

Minutes of a Special Meeting  
of the  
City of Bay Village Planning Commission  
held January 22, 2014

Present: Foster, Lieske, Maddux, Majewski, Persanyi,

Absent: Lesny Fleming

Also Present: John Cheatham, Chief Building Official SAFEbuilt, Inc.  
Councilman Steve Lee, Councilman Paul Vincent

Audience: Marty Mace, Conda Boyd, John Brooks, Al Kruzer, Marty Mace, Lydia DeGeorge, Pam Cottam, Kevin Murray, Clete Miller, Clare Banasiak

Chairman pro tem Bela Persanyi advised that the main purpose of the meeting today is to discuss the chapter of the zoning code which deals with attached residences. There was an issue on the ballot in November of 2013 regarding rezoning of land on the west side of Cahoon Creek. That particular issue would have been covered by a new section of the zoning code, but since the issue was defeated the land was not rezoned, and that new section of the zoning code is null and void.

The Planning Commission is here today to try to create new ideas for the current section of the zoning code, Chapter 1158, because restrictions that exist now are such that no one has approached the city with the intent of developing a project which would be covered by Chapter 1158 of the zoning code.

Mr. Persanyi asked the members of the Planning Commission to express their ideas regarding this particular chapter. He explained that currently there are only three parcels of land that are zoned for attached residences:

- Bay Commons at the west end of the city (26 units) built under Chapter 1158 which defined a minimum development area of 5 acres. The land was 7.5 acres but the developer did not develop the complete land because he did not have access to part of the land which was zoned for attached residences and he did not own that portion. That land is currently the parcel that sits between Bay Commons and Bradley Bay Health Center, and will be developed by Bradley Bay Health Center.
- Cashelmara Development. A separate chapter of the zoning code different from Chapter 1158 for the reason that the property includes an historical building. The rules were developed specifically for this 11-acre project.

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- In 2010, the electorate of the city approved attached residence permitted use in all commercial and retail districts. The former Shell Gasoline Station property is now available for attached residences as a result of this affirmative vote of the people.

Any further development of attached residences would require rezoning of land. Currently there is no land available for attached residences, other than the vacant parcel owned by Bradley Bay Health Center, who plan to put an addition to their facility on that piece of land. If a developer should approach the city for a project, the first hurdle he would face would be to rezone the land, and that would be governed by the people by election, passing in the entire city and in the ward where the land is located.

Resident Pam Cottam asked the proposed land for redevelopment. Mr. Persanyi stated that at the current time there is no specific piece of land that is proposed for rezoning. The City Master Plan of 1999, completed with the assistance of the Cuyahoga County Planning Commission, identified some areas as potential sites for rezoning for attached residences. Those areas were:

- Bradley Road – extension of more attached housing near the Bay Commons
- Knickerbocker Road toward the east end of town where the street was not taken through as a continuous street

Ms. Cottam asked if the Cahoon Creek West area is now off-limits since being defeated by the voters at the November, 2013 ballot for rezoning. Mr. Persanyi stated that it is whether a developer would attempt once again to rezone. The problem now is that based on our current zoning code, Chapter 1158, one of the first hurdles is a developer has is that it calls for a minimum development site of 5 acres. A potential developer would have to find a location where he could accumulate 5 acres of land and potentially get some kind of agreement that if his plan is successful and he can rezone the land he will purchase the property. It would be difficult to find 5 acres of land and get options on each parcel and then go to the voters and ask for a change in zoning.

One of the items to be reviewed in Chapter 1158 is the 5-acre minimum. When Cuyahoga County was preparing the Master Plan for the city, they sent out a questionnaire to hundreds of households in Bay Village. In this questionnaire they posed questions that would help them determine what the people in Bay Village liked about the city, what they wanted to see changed, and what were the things they were looking for in the future. Attached residences were one of the things that they were looking for. They wanted to stay in Bay Village but no longer wanted to take care of a home. At that time there were 26 units on Bradley Road and 100-some units at Cashelmara. There were no options, other than moving out of the city. It seems there is a need for this type of housing but now it is impossible for a developer to come in and build what the

people want. We need now to get a better sense of where the community is and where they want to be.

