

- **There was not consensus on moving this forward until form standards could be developed.**
5. Allow one (1) accessory dwelling unit subject to conditions. While ADUs may not solve the housing crisis, they do allow for additional residential units, at a low density scale, and where infrastructure already exists. As the map indicates, these exist in the community and have not created neighborhood issues. If a limited number are allowed annually, it will give time to evaluate the impact in the event a change to the regulations is needed.

Additional information on ADUs is provided at <https://www.aarp.org/livable-communities/housing/info-2019/accessory-dwelling-units-adus.html>

Sec. 401. - Principal uses permitted.

9. One (1) accessory dwelling unit (ADU) is allowed per residential lot subject to staff review and approval that the following standards are met:

- a. An ADU is permitted on a parcel that has (1) single-family dwelling as the permitted principal use.
 - b. The property owner shall occupy either the ADU or the single-family dwelling on the property, except for temporary absences not to exceed a combined total of six (6) months in a calendar year.
 - c. An ADU shall not exceed 600 square feet.
 - d. The property cannot exceed the lot coverage allowances of Section 1600 of the Zoning Ordinance.
 - e. At least one (1) off-street parking space shall be provided for the ADU. Tandem or stacked parking in a driveway may count toward the off-street parking requirement.
 - f. An ADU is not allowed on a property with a shared driveway.
 - g. Leasing or rental of the ADU for less than three (3) months is prohibited.
 - h. The accessory dwelling unit shall NOT have separate utility laterals.
 - i. A deed restriction that runs with the land, on a form to be provided by the City, shall be filed with the Register of Deeds prior to issuance of zoning permit, and it shall incorporate the following restrictions:
 - 1) The ADU may not be sold separately from the single-family dwelling.
 - 2) The owner occupancy requirement and rental time limits.
 - 3) The deed restriction shall be in effect until the ADU is removed.
 - j. No more than 10 new accessory dwelling units shall be permitted in a calendar year.
 - k. The ADU cannot exceed 1 ½ stories and 16 feet, or the height of the principal structure, whichever is less.
 - l. ADUs are only allowed in a rear yard and must have a minimum side-yard setback of five (5) feet, and a rear-yard setback of 15 feet. If located on an alley, accessory building setbacks shall apply.
- **This is where the Commission left off at the November 18 meeting but there was discussion about having different regulations for existing versus new structures.**

B-3A Resort Commercial District

The Commission previously discussed the B-3A Resort Commercial District, but decided to postpone further consideration pending completion of the master plan and as there were no pending reconstruction plans for the America's Best Hotel. This is the district along Spring Street where there are numerous hotels over the existing district limit of 2 stories 25 feet (which was reduced from 4 stories

40 feet in 1988). The large setback of this district from Spring Street (50 feet) maintains the public view shed of Little Traverse Bay

- Staff recommends the building height in this district be changed to three-stories, 37 feet maximum building height.

Parking requirements

The following suggestions were previously provided:

Possible Short Term Changes

- Decrease the requirement for one and two family units to one (1) space per unit. As most houses already have off-street parking on driveways or in garages this will not likely greatly impact currently built-out neighborhoods.
- Consider the allowance of no less than 75 percent of full requirement in additional zoning districts (currently B-2A and B-2B), subject to site plan review and demonstrated availability of nearby on-street parking.
- Increase the percent allowed on-street from 20 percent to 50 percent, keeping the maximum number at six (6) spaces.
- Change allowance to an administrative zoning permit approval for changes to existing structures that increase units.
- Allow use of stacking in driveway to meet requirement in single family districts.
- Change requirement for new multiple family construction to a minimum of one (1) space per dwelling unit plus X number of visitor parking spaces and maximum of 1.5 spaces per unit.
- Allow increased lot coverage of buildings if parking provided under-ground or under the building.

Possible Longer Term Changes

- Educate the public on the benefits of on-street parking in neighborhoods as a traffic calming method. Most of our streets are more than wide enough to handle parking and traffic flow.
- Require parking under the building.

Staff recommended changes to parking requirements

At this time, staff recommends two parking changes. Further changes to parking will come at a later date with additional requirements for green infrastructure as discussed in the master plan.

1. Allow the reduction of on-site parking to no less than 75 percent of full requirement for **residential uses** in the B-3, O-S, I-1 and I-2 Districts subject to site plan review and demonstrated availability of nearby on-street parking.

Sec. 1704 (c) Exceptions to general provisions.

