

CITY PLAN COMMISSION
Wednesday, February 20, 2019

A meeting of the City Plan Commission was called to order at 6:00 p.m. by Acting Chairperson Dennis Statz in the Council Chambers, City Hall, 421 Michigan Street.

Roll Call: Members Steven Hurley, Dennis Statz, Jeff Norland, and Laurel Hauser were present. Excused: Member Mike Gilson. Also present were Alderpersons Kelly Catarozoli and David Hayes, City Administrator Josh Van Lieshout, Community Development Director Marty Olejniczak, Planner/Zoning Administrator Chris Sullivan-Robinson, and Community Development Secretary Cheryl Nault.

Adoption of the Agenda: Moved by Mr. Norland, seconded by Mr. Hurley to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from January 16, 2019.
4. Consideration of: Zoning text amendments regarding accessory building setbacks.
5. Consideration of: Zoning text amendments regarding height of accessory buildings.
6. Consideration of: Memorial Drive zoning restrictions and pedestrian access.
7. Consideration of: Tourist rooming houses.
8. Public comment on non-agenda Plan Commission related items.
9. Adjourn

Carried.

Approval of minutes from January 16, 2019: Moved by Ms. Hauser, seconded by Mr. Hurley to approve the minutes from January 16, 2019. All ayes. Carried.

Consideration of: Zoning text amendments regarding accessory building setbacks: Mr. Sullivan-Robinson stated that at the last Plan Commission meeting this item was reviewed and debated whether or not a setback should be created for accessory dwelling units based on lot width. A motion was made to approve that anything equal to or above 135 feet wide would have an increased setback of a 10-foot side yard and 10-foot rear yard. The motion failed on a tie vote. He also mentioned that the Council adopted the ordinance for the accessory dwelling units with an amendment to require minimum 10-foot side and rear yard for new construction.

Mr. Sullivan-Robinson offered options of looking at this item again, create a new setback, or table this item.

Mr. Norland suggested to amend the ordinance to include all accessory buildings to a 10-foot setback. If an accessory building would later convert to an accessory dwelling unit, it would then comply.

Mr. Olejniczak added that a minimum size for an accessory dwelling unit is 250 square-feet and the maximum size is 800 square-feet. He mentioned that the Plan Commission could recommend that the Council amend the accessory dwelling unit ordinance to base the required 10-foot setback on buildings constructed after the date of ordinance rather than "new construction". It would be easier to enforce if it were all at 5 feet or 10 feet.

Discussion continued. Moved by Ms. Hauser, seconded by Mr. Norland to recommend to Council that any new construction over 250 square feet would need to have a 10-foot setback. If it gets converted to an accessory dwelling unit in the future, it will comply.

Mr. Statz stated that he has somewhat of a concern since there are so many small lots in the City. He prefers that lots under 135 feet wide would have a 5-foot setback. If someone built a structure at a 5-foot setback and decided later on to convert it to an accessory dwelling unit, the language should be cleaned up to include an existing structure as of a certain date.

Ms. Hauser withdrew her motion, along with Mr. Norland's second.

Moved by Ms. Hauser, seconded by Mr. Statz to recommend to Council to amend the accessory dwelling unit ordinance to require any accessory dwelling unit in a detached building have a setback of 10 feet if the building was constructed after April 1, 2019. All ayes. Carried.

Moved by Ms. Hauser, seconded by Mr. Statz to leave the current setbacks as is for accessory buildings. All ayes. Carried.

Consideration of: Zoning text amendment regarding height of accessory buildings: Mr. Sullivan-Robinson stated that staff wanted the Plan Commission to re-affirm the recommendation to Council that was made several months ago regarding the accessory building height code text amendment. It was never sent to Council because staff was told to wait until the Commission finished reviewing the accessory building setbacks.

Moved by Mr. Statz, seconded by Mr. Norland to recommend to Council the text amendments previously recommended regarding the height of an accessory building. All ayes. Carried.

Consideration of: Memorial Drive zoning restrictions and pedestrian access: Mr. Sullivan-Robinson stated that Alderperson Catarozoli requested that this item be added to a Plan Commission agenda. She wondered if the City would be interested in the construction of a pedestrian path for the section of property along Memorial Drive from 8th Avenue to Utopia Circle. This section of land is restricted by a zoning ordinance which states that nothing can be built on that side of the street or to plant trees. There is to be a clear vision path to the water. That section is also restricted by an easement from the 1930's. There has been uncertainty what rights the City has in this area under the easement. The City Attorney believes the City would have the right to put in the path, but additional investigation was needed to ensure it was done right. Staff is looking for direction at this time to see if the Plan Commission wants to take up this issue. He noted the public right-of-way for Memorial Drive is approximately 8-10 feet beyond the curb. The property owners across the street own the land waterward of that.

Ms. Catarozoli stated that this item came up when a resident had asked about constructing a firepit on the property and Ms. Catarozoli wondered why that had to be approved, as well as why the City cuts the grass along Memorial Drive. She started looking into this as well as the possibility of putting in an off-road multi-modal path. She reported on the information she found. She believed this area used to be public property and would like clarity on that. She would like the zoning ordinance changed so the public can again use that space as intended by the easement. She would also like to move forward with planning for a multi-modal path. This is part of the County's bike loop for Sturgeon Bay.

Mr. Olejniczak stated that in 1977 the City amended its zoning regulations for Memorial Drive to specifically state that physical use of the property is limited for the property owners and their invited guests. The area is currently treated as a scenic easement.

Ms. Catarozoli said that it would be an amazing benefit for the City to have a path along that area. Maybe the street could be narrowed. There should be clarification on the grass mowing.