Mr. Al Kruzer asked if someone wanted to develop something commercially on the east side of Cahoon Creek at the former Shell Station site, will the city give a subsidy on tax abatement. Mr. Persanyi stated that tax subsidy is not the purview of the Planning Commission. This subject should be addressed to City Council. Mr. Lee noted that City Council did pass a resolution indicating they did not support tax abatement for private residence development. Mrs. Banasiak stated that the original motion was changed to add blight and under-developed property as an exception. Mr. Lee suggested that these comments and questions be addressed to City Council.

Mr. Persanyi stated that Chapter 1158 of the zoning code was written close to 40 years ago. There will be no development in the city of attached residences with the conditions prescribed in Chapter 1158 now. Rocky River is similar to Bay Village with limited amount of real estate. Westlake has the benefit of large vacant parcels. Yet, neither Rocky River nor Westlake are nearly as restrictive as Bay Village in the size of development. Westlake has a one-acre minimum for developments. Rocky River does not even have a minimum development size. They specify a certain number of square feet per residence.

In response to a question from the audience, Mr. Majewski stated that there is a minimum development size for attached residences as a permitted use in retail and commercial districts of one acre and a density requirement of 8 units per acre that was passed by the voters in 2010.

Conda Boyd asked if there has been any subsequent survey since the 1999 survey for the Master Plan. Mr. Persanyi stated that this is the last time a survey was made. A new survey is needed to determine if there still is a need for this type of housing. Mr. Lee noted that this dialogue is necessary because of the changes that have occurred in surrounding communities in this area of housing, while Bay Village has remained stagnant.

Mr. Majewski noted that the 1969 Master Plan, which was the preceding Master Plan to the 1999 Master Plan, set forth a vision of the city as single family residences that would surround the central business district. The 5-acres for attached residences was a protection written to protect the idea of single-family housing. In 1999, the results of the survey revealed a desire to keep seniors through alternative housing for seniors. The 1999 Master Plan focused on finding areas in the city that were large enough to develop housing for seniors at a particular price point. Over the years, that idea has changed through discussions with the administration and council. Senior housing no longer seems to be the focus. Some of the proposals we have had are not senior developments and are for general or even up-scale use.

Mrs. Lieske presented a review done by the Planning, Zoning, Public Buildings and Grounds Committee in 2009. Councilman Dave Tadych was the chair at that time of the committee, and the committee submitted a memorandum explaining their recommendations after a very thorough review. Their minimum-acre development recommendation was 3 acres of buildable land, density not to exceed 8 units per acre, and 4 dwelling units or a lesser number attached to one another per building. They also reviewed open space and floor area. Nothing happened in terms of City Council and legislation following the recommendations.

Mr. Majewski stated that one of the biggest hurdles in 2009 was location, whether they wanted to apply Chapter 1158 city-wide. If a developer could put together a 3 acre parcel anywhere in the city, would that be allowed to be built? Council could not decide on that matter and decided not take any action at that time.

Mr. Persanyi stated that the purpose to update Chapter 1158 is to make it possible for someone to come forward with a plan and then take the updated version of Chapter 1158 to accommodate their plan.

Mr. Cheatham, Chief Building Official, SAFEBUILT, Inc., looked at the surrounding communities and examined the density of homes in Bay in the two residential districts, and has forwarded his recommendations to the Planning Commission. Mr. Cheatham addressed the Commission with his recommendations. He stated that he researched adjacent cities and got a sense of what everyone was doing, but at the end of the day, Bay is Bay. Nothing really suited Bay Village that he saw elsewhere; Mr. Cheatham devised three models for the city. One model would be for Residence District No. 3, one would be for Residence District No. 1, and one would be for Commercial/Retail Business District. His thinking was that Bay is unique; it has an east and a west, Residence 3, Residence 1, different lot sizes, 7500 square feet in Residence District 3 and 14,700 square feet in Residence District 1. The idea was that rather than just open the whole city to any type of development we should make certain parameters in Residence 3 and certain parameters in Residence 1, and certain parameters in a Retail/Commercial District. Mr. Cheatham created a minimum lot size that would be realistic, practical, and applicable if there were a developer that wanted to come in and develop something. He also did a density per acre, minimum open space, maximum lot coverage, maximum area that was impervious (parking lots; sidewalks), a maximum height with a note that the maximum height would not exceed 15% higher than the average of the height of surrounding buildings. A maximum length per structure and minimum number of bedrooms allowed was defined, changing the parameters to allow one bedroom units as well as two and three bedroom units. A minimum square footage of living space is noted as well. Garages are defined with parameters as well as a maximum number of residences per structure. Mr. Cheatham noted that in many of these places senior citizens especially like to have a little gathering room or clubhouse with a small pool and training/exercise area. He included this accessory in Residence District 1.

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The minimum acreage for Model A, Residence District 3 is 1.85 acres which would equal 10 or 11 existing lots. Model B for Residence District 1 is a minimum of 3 acres which would be approximately the size of 9 average lots. In Model C for the Retail/Commercial District, 1.5 acres would be needed for development.

Mr. Kruzer asked how many occupants are permitted in the structures. Mr. Cheatham stated that the State of Ohio Residential Building Code states how many people can live in a house that are unrelated.

Mr. Kruzer stated that he has seen developments by Brickman and they are all at least 45 feet tall and 8 feet above dirt. He asked if that would be acceptable. Mr. Cheatham stated that his models were just a beginning and can be amended if needed. Based on some of the comments he has heard, that 45 feet height might be reduced before the section is accepted.

Mr. Miller noted that there is a reference in the current Chapter 1158 there is a reference that the grade is taken from the first floor level. Mr. Persanyi noted that height is measured from the entrance elevation. He noted that there are relatively few locations in the city where that type of development might occur. For example, if what could have happened on Cahoon Road, the zero point would be at the sidewalk level of Cahoon Road, and anything below that would not count toward the 35 feet going up. The back of the building toward the street would be as much as 45 feet but the maximum seen from the street would be the 35 feet which is the current code. He noted that the requirement of measuring the height of surrounding buildings is a good requirement because you would not create a situation where there is a large number of single story homes and someone would come in with a two-story building. This would not be permitted with the clause that it cannot exceed the average of the buildings surrounding the development.

Conda Boyd commented about the height of the Bay Middle School as a reference, for which there was a variance granted. Mr. Persanyi noted that there unusual circumstances of height, such as church steeples.

Mr. Persanyi stated that there are parts of the current code regarding the setback to be 50 feet from the sidewalk. That could be modified in areas of the commercial district, where there are storefronts that are closer to the street. Residence structures in that district might need to be closer to the sidewalk.

Mr. Majewski stated that he personally believes it would be good to have different models for different districts since the size of the houses are so much smaller in Residence District 3 than in

Residence District 1. To fit into the surroundings you would have to have different parameters for each district.

Mr. Persanyi noted that if there are three different sets of rules for three different locations it becomes less likely that variances are needed, and the proposed structure is more likely to fit into the neighborhood. He noted that the proposal for the acreage makes sense considering the current density of single family homes and using that density to determine a number of units per acre.

Mr. Lee noted that this approach is consistent with the recommendations of the Cuyahoga County Planning Commission professional that analyzed this issue in 2009. (The Commission members were provided with a copy of the memorandum from the Cuyahoga County Planning Commission referenced by Mr. Lee).

Mr. Majewski stated that one of the key aspects of the proposal is that any development should be of sufficient size to insure an adequate number of homes and a homeowners association to make sure that any maintenance can be distributed among an adequate number of people and wouldn't become a burden on a small number of people in a homeowners association. There is a homeowners' agreement that needs to be included in the ordinance that they maintain the property and the buildings. That was one of the recommendations relative to adequate size.

Mr. Persanyi suggested going through the recommendations of Mr. Cheatham, beginning with the minimum acreage of 3 acres, with 6 units per acre, for Residence District 1. He asked if the commission is comfortable with these parameters.

A member of the audience asked if we have heard from the development community as to what they would be looking for in terms of density per acre or lot size. Mr. Persanyi stated that past experience indicates they want more density no matter what the rules are. If they go into the existing commercial district the density would be greater. Mr. Lee noted that this also drives the price of the units. Mr. Cheatham stated that would probably lead to multi-store attached units like town houses. Another thing that comes into play is the number of units in one building. If you have more than 4, the code changes for the construction requirements. The other item brought forth by the Cuyahoga County Planning Commission was the plan that you would receive a bonus such as an extra unit per acre if a handicap accessible or handicap adaptable unit is built. That has never been incorporated in our code and is something for consideration.

Mr. Majewski noted that Cuyahoga County suggested, as part of the Master Plan, that when building senior housing if a developer came in to build attached residences if they would build units that were ADA compliant that would be able to build more units per acre than were called for in the code. That would accomplish the goal of providing units for seniors. Mr. Majewski

stated that the idea of a density bonus has merit in both residence districts. Mr. Cheatham commented that once you have four units under one roof it is a moot issue because at that point the building code steps in and says you have to have a certain number that are handicap accessible.

Mr. Persanyi stated that the question is should the density bonus be included in the code.

Mr. Maddux stated he believes it would be beneficial.

Mr. Majewski stated that if it is the goal of the city to have these types of units, the density bonus gives the city something to offer. It should be written into the code that the bonus would be a specific number of units if ADA compliant is built. The amount of the bonus would be something for further study, but would have to be a maximum number of units per acre.

Mr. Persanyi stated that another question is the size of the individual units and the number of bedrooms required. Do we want to set a maximum or minimum, or prescribe the overall maximum and let the developer decide based on demand? Do we want higher or lower minimums for the actual size of the units, or do we limit it to actual land cover and green space, and let him pick and choose which type of units he wants to have within the parameters he is given?

Mr. Maddux stated he does not believe we can stipulate the number of 1, 2, and 3 bedroom units in each development. The market will determine what the developer's mix is going to be. Mr. Foster added that this provides more flexibility for the city long term. Telling someone they have to have a certain number of one and two bedrooms is setting the tone indefinitely.

Mr. Persanyi asked about the square footage per unit. Mr. Cheatham's recommendations include minimum square footage per unit. (900 sq. ft – 1 bedroom; 1100-1200 sq. ft – 2 bedroom, 1400 sq. ft. - 3 bedroom.)

Mr. Persanyi noted that there must be an adequate number of paved spaces for units for families with more than one vehicle.

An additional requirement would be for storage spaces. Mr. Cheatham suggested they could have a small area incorporated into the side of the structure. He noted that in these types of developments if you allow an accessory building separate from the building itself, it can get very cluttered and just not look good. In keeping with Bay Village standards, accessory structures should not be allowed. Mr. Persanyi stated the code should include a requirement for provisions for a storage area that is not part of the living area, based on square footage.

Mr. Persanyi brought up the question of setbacks. In certain cases it might be desirable to have less than a fifty-foot setback. Mr. Miller discussed the idea of overlay districts. He stated that the theory of an overlay district is that you don't give up the underlying district's requirements for front, side or rear yard setbacks. If they are more stringent in one district or another, that is what you have to comply with. You can have a multi-family structure, but it has to be within those confines.

Mr. Cheatham stated that within his recommendations he noted that all other relevant issues such as building line setbacks, minimum front and rear yard sizes, would be determined once these proposals were discussed. If the city were to make use of an overlay district in the majority of the city, the setbacks would be predicated by the regulations in the district. He did look at these setbacks when was preparing his recommendations and made the assumption that there would be an overlay district.

Discussion followed concerning Mr. Dino Lustris's proposal in 2008. Mr. Lustris designed some homes to have driveways that went around the rear of the homes with garages in the back. It was noted that the 40 ft. sideyard setback requirement in the current code may not be viable in overlay districts. That 40 ft. setback requirement might put severe restrictions on the positioning of the buildings.

Mr. Majewski asked if the calculation of acreage in the proposed code amendment is based on buildable acreage or gross acreage.

Mr. Persanyi stated that in certain areas a percentage of green area should be specified. In situations next to the creek the green area could be that area going down to the creek.

Mr. Majewski noted that in the Cahoon area the property lines are to the middle of the street. You cannot build a condominium in the middle of the street.

Mr. Miller stated that Mr. Lustris did not include the center of the street or the streams that would fall under the riparian legislation in his plans. That left him with unusual pieces and he adjusted the lines to convert to buildable area. Only one of the lots included a sliver of land that was an island on the other side of the creek. The other four lots were buildable area.

Mr. Majewski questioned how much property would remain buildable on 1.85 acres when subtracting all of the required green space and setbacks. Mr. Persanyi noted that it is a viable option in most areas in the city, with the exception of the creek area, because the property is flat. He noted large lots on Forestview looked at in 1999 – with 50 ft. frontage on lots running back 500 feet as potential sites for attached housing.

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Mr. Foster asked if it is appropriate to set requirements for unit size if we are trying to encourage development. Mr. Cheatham stated that you do not want to regulate that because you do not want someone to come in and build 700 square ft. apartments or condominiums not reflective of the Bay Village area.

Mr. Miller discussed the 1969 Master Plan referenced by Mr. Majewski. In 1969 there was more land available in Bay for development. The intent in setting a 5-acre minimum for attached housing may have been to preserve and encourage further development of single family residences. Mr. Persanyi noted that times are changing and people want different types of housing, as that being provided in Rocky River and Avon.

Mr. Majewski stated the proposals from developers since 1999 are bigger units, more density, a higher price range, and not senior housing. A survey of residents might reveal whether this would be welcome development. In 1999, it was senior housing that was desired.

Mr. Persanyi stated that economics will dictate any type of development plan. A developer will want to develop something that will make money. We need to have rules in place so that the development fits into the community. It may draw seniors; it may draw young professionals. We cannot dictate that but we need the rules in place so it is possible for everyone who comes to the city to do a project with the same rules. We are trying to update the rules while protecting the single-family community.

Mr. Majewski noted that the seniors are such an important part of the fabric of our community we want them to be mixed in the neighborhoods rather than having them isolated in a particular area.

Mr. Lee asked if there has been any contact with the Mayor's office regarding a survey of residents. Mr. Persanyi stated that a copy of the survey that was sent out by Cuyahoga County in 1999 as part of the work of the Master Plan will be obtained by the Secretary. Council can review and modify the questionnaire if necessary and send it out to a representative segment of the community.

Mr. Lee stated he believes the demand is there for alternative housing but it would be nice to have a questionnaire process. The next step would be for the Planning Commission to make a recommendation to Council. Council would draft legislation incorporating the recommended parameters into Chapter 1158. There would be a full public hearing process to update the chapter, and this would not affect zoning. Rezoning would be addressed on a specific project-by-project basis and would go through the Planning Commission, back to Council, and then be on the ballot for voter approval both ward and city wide.

Discussion followed regarding the overlay approach. Mr. Miller stated that Chapter 1158 would have to be redrafted as an overlay district with a subset of the three districts that would govern. The overlay would relieve the city from having to go to a public vote for permission to aggregate the property to do attached residences.

Mr. Persanyi stated that now anyone can try to get options on five acres of land and then come to the city for rezoning. Mr. Miller stated that the overlay is a development tool. Chapter 1158 becomes an overlay district that could apply to the entire city. It is a concept that is used across the nations for overlays related to transit and a number of other things. It does relieve the developer of having to wait for a public vote for something they need to accomplish now. That is really the only purpose for the overlay.

Mr. Persanyi stated nothing can happen without the land being rezoned and that requires a vote of the people. Mr. Miller stated the overlay would not change the zoning; it would change the use of the property. Mr. Majewski stated it would still have to be approved by the voters as was done with the commercial property in 2010. The change of use would require a vote of the people.

Mr. Foster stated that taking rezoning to a public vote seems like a barrier to development. The city should be determining the areas appropriate for this type of housing. The Master Plan needs to be updated.

Mr. Cheatham stated that he believes Chapter 1158 should apply to the whole city because of the possibility of changes in the city's housing stock in the future. Mr. Foster stated that market and climatic conditions shouldn't necessarily drive what is the vision we want for the city. We should have the steps in place.

Mr. Cheatham noted that Chapter 1129 in the code sets the Planning Commission as the authority for permission in the approval process for development.

Conda Boyd asked if the process for changes to Chapter 1158 would be completed in time for the next election. Mr. Persanyi stated that there is nothing before the Council at this time that would require ballot approval for rezoning. Ms. Boyd stressed that she would not want to have to vote on legislation without having the requirements of Chapter 1158 finalized. She emphasized the need to have the tax base of the city increased due to its financial difficulties. Ms. Boyd noted that increased municipal income tax collections would benefit the city government. Increased property taxes are most beneficial to the schools. The estate tax has been eliminated which affects the previous economic-related desire to keep seniors in the community.

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An additional meeting will be called to discuss the revisions to Chapter 1158 further and the topic will be included on the February 5 agenda of the Planning Commission.

Mrs. Lieske stated that focus discussion groups using different segment populations of the community are an excellent way of attaining public input. We could reach out through real estate professionals, and even schedule a weekend daytime meeting to accommodate those who do not attend evening meetings.

Mr. Persanyi noted that there may be a need to include clear definitions of the types of units attached residences encompasses.

There being no further comments this evening, the meeting adjourned at 9:30 p.m.

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Bela Persanyi, Chairman pro tem

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Joan Kemper, Secretary