1) The area delineated as the Central Business Parking Exempt District is exempt from providing off-street parking, but if off-street parking and loading requirements are provided, the lot shall meet all applicable design standards of this Zoning Code. The Central Business Parking Exempt District is defined as the area bounded by Michigan Street on the south, Woodland and Division Streets on the east, Rose Street on the north and US-31 and Elizabeth Street on the west.

2) Off-street parking requirements for residential uses in the following districts may be reduced to no less than 75 percent of the requirements of Table 1704(6) subject to site plan review and demonstrated availability of nearby on-street parking: O-S, B-3, B-2A, B-2B, I-1 and I-2.

2. Allow an increase in the percent of parking allowed on-street for **multifamily residential uses** from 20 percent to 50 percent, with a maximum number of spaces allowed on-street not to exceed six (6) spaces within 300 feet of the property subject to Planning Commission review and approval.

Section 1704(e) Multifamily parking area and driveway design requirements.

(1) General requirements.

- a. Parking areas shall be located to the rear of the building or internal to the building to continue or establish a continuous facade wall along the street and/or to conceal the expanse of parking area.
- b. Bicycle parking shall be provided for any building with five or more units at a ratio of one space per two units. See subsection [1704\(g\)\(2\)](#).

(2) Use of on-street parking to meet parking requirements.

- a. Upon Planning Commission review and approval, on-street parking may be used for up to 50 percent of parking space requirements, not exceeding six spaces, provided that:
 1. The on-street spaces are within 300 feet walking distance from the main entrance of the subject building;
 2. An on-street parking space shall not be counted unless its entire area falls within said 300-foot walking distance; and
 3. An on-street parking space shall not be counted if it is restricted in its use as a designated loading zone or if parking is prohibited for more than five hours in any 24-hour period.

- **No consensus on changes to parking requirements.**

Changes to Ground Floor Uses in the CBD

Consider allowing the back half of downtown storefronts to be converted to residential use if located on an alley (require a minimum amount of first floor, street fronting commercial space).

This item was discussed by the Planning Commission with input from the Building Official on challenges that could be faced. The Downtown Management Board also discussed and felt it worth exploring further, but would like input on the final language. This is an item that staff would want to work closely with the code official and an architect before bringing language forward.

Rooftop decks

This is not directly related to housing, but was raised and therefore language provided. Currently, roof top decks are not discussed in the ordinance, but because to have one a stairway and/or elevator shaft would likely be needed, it was suggested that regulations be created. Below are the Harbor Springs regulations (modified to incorporate the Michigan Building Code) to frame the discussion.

Definitions

Building, Height Of. The vertical distance from the average elevation of the natural, undisturbed terrain paralleling the front of a building, or if on a street corner, the average elevation of the natural undisturbed terrain paralleling the front and side of a building, measured at the building line to the highest point of the structure, but not including chimneys, spires, life-safety features, mechanical equipment and similar projections.

Deck, Roof Top. A deck constructed above any top plate of a structure and which is designed to function as useable outdoor area.

2) Roof Top Deck Commercial Usage.

Use of a roof top deck for commercial purposes may be permitted in the CBD, B, WF and TR Districts but only as a special land use and only as accessory to the principal use permitted for the building, and subject to the following restrictions:

- (a) Planning Commission approval of the roof top deck usage as a special land use must be first obtained.
- (b) Any structure on a roof top deck must be permitted under the Zoning Code.
- (c) The Planning Commission may limit the number of persons using such roof top deck as determined necessary or advisable by the Planning Commission to prevent the City's noise ordinances from being violated.
- (d) A building permit for any roof top deck **construction** activity must be obtained from the Emmet County Building Department and such usage is subject to construction **of** and maintenance of **all deck components guardrails** and other protective features as required by the **Michigan Building Code**.
- (e) Such usage must be screened from view of adjacent properties and the area proposed for such usage shall not exceed fifty (50%) percent of the total square footage of the roof area.
- (f) Structures for such usage shall be set back at least five (5) feet from the edge of any roof not fronting on a public street or right of way, and at least fifteen (15) feet from the edge of any roof that fronts on a public street or right of way. Mechanical, heating, or cooling equipment or structures that are required by the Building Code as a health or life-safety feature shall not be subject to this set back requirement.
- (g) The dimensional area of all structures (other than a mechanical, heating, or cooling element or one that is required by the Building Code as a health or life-safety feature) shall not exceed fifteen (15%) percent of the square footage of the total top roof area.
- (h) Amplified musical instruments are prohibited. Any other music or sound that would violate the City's noise ordinances and restrictions, or would exceed seventy (70) decibels measured at the property line of the property where the deck or patio is located, is prohibited.
- (i) Roof top deck usage is permitted only between the hours of 7:00 a.m. and 11:00 p.m., except for special events approved by the City Council.
- (j) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties.