Mr. Olejniczak pointed out that there are two issues that could be considered. The first is the rights and responsibilities of the City under the recorded easement, and the City's zoning restrictions. The second issue is the pedestrian/bicycle access along this stretch. A waterfront pedestrian loop is in the Comprehensive Plan. So, the Plan Commission could look into this issue and consider option such as whether the sidewalk should be extended on the water side or whether the curb could be brought in and a path put in where the current parking lane is. He said that it had been suggested to paint a line on the water side and restrict the parking on that side of the street. Another option was to add sidewalk from 15th Avenue to Utopia Circle.

Jon Gast, 936 Memorial Drive, stated that he lived there for 20 years. Part of the reason the City cuts the grass is so it is continuous and looks nice. All the grass is cut at once. He stated that he has had no problem with the public accessing that area in the past.

Alderman David Hayes, 111S 7th Avenue, stated that he talked with owners along Memorial Drive. There needs to be clarity on the easement. Property owners do not have a problem with a multi-modal path within the current street right-of-way, but do not want any green space taken away. Possibly benches could be installed for people to enjoy the view. There has been a lot of confusion on the easement. It has not been consistent.

Mr. Statz asked the Commission members how they wanted to proceed.

Mr. Norland suggested extending the sidewalk between 15th Avenue and Utopia Circle to eliminate the missing link. A line should be striped on the water side of the street for a bike path, with no parking.

Ms. Hauser mentioned a grand promenade could add value to the homes and is the long-term vision. The Bike & Ped Committee should take a look at this.

Moved by Ms. Hauser, seconded by Mr. Statz to recommend to the Bike & Pedestrian Advisory Board to research and come forward with options for a multi-modal path along Memorial Drive and connect to the rest of the bike path.

Attorney Jim Smith of the Pinkert Law Firm stated he was representing a property owner. He pointed out that the subject land is private property that owners pay taxes on. Trying to establish a multi-modal path could cause some legal issues. Doing something with the property that is contrary to the easements, the City would be treading on eminent domain, which cannot be used to obtain land for a bike path under Wisconsin law. He thought the issue could be resolved within the current road. He didn't see a problem with putting a bench here and there, but if the City tries to use the green space, it could create legal issues for the City. He suggested to get a better legal opinion from the City Attorney.

Mr. Norland reiterated that the City can extend the sidewalk and put a bike path along the curb without spending a lot of money.

A vote was taken on the motion. Carried, with Mr. Norland voting no.

Consideration of: Tourist rooming houses: Mr. Olejniczak stated that the ordinance was changed approximately three years ago to open up single-family homes to be rented on a short-

term basis. Prior to that, the City was the only community in Door County that restricted rental periods to 30 days or longer. Staff thought it was time to assess how things were going. A letter was received from an existing lodging establishment expressing concerns. Other calls have been taken also expressing their concerns. Mr. Sullivan-Robinson checked to see where the current licenses are located and what they were used for before or if they were purchased specifically for a tourist rooming house. It was also pointed out that after the City amended its code to allow the tourist rooming houses, the State adopted a law that restricts municipalities from limiting short-term rentals. It can be restricted to a weekly rental, but you can no longer prohibit short-term rentals completely. The period that units can be used for short-term rentals can also be restricted to half of the year.

Mr. Sullivan-Robinson stated that the tourist rooming houses are pretty evenly dispersed all over the City. There are currently 41 tourist rooming houses as of today. Of those 41, 18 were previously owner-occupied. Twenty of those were renter occupied. It is believed that 18 were recently purchased with the intent for a short-term rental. Thirty-four are used year round and seven only used a couple of months out of the year.

The Community Protection & Services Committee recently reviewed the TRH issue and has recommended an increase the fee of the permit because there are multiple City departments that review a permit.

Mr. Olejniczak explained that if the Plan Commission felt that tourist rooming houses were creating a problem, the minimum rental period could be restricted to 7 days. To deal with existing licensed tourist rooming houses, the weekly rental restriction could be enforced after a license expires.

Melaniejane, 30 N 1st Avenue, stated that we are in a unique community. Short-term rentals keep expanding and there are no long-term rentals anymore. Property values are going up.

Mr. Van Lieshout stated that county-wide short-term rentals are increasing. There are about 1200 total, along with cottages, homes, etc. From a trend perspective, it is a fluid, dynamic process. The Door County Tourism Commission cannot regulate the marketplace. Their job is to make sure the lodging tax is equitably collected and equitably distributed under the law.

Ms. Hauser suggested holding a public hearing to hear what the community thinks about tourist rooming houses.

Mr. Statz would like to form a study group to come up with ideas and options and bring it back to Plan Commission.

Mr. Olejniczak offered options that included doing nothing and continue to wait and see what happens with the TRH's and continue to revisit the issue annually; make ordinance changes; or have public hearings and study groups.

It was the consensus of the Commission to put together a task force including 3-4 people, and come up with ideas. Mr. Statz would like to begin meeting next week. Melaniejane agreed to be part of the task force.

Public comment on non-agenda Plan Commission related items: Paul Anschutz, 221 N 6th Avenue, spoke concerning a multimodal path on Memorial Drive. The street should be narrowed since property cannot be taken away from the easement.

Following public comment and prior to adjournment, Mr. Olejniczak requested that the Commission go back to Item #5 **Consideration of: Zoning text amendment regarding height of accessory buildings**. He explained that the proposed ordinance in their packet was not the correct version of what was approved previously by the Commission. He passed out the correct proposed ordinance and requested that the Commission verify that their earlier motion to recommend adoption was still their desire now that they see the actual proposed ordinance. After reviewing the correct ordinance, the Commission by consensus agreed that their motion to recommend approval of the ordinance amendment was still valid.

Adjourn: Moved by Mr. Norland, seconded by Ms. Hauser to adjourn. All ayes. Carried. Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Cheryl Nault
Community Development/Building Inspection Secretary