

Minutes of a Meeting of
City of Bay Village Planning Commission
held December 2, 2015
7:30 p.m.

Present: Barbour, Dzienny, Foster, Lesny-Fleming, Lieske, Remein

Not Present: Maddux

Also Present: John Cheatham, Chief Building Official, SAFEbuilt, Inc.

Audience: Paul Koomar, President of Council, Councilman David Tadych, Ward 1, Councilman Paul Vincent, Ward 2, Conda Boyd, Al Kruzer, Dick Majewski, Lydia DeGeorge, Denny Wendell, Pam Cottam, John Burney, Richard Fink.

Chairman Barbour called the meeting to order at 7:30 p.m. Following roll call, Mr. Barbour called for approval of the minutes of the Planning Commission meeting held June 17, 2015.

Motion by Foster, second by Dzienny, to approve the minutes of the Planning Commission meeting held June 17, 2015 as prepared and distributed. Roll Call Vote: Yeas – Mr. Barbour, Mr. Dzienny, Mr. Foster, Ms. Lesny-Fleming, Mrs. Lieske, Mr. Remein. Nays – None. Motion passed 6-0.

Review of Proposed Chapter 1158 – Attached Residence District

Chairman Barbour advised that this matter has been before the Planning Commission starting July 3, 2013. It has been in various forms at different times in front of the Planning Commission. October 2, 2013, the Planning Commission received a packet of information from City Council which included minutes of Council meetings. A lengthy discussion ensued by the Planning Commission. On September 5, 2013 further discussion took place at the meeting concerning zoning of the Cahoon property. The topic was discussed again on October 6, 2013, December, 2014, and January 22, 2014, February 5, 2014, March 5, 2014, and April 2, 2014. All those discussions can be found in the Planning Commission minutes. The membership of the Planning Commission changed during those times with new members added, members stepping down, and a member returning. The Planning Commission reviewed Chapter 1158, made suggestions to City Council, and discussed various ideas, sometimes at great length, which are documented in the minutes of the Planning Commission. There is always a City Council representative on Planning Commission who reports back to the committee and the Council as to what is discussed. Written suggestions were reviewed as presented by John Cheatham, Chief

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Building Official of SAFEbuilt, and former Chairman Bela Persanyi as to what might be done with Chapter 1158 if City Council chose to address it. At our last meeting, to summarize our position, we felt that as Planning Commission, on April 2, 2014, we had discussed this for several months and had come up with several different variations. We felt generally that it was now City Council's turn to decide whether as a policy matter it wanted to make changes to Chapter 1158, and if so, to what extent. Fast forward, through many meetings of City Council, the Planning and Zoning Committees, and the Council meetings, the City retained the services of an outside consultant and professional planner who gave input, and we now have an ordinance put on first reading November 16, 2015, Ordinance No. 15-79, amending Chapter 1158, Attached Residence District.

The ordinance is before the Planning Commission because the Bay Village City Charter provides that any ordinance referring to zoning, or any other regulations concerning use or development of land cannot be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation. Previous to November 16, 2015, there was no actual ordinance for the Planning Commission to report on and recommend.

City Council puts an ordinance on first reading, and it is necessary for them to go to a third reading before it can be voted on by Council and adopted. A piece of legislation could stay on first reading for as long as the City Council wants it to stay on first reading, and until City Council votes it on second reading, and must vote to move it to third reading before it can be voted on for adoption.

The Planning Commission received a copy of Chapter 1158 in their packet material, and since that time there is another version of the proposed Chapter 1158 that was sent to the Planning Commission via email with additional changes. There will be a meeting of the Planning, Zoning, Public Buildings and Grounds Committee on Monday, December 7, 2015 at 6:30 p.m. and at that time there will be further consultation with Mr. Paul LeBlanc, the professional planner, to raise some issues, questions and further points.

Councilwoman Lieske advised that she emailed Council President Koomar informing him that any questions raised this evening will be forwarded so they will be able to be addressed on Monday, December 7 at the 6:30 p.m. public Planning and Zoning Committee meeting here at City Hall. The public will be permitted to address the members of the committee at that meeting.

Mr. Barbour stated that it is his plan at this meeting to foster discussion among the Planning Commission and take questions, comments and statements from the audience members.

Vice-Chairman Andy Dzienny stated that by establishing this district as an R-4 District, it duplicates an already repealed district. Chapter 1158 is already the Attached Residence District,

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and that is mentioned throughout the codified ordinances over and over. The R-4 is also mentioned throughout over and over. If we change this to R-4, Attached Residence, we will have a lot of work going through the other chapters and amending them. If we maintain it as Attached Residence District, that will not cause any problems. We will just leave R-4 alone. Attached Residence District is mentioned in Chapter 1131 as an established district. If named R-4 it will just cause confusion and force more work on the Council.

Mr. Foster stated that as a change in zoning, is there a transferability with that? If a property is rezoned, is there a twilight on that? If a developer gets something approved and chooses not to build at that time, could they sell the property and it retains that zoning designation, and somebody comes through with something else? Mr. Dzienny stated that any zoning change goes to the public. That land would be changed to that new zoning, unless they change it again.

Mr. Barbour stated that it would be permanent, but a question he has under this newest proposal, is in Section 1158.05 (A) and (B). It seems to require that if you want to have your property rezoned you have to submit a plan indicating what you plan to do with it.

Mr. Foster stated that he is questioning if it is a permanent change. If it goes to the voters and is approved and that particular developer chooses not to exercise the development, we have a changed piece of property.

Mr. Cheatham noted that the situation exists with the former Shell Gasoline Station property. It was rezoned and the developer didn't go forward. It is still zoned that today, however, the zoning allows a lesser zoning. A developer is interested in putting in single family, higher-end homes. That is allowed with the Attached Residence zoning. If land is rezoned and the developer backs out, someone could still put single family in there. It does not have to be Attached Residence, but it is still permanently zoned Attached Residence District.

Mr. Dzienny noted that the Shell Station Property is Commercial Zoning that permits Attached Residences.

Mr. Remein stated that the ordinance the way it is written has principal uses, and one of the principal uses is Townhouse, or Two-Family Dwellings. Based on that, if you zone it for Attached Dwelling that is the only thing you are permitted. Mr. Cheatham stated that Mr. Ebert stated that it is allowed anything less restrictive, like single family. Mr. Remein stated that he would like to see where it says that in the code.

Mr. Foster stated that in the discussion at the last meeting, there was a concern about having these types of townhouses or attached residences in spot places around the City that may not be consistent with the neighborhood. In reading through this, you can see a situation that would

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arise where you end up with these spots throughout the City that somebody may choose to place a development somewhere that doesn't necessarily fit. A lot of the discussion about this Master Plan, which is a 15-year old Master Plan, we are basing it on a set of documents that is 20 years old.

Mr. Remein stated that in the document it says "or as later amended." Mr. Remein stated that he has a problem that we are being asked to recommend approval for a legislation something that will basically approve a later document that we have never seen or have no idea what it is going to say. How can you create legislation that automatically guarantees a future document that we have no control over? How does that apply?

Ms. Lesny-Fleming stated that we can certainly only comment on what is in front of us right now. The fact that the survey recently went out, I would think would also have some results in there that would impact Chapter 1158, the Master Plan, and moving forward in the community. I don't know what the time table is for considering the results of that survey.

Mrs. Lieske stated that the survey was sent out early November to 1200 residents. We were told that they were due back the end of November and then the County Planning Commission would be analyzing the results and it would likely be early January. Mrs. Lieske asked, as well as a couple of colleagues on Council, about waiting until the survey results are in before moving forward. It was put on first reading, but other residents have asked that as well.

The other thing, in terms of what Mr. Foster raised, about these spot developments happening all over town, that has also been a question from a number of residents that Mrs. Lieske raised during the committee session. The consultant took care of that a little bit, with changing the word "may" in Section 1158.02 to "shall." We went through the sections of the Master Plan and the Retail Improvement Strategy which is where people are more comfortable with this type of development right now so it wouldn't necessarily be the spot developments all over town. By changing that "may" to "shall," that might alleviate some of those concerns.

Mr. Remein commented that you are not actually creating a district that is a contiguous platted area; it is still a spot. Whoever has the where-with-all and the will power to bring this to committee and get something approved, wherever that is, generally speaking, could conceivably be approved by zoning and ultimately by Council or the public. You are basically creating a permitted use; not a district.

Mr. Dzienny stated it is a district; you go in, you pick an area, you zone it to that. So that now becomes that district.

Mr. Remein stated that it could be a non-contiguous set of districts all over the City.

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Mrs. Lieske stated that at the Planning and Zoning Committee meeting of Council on November 23, 2015 the committee went through the focus areas described in the Master Plan and the areas in the Retail Improvement Strategy. Looking at those areas, they are scattered around, but it would not be referencing the spot areas. The Planning Commission was provided a copy of the minutes of that November 23, 2015 meeting.

Mr. Dzienny noted that the 1976 version referred to the Bay Village Master Plan. At minimum, the 1999 Master Plan needs to be dated so we know what we are referencing.

In regard to changing the word “may” to “shall,” Mr. Dzienny stated he actually likes the word “may.” Master Plans generally last two to three years. We should encourage in the areas of the Master Plan, but not tie hands. Houses are coming down, being redeveloped, and if we say only one of these six spots, I really don’t like that target zoning. I like something that can live more than 10 or 20 years; a document that can be interpreted by the next Planning Commissions to say o.k., this area meets that criteria.

Mr. Remein noted that houses are coming down now as an economic impact but whether they are desirable or not is a whole different argument. If the public were to come in and take two or three lots, whatever it takes, it is far more profitable to be putting in multiple family, higher density residences than single family homes.

Mr. Dzienny stated that in the Intent section, one of our intents should be to discourage tearing down single family homes and gathering up land to create this district. This is really shooting for areas within the City like the former Shell station, or some areas that really need to be developed. The Cahoon Ledges was a perfect area for something like this.

Ms. Lesny-Fleming stated that it would have to be carefully worded. There could be property that could be an exception; you would have to be careful how that is drafted.

Mr. Dzienny stated that future Planning Commissions can always make an exception to all of this. It should be carefully worded, agreed, but I don’t want to see three or four houses taken down on my street and sixteen units put up.

Mr. Remein stated that this Intent section is drastically different than the one that was seen as first reading. The only item that is the same is Item (C), to protect the desirable characteristics of both existing and planned residential development, to maintain stability. In looking at each of these, A through F, I think it is a better attempt to define what they are actually wanting to accomplish. In terms of my understanding at this point, they still seem really vague. For example, “Accommodate current residents as they enter new life phases.” What does that mean?

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I understand that people are getting older; they want a different choice. I think you can just stop by saying "Provide alternative housing choices." But, then you don't have to say what that housing choice is. Are you looking for economy of scale? Street walkability? I have heard a lot of things in the different meetings, but I don't see them stated here in terms of what the real intent is.

Mr. Dzienny stated that it is going to be alternative housing. When the Shell development came up it wasn't for older citizens. I don't know how many older citizens in the City are going to buy \$400,000 townhomes. If you are downsizing, you want something that is more cost efficient; you don't want to spend \$400,000. They were supposed to be high-end townhomes, not reasonably priced ones for people making that transition. So, it is alternative housing, but not necessarily for those entering a new chapter of life.

Mrs. Lieske stated that regarding the previous comments of Mr. Dzienny about discouraging the tearing-down of the multiple single-family homes and putting in these spot developments, that spot development is one of the most common concerns we have heard at meetings and from residents. Adding something like that could be suggested.

Mr. Foster stated that to play devil's advocate, if the parameters are set up such that a development can be done well, is it such a bad thing that you do accumulate five, six or seven single family homes and put up a good development. Is that such a bad thing? It shouldn't be discouraging.

Mrs. Lieske stated that right now we are looking at the focus areas in the Master Plan and the Retail Improvement Strategy and those areas are well defined. So, we are not really looking at city-wide.

Mr. Dzienny stated that new law is being created here that would apply to all of it. You really have to hone in such that if someone does come in; if someone comes in and buys six houses quietly and then you ask the neighbors to come in and voice their concern...six of them are missing now. It would be a lot easier to strong-arm into a neighborhood. This has to be written so that it doesn't just address the Master Plan; it has to address all conditions.

Mrs. Lieske stated that was one of the reasons Mr. Cheatham had the acreage in the earlier drafts. We have raised questions about the acreage not being in this draft. What are the Planning Commission's pros and cons about the acreage?

Mr. Barbour stated that the meetings going back to 2013 include that topic. Even as a Councilman, we always talked about having some necessary size, and then we wrestled with the density. From participating and attending meetings, I know there is a segment of people who

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think that you have that kind of requirement you are not going to have much development because of the inability to put significant pieces of property together to build anything. As the Planning Commission in 2014 we stopped the discussion so our ideas could go back to City Council on that kind of point. It becomes a policy decision about what you want to do. This came out of a lot of meetings and work, and consultant input, this tells me that Council as a body is willing to move past that.

Mrs. Lieske stated that the no-minimum-acreage was recommended by the consultant because he felt when you did some of the math with some of the requirements for the units, and the different percentages that would take care of the concerns with the acreage.

Mr. Dzienny stated that if we are going to rezone, maybe there should be an acreage restriction in residence districts. This may provide better fit in neighborhoods. I don't mind cluster homes put together in our business districts if it is done right. That way you could have a way of protecting the neighborhoods.

Mr. Remein stated that relative to Mr. Barbour's comments that City Council may have moved on, I look at the charging purpose of the Planning Commission in the Charter and it seems to me it is pretty explicit. Our job is to review every legislation, even promoting and providing legislation which we don't enact, it is enacted by Council, but that's our job to look and review this and provide expert advice and even opinion – we are residents too. You need multiple checks and balances. If you bring into a consultant, that will carry a certain amount of weight. The whole democratic process is to take a consensus.

Mr. Barbour agreed, and added that we have discussed acreages and densities since 2005. It has always been a continuation, and it is in all the minutes that we submitted as Planning Commission, and then through the process and discussion points, the legislation we are looking at now doesn't contain a minimum acreage requirement.

Mr. Remein stated that the last section of Section 1158.02 states "In addition, other sites may be appropriate to provide a suitable buffer or transition between disparate uses." Properties located along arterial or collector streets in close proximity to retail and service uses may also lend themselves to the uses permitted in this district." That qualifying condition seems kind of open ended and doesn't seem to qualify anything. It could be anywhere.

Mr. Barbour stated that he would say the same thing with the intent. As a lawyer, we look at these things that say "may," it is not a requirement. It doesn't bind anyone with anything. A developer is not bound by that.

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Mr. Dzienny stated that the power is still in the hands of the Planning Commission. A developer comes before the commission with their proposal, long before it gets to City Council before rezoning. We can either say, let's move it forward, or no, it is not going to work here.

Mr. Remein stated he would be hard pressed to deny somebody when it says there is a zero area of property requirement. A law should provide for opportunity, but at the same time there should be some protection for neighborhoods in general. If the objective is to develop in the central business core then it should be restricted to that and not be open to anywhere in Bay Village.

Mr. Barbour stated that Section 1158.05 (A) and (B) require a pre-application meeting with residents in the nearby area, with some requirements there, and then an application prior to obtaining zoning, which is almost a development application, which is not quite as detailed. The reason that is included is because no one had any idea what the final project was going to look like with the most recent attempt to rezone on Cahoon Road. The residents in the City, and particularly in that area, were at a disadvantaged. That may be what (A) and (B) were designed to address. What happens if you go through this process, it gets rezoned, and despite all of the best intentions, that particular person is unable to complete that project, or can't even start it? It is rezoned for Attached Residence, but is his development plan binding on any future purchaser or user of that property?

Mr. Barbour stated that the devil's advocate point is that someone goes to all of the neighboring houses, has a mock-up, it is very nice, everyone votes for it, and that's not what gets built. How do you deal with that? Or, you get something that those specific residents would have wanted in their vicinity and they had the ability to defeat it or vote it against it?

Mr. Foster stated that a couple of teeth that could be added, such as one would be the Architectural Board of Review (ABR), and having that Board mentioned in the ordinance as a requirement for approval which would give the public another opportunity to voice their opinion on design. The ABR in the City doesn't review single family residences, which has been my beef, and I have seen a lot of single family homes go up that are detrimental to the neighborhood. If the ABR were reviewing we would have some teeth into that.

Mr. Dzienny stated that the whole section of 1158 dealing with development of plans has been removed, and it pretty much defines the whole process of approval. A version of that may need to be back in there. There might be a version of that in R-1 that we could reference.

Mr. Remein stated that Section 1158.05 Review and Approval states that the Planning Commission shall review and approve or disapprove based on the standards in 1158.05(G). Standards are set in the document and that is clear that you are supposed to approve or disapprove based on the standards given. If someone comes in with a tiny lot, there is nothing in

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here that is an appropriate reason for disapproval. Mr. Remein stated that he would expect that the Planning Commission would be required to take into account negative public comment legally as a fiduciary trust.

Mr. Barbour stated that the way the Planning Commission charge is written in the City Charter is that the Planning Commission has a lot of leeway in accepting or rejecting development plans, maybe more than other communities based on the comments from the consultant in meetings.

To go back to the requirement that the property owner has to present it to the nearby residents, I think that is a great process and it would be wonderful if we could get developers to do that and be able to rely on them. It is a good addition if you are going to go forward with this kind of legislation to require that. The point is that it may not be as tough as we wanted, but you may not be able to achieve that. It is a good provision, and it is one of the reasons the Cahoon property didn't get rezoned.

Mr. Remein stated that relative to the setbacks and encroachments, the front yard setbacks seem totally out of the character of Bay Village. Understanding that we are trying to accomplish walkability, and a different kind of feel on the street, but 10 feet to the street seems a bit out of character to what Bay Village has been in its entire history. One of the charges to the Planning Commission is maintaining open space. There are multiple, different setbacks. If you have a two-family rather than a townhouse there are less setbacks. I don't know why you would make that differentiation. We are not Crocker Park. Are we trying to achieve a Crocker Park look down Dover Center Road? We are never going to be North Olmsted, Rocky River, or Fairview Park.

Mr. Dzienny suggested thought to making it two things. One, a certain distance for existing streets, and a different distance for a new street that T-bones off and is a private street. It would be a whole neighborhood lining up that way but not facing an existing street. That would not change the flavor of the existing street.

Mr. Foster suggested that an easier way to handle it would be to make the front yard requirement be consistent with whatever the adjacent or existing zoning classification requires.

Mr. Dzienny stated that maybe we don't establish that setback number, but that is a concern that can be taken back to City Council. Mrs. Lieske noted that this concern has been expressed by other residents as well.

Mr. Remein stated that he is not quite sure why the encroachments into the setbacks are needed. The setback should be left and if they want to encroach they need to move it back a couple of feet. If you try to achieve a truly urban area in select areas, that is what this accomplishes. Is that what the intent of this whole ordinance is for?

Mr. Foster stated that one big change is this is meant to be more performance-based, and you kind of design to these parameters. It is not required. Coming back to the minimum lot size, when you do the math on this you can't fit it on a 40-foot by 100-foot lot. The math doesn't work. I live on Sunset; there are houses that are way more than 50% covering the lots. There are some that are 75 or 80%. That's the feel; there is nothing wrong with it, it is just different. If

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you say it is startling to remove the limited lot size, but if the right parameters are in place, which this is a good start towards that, it is going to prevent those developments from happening that are not undesirable.

Mr. Remein stated that he did some quick math and a 1400 three bedroom unit times eight you come up with 11,000 which is about one-quarter of an acre. One lot is 50 x 150' so on two lots you could easily put an eight-unit on there. Mr. Barbour noted the requirement for open space. Mr. Remein stated that taking a half acre lot and using one-quarter is 50%. It is highly doable.

Ms. Lesny-Fleming pointed out that Section 1158.02 has the language that says "shall only" be established in specific locations, but then we have the following sentence: "In addition, other sites may be appropriate to provide a suitable buffer or transition between disparate uses. This makes it sound like it is either/or. They are only going to be identified in these specific areas, and that is the end. Why do we have the next two sentences at all?"

Mr. Dzienny stated this should not be specific to just those spots. This should be a document that can live twenty to thirty years. If the town should change in the future we should not tie ourselves to these few places.

Ms. Lesny-Fleming stated that this was the intent of City Council in changing it to "shall." There was a reason because of the citizens' concerns about it going to their neighborhood. The next two sentences seem to completely abrogate the first sentence. Mr. Remein agreed. Ms. Lesny-Fleming stated that she would be an advocate for "shall."

Mr. Dzienny stated that "shall" is fine but there needs to be flexibility for the Planning Commission can also make decisions. Otherwise, you will have to rewrite this again in a few years. We are going to have a new Master Plan.

Mr. Remein asked if the Master Plan is part of regulated law, or is it just a document that is a guideline. Mr. Dzienny stated it is a guideline. Mr. Remein said that if you say it shall be according to the Master Plan, you have made that Master Plan law by default.

Ms. Lesny said that having it looser is what creates the residents' concerns. Mrs. Lieske has heard a lot of the concern, but it seems to be the hang up is going to be "I don't want this in my neighborhood."

Mr. Dzienny stated that is why the intent should be spelled out so that the Planning Commission can say they don't want this in first residence districts. We don't want people gathering homes together and creating this. It is for areas that could be developed. The Planning Commission has the power to say no. You are giving instruction as to what you want and don't want by including it in the Intent Section.

Mr. Barbour stated that one of the reasons this is being revisited is the question of "Does Bay Village want this type of design?" There are three places in Bay Village where there are attached residences: Cashelmarra, Cahoon Ledges, and Bay Commons. If Bay Village wants some type of development it is going to have to change its current ordinance. In great economies

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and not-so-great economies no one has attempted to do anything. That sends a message that among other things our ordinance is not welcoming to people who want to do this type of change. We have to make some changes, if that is what City Council has decided and the Planning Commission will support. One of the changes suggested in the past was changing the minimum acreage requirement. Some of the language in 1158.02 and 1158.05 is to give residents some protections when it shows up in their neighborhood. By virtue of the fact that this is in front of the Planning Commission, and City Council has considered all the different alternatives, there is a certain degree of comfort with no minimum size. What might be important is for City Council to incorporate as many protections as possible for the residents if they elect to adopt changes.

Mrs. Lieske noted that the ordinance is on first reading; there have been no votes taken. Council has raised many questions. We are supportive of this in certain areas, but there are concerns about protecting neighborhoods. Would we be able to encourage something around the business district initially, and have some additional protections in the neighborhoods, is what we have heard a lot.

Mr. Dzienny stated that the protection of first residence districts as the discretion of the Planning Commission could be written in the Intent Section. If we don't think it is going to work, it is a no.

Mrs. Lieske stated that if the development went into some of the business areas first, there might be more comfort for the residents to be more open to development in their neighborhood.

Mr. Foster noted that in the end it still comes to the voters. It is a big hurdle to be approved both city-wide and in the ward.

Mr. Barbour called upon the audience members for comments.

Lydia DeGeorge, West Oakland Road, stated that she knows that all Council meetings and committee meetings are open to the public. We don't get a lot of attendance, but we have gotten good attendance at town hall meetings. We had two sewer meetings and a home improvement meeting. Would it be beneficial to have a town hall meeting for Chapter 1158 and get good and bad feedback and maybe explain the positions and options a little better so you won't get such a pushback from the public in changing the ordinance? (After the holidays).

Mr. Barbour noted there is no such thing as "bad feedback."

Richard Fink, Wolf Road stated that there are a number of Council members here who could speak better to the intent, but the intent always was that we had these undeveloped areas, these places crying for commercial and mixed housing that nothing could get done on because of the acreage in Chapter 1158. A lot of the comments and concerns of the citizens have been around the table that has the characteristics and the zero acreage. The zero acreage lends itself to spot zoning throughout the City. Whether it is representative of the City of the whole, but the residents that came to the meetings were universally concerned about these little pop-up things coming all over. With the changes that have been put in recently, "shall only" in 1158.02

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basically addresses the residents' concerns. The other aspect was how you encourage developers because the way the table was structured before had a fair amount of ambiguity because you could back-calculate all kinds of development that would not be approved either by the Planning Commission or the voters. By having the "shall" in there and focusing it more on the district, clarifying what they have to go to, especially in Section 1158.05, which is an excellent addition to the legislation, gives a lot of comfort to citizens and makes it a lot clearer to developers. I was very concerned about the zero acreage but with this new language I am not so concerned about it because it takes out those individual lots throughout the City. Secondly where you get into a lot of endless discussion about minimum acreage and what that should be and no one can agree. There are no clear metrics on how you parse out that acreage. From my perspective, the changes made in 1158.02 and 1158.05 give protection both to the developer and to the residents. In that case, I don't see a problem with zero acreage.

Mr. John Burney, Cahoon Road, stated that Mr. Foster and Mr. Remein raised some good points, especially on the front yard setback. One of the focus areas is Cahoon Road, opposite the Middle School. When Brickman tried to have his cement structure approved, one of the things that caught my eye was that he was going to build something that was right on the creek. Did the City waive the floodplain for that lot?

Mr. Barbour stated that to his knowledge Mr. Brickman had not submitted any plans to anybody. He was just saying this is what he was going to do. The floodplain still applies.

Mr. Burney stated that he agrees that the 10-foot setback is ridiculous. Using Cahoon as an example, he noted that the homes are at least 25 to 40 feet back. If reading this document correctly, an average of the setbacks is done on the street. Does that overturn the 10-foot?

Mr. Barbour stated that it would overturn or modify the setback.

Mr. Barbour recognized Conda Boyd who put together a nice demonstration about setbacks at the Planning and Zoning Committee meeting which illustrated exactly what it meant and then circulated some information to the Planning Commission members, which Mr. Barbour is hoping is sent to City Council as well. Mr. Barbour noted that this information from Ms. Boyd should be incorporated into the minutes because it illustrates very well the setback effects. The maximum height in the ordinance is 35 feet.

Mr. Burney asked if the residents input in the pre-application meeting has teeth. What does it mean? There is nothing there that says what they suggest is going to actually be developed. It all goes back to compatibility with the neighborhood. The ABR should be in there.

Mr. Burney stated that if you look at the condominiums that were built on Center Ridge Road next to Ohio Savings, they are a disaster. The developer from New York basically proposed "x" but built "y" and there was nothing they could do about it because he met the minimum. He built junk. How do we address that?

Mr. Barbour stated that those are good points but the particular plan that Bay Village has is inclusive and if you look at the ordinance and the charter the Planning Commission has a lot of

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leeway in determining if something is acceptable or not. We can mandate changes. Regarding the question about teeth for the pre-application meeting, I would think that a developer would have a problem if he proposed one thing, got the zoning, and then came before Planning Commission with something different. The ordinance doesn't specifically spell out a penalty but as a practical matter that would be a problem for the developer.

Paul Koomar, Bruce Road, stated there was a different approval process that was proposed initially by the planner which Council found somewhat confusing. So, changes were made with the idea to reference everything back to Section 1129 to give the Planning Commission the power so in the event something was missed in 1158 there would be no conflicting code.

Mr. Barbour stated that Chapter 1129 includes landscaping, traffic and utilities including ground water flow. The Planning Commission has all that in its power to address and change a development plan.

Mr. Koomar addressed Mr. Remein's concerns about the setback requirements, noting that the average of setbacks in areas will determine the setback for that area. Relative to the pre-application review, Mr. Koomar noted the development of Cahoon Ledges and the presentation of details prior to the passage by the voters. The one with Mr. Brickman was much less clear and did not receive approval of the voters. The Planning Commission can exercise their authority to make changes to the plans and modifications to insure good projects.

Mr. Koomar noted that when you look at the passage of the rezoning requests, all three times a majority of the residents voted to approve city-wide due to the desire of the residents for alternative housing options.

Conda Boyd, West Oakland stated that she sent to the Council and Planning Commission a document showing the different types of zoning and setbacks. It included a table and a letter that listed some things that could make this palatable. It appears that there is a misunderstanding about Section 1129 because it excludes from Section 1129, one, two and three-family homes. So, if a townhome was put up in a single unit with three homes that would be excluded under Section 1129. Maybe we need to beef up Section 1129 and say that any kind of attached residence has to fall under Section 1129.

Ms. Boyd stated that about the minimum acreage, as you can see from the table, there is a minimum acreage. There is so many square feet per family and that translates to a certain number of acres. The minimum acreage for a townhouse is three-tenths of an acre, with ten permitted per acre, and three permitted on one building. There may be additional requirements baked into the requirements for setbacks, etc. This may be part of the problem with Chapter 1158 and the City housing in general. You cannot look at it and visualize it. Maybe somebody who has architectural experience could say what the minimum lot size is on one three-unit townhouse that it is at least three-tenths of an acre.

Mr. Kruzer noted that it should be buildable acreage, not invisible acreage.

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Ms. Boyd stated that she would like to see attached housing in this City. I think it is appropriate for the City and would be good for redevelopment of some of the aging neighborhoods. The Bay Commons model would look good in some of the areas of the City, but a two-and-one-half story townhouse would not look good in the middle of some of the areas in Ward 1. There is special code for building two family houses within 120 feet of a commercial or retail district. Why not do the same thing with a bigger townhouse unit. Put a height limit. Make it 30 feet like it is for cluster housing. Make it a little bit shorter than the surrounding area. Then you could have something that fits in the surrounding neighborhood. Make the setback the same as the neighborhood. You also want something that will cover redevelopment in the case of aging structures. Ms. Boyd also requested not to allow mechanical equipment on the roof of developments, noting the noise that is caused by the equipment that is disturbing to the neighboring residents.

Mr. Barbour pointed out Section 1158.05 (H), Review Standards, which gives the Planning Commission a lot of leeway in requiring that the site has to be designed that is harmonious to the greatest extent possible with the character of the surrounding area, minimizes impact upon adjacent property and mitigating the potential effects of traffic noise and glare to the maximum extent reasonably possible.

Mr. Burney noted that the voters city-wide approved the rezoning requests because it was not in their immediate neighborhood and did not impact them directly.

Lydia DeGeorge asked what happened to the restructuring of the Planning Commission process suggested by Mayor Sutherland last fall. Mr. Barbour stated that the only thing that was adopted was that the Planning Commission and Architectural Board of Review meet twice a month instead of once per month. Mr. Cheatham commented that it gave him more gate keeper power in that he is not allowed to accept an application until it is substantially complete so that it doesn't waste the Planning Commission's time. Nothing changed except the commission's meet more frequently. The Mayor was trying to get rid of some areas that were redundant.

Richard Majewski, Bassett Road, stated that the process for rezoning already exists in the administrative code. It should be consistent with what is the step-by-step process in the administrative code. I do not see why you would want to rewrite a process that is already in existence. It should be consistent in Chapter 1158 the same way it is written in the administrative code. It is the same with Chapter 1129. You are spelling out a process in Chapter 1158 where the approval process already exists in Chapter 1129. It doesn't make any sense to rewrite the approval process because it already exists in the code.

Mr. Barbour noted that wording in Chapter 1158 states, "Upon receiving the Planning Commission recommendation regarding the rezoning, the City Council shall vote to approve or disapprove the change in zoning to the R-4 District." Mr. Barbour stated that he suspects what it is trying to say is the development plan, not the rezoning, because City Council can't approve or disapprove the action of the voters.

Mr. Majewski stated that his understanding of the Mayor's proposed approval process was to send any application to the Board of Zoning Appeals and to the Architectural Board of Review

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before it gets to the Planning Commission. When rewriting Chapter 1129 in 1999, they were charged with improving public input. The reason that they put the provision that it would come to Planning Commission first for a public hearing was that the other Boards and Commissions could get the input from the public before they could consider any project or proposal. The public would have the option of going to those meetings and having their input heard as well. That was the whole point of coming to Planning Commission first for a public hearing. That is one huge change in the Mayor's proposal to the approval process in Chapter 1129. In my view, the Mayor's proposal is taking a giant step backwards, going back to where it was before 1999 taking away the public input and their opportunity to speak on projects.

Ms. Boyd noted that the definitions have changed and proposed amendments to Chapter 1121 adding the definition of townhouse and changing the definition of a two-family house. If the definitions are to be used in Chapter 1158, they should be the same in both chapters. Mr. Koomar agreed.

Mrs. Lieske stated she is concerned about the definition of a two-family house, which is up and down.

Mr. Barbour advised that the Charter requires that the Planning Commission make a report and recommendation to City Council.

The comments and questions presented at the meeting this evening will be noted in the minutes and sent on to the Planning and Zoning Committee of City Council scheduled for Monday, December 7, at 6:30 p.m. which will include a telephone conference call with Paul LeBlanc, professional planner. A regular City Council meeting will follow that meeting.

Mr. Barbour noted that the minutes of tonight's meeting can't be approved until the Planning Commission meets again, but the members can certainly comment individually at the meeting or by communicating with Council people. Mr. Foster stated that reviewing the minutes of tonight's meeting will give the Planning Commission time to evaluate the comments and actually vote at the next meeting on the recommendations of the Planning Commission, beyond just the minutes. There are contradictory statements in the minutes.

Mr. Barbour stated that a recommendation can cover a wide range of things, from complete approval as written to complete disapproval as written, and everything in-between including no comment. The Planning Commission doesn't have to approve or disapprove anything.

Mr. Dzienny stated that if the Secretary can produce the minutes he will pull up and bullet point, and that can be reviewed at the next meeting.

Further discussion followed regarding meeting again on December 16. Mr. Barbour cannot be in attendance at that meeting. Ms. Lesny-Fleming stated that it is important for Mr. Barbour to be present when this is discussed further. Mrs. Lieske stated that she has raised questions about the timing of this process, and the fact that the results are not yet back from the survey that was conducted. Mrs. Lieske stated that she is also concerned with the fact that it is the holiday

season and residents may not be able to attend meetings due to family/work holiday commitments.

Ms. Lesny-Fleming stated that since the Planning Commission would like to get this right and devote the time needed getting all the collective comments together, she would be a proponent of further review at the next monthly meeting in January.

Discussion on Chapter 1158 will continue at the meeting to be held January 6, 2015. Mrs. Lieske invited the Planning Commission to send additional questions to the Planning and Zoning Committee of Council at their meeting to be held Monday, December 7, 2015.

Council Update

Mrs. Lieske announced that due to a generous donation from the League of Women Voters, the City Council, in the near future, will have the capability to record meetings in the Council Chambers and the conference room. Councilman Vincent