Staff is looking for direction on whether there are other provisions needed and what districts should allow roof-top decks, and whether there should be a separate category for personal roof-top decks.

Action

The Commission initially discussed most of these items through the multiple family district changes at its October meeting but no direction was provided to staff pending discussion with City Council. Commission members should come prepared to discuss and provide consensus on what changes it would support moving forward. If the Commission wants to hold a special meeting for these items or wants to have additional public outreach before scheduling a public hearing, that direction should also be given.

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Enclosures

Sec. 6-4. - Bed and breakfast requirements for operation.

The dwelling unit in which the bed and breakfast is located shall be the principal residence of the operator, and said operator shall live on the premises when the bed and breakfast operation is active. Bed and breakfast operations shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. Parking provided for a bed and breakfast operation shall be in compliance with all city codes and ordinances pertaining to parking regulations. In addition, the bed and breakfast operation shall meet the following conditions:

- (1) *Limits in a single-family zone.* A bed and breakfast operation located in any single-family zoning district as defined and as geographically delineated in the Petoskey Zoning Ordinance, shall be limited to three sleeping rooms for use in the bed and breakfast operation.
- (2) *Guest register.* Every operator shall keep a list of the names of all persons staying at the bed and breakfast operation. The guest register shall be available for inspection by city officials at any time.
- (3) *Length of stay.* The maximum stay for any occupant of the bed and breakfast sleeping rooms shall be 14 days.
- (4) *Public nuisance.* Bed and breakfast operations shall not be permitted whenever the operation endangers, or offends or interferes with, the safety or rights of others so as to constitute a public nuisance.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-5. - Limits to proximity.

No license shall be issued for a bed and breakfast operation at a dwelling unit located within 500 feet of an existing licensed bed and breakfast operation.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-6. - Authority for issuance and denial.

The City of Petoskey shall issue a license for a hotel and bed and breakfast operation if the city finds that the applicant can meet all requirements of this chapter and of any other applicable local, state or federal regulation. If the city finds that an applicant cannot meet a particular requirement of these licensing requirements, then the city shall have the authority to deny the applicant a license. The denial may be appealed to the city council, which may then weight the facts of the case and make a final decision.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-7. - Notification and public comment period for initial license application.

Upon receipt of a completed hotel and bed and breakfast license application, the city shall notify all property owners within 300 feet of the bed and breakfast operation's proposed location. The notice shall inform property owners of a 14-day period for comment to the city regarding the proposed operation.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-8. - License renewal.

The city may renew the license for any hotel and bed and breakfast operation provided that the licensed operation shall meet the following conditions:

- (1) *Annual inspection.* The hotel and bed and breakfast operation shall meet all conditions of this chapter as confirmed by an annual inspection of the premises by the city.
- (2) *Lapse of license.* The license for the hotel and bed and breakfast operation shall not have lapsed for more than 30 days beyond the December 31 annual expiration date.
- (3) *Lapse of operation.* The active operation of the bed and breakfast shall not have lapsed for more than nine months.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-9. - License transfer.

A hotel and bed and breakfast license may be renewed only as provided in section 6-8 of this chapter. Such license shall not be transferable to any property other than the property for which it was approved.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-10. - Suspension or revocation.

The city shall have the authority to refuse to renew a license or to suspend or revoke a license for continued and repeated violations of the provisions of this chapter. A decision to suspend, revoke, or refuse renewal of a license may be appealed to the city council by the applicant. Any license issued under the provisions of this chapter may be revoked by the city council for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition thereto; in such investigation, the compliance or noncompliance with the state law and local ordinances, the conduct of the licensee in regard to the public, and other consideration shall be weighed in determination of such issues.

(Ord. No. 746, § 1, 5-19-2014)

Sec. 6-11. - Penalty for violations.

- (a) Any person, firm or corporation violating any of the provisions of this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions, for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).
- (b) Repeat offenses under this chapter shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.
- (c) Each day on which any violation of this chapter occurs or continues constitutes a separate offense, subject to separate sections. The paying of a fine or sanctions under this chapter shall not exempt the offender from meeting the requirements of this chapter.
- (d) A violation of this chapter is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this chapter.

(Ord. No. 746, § 1, 5-19-2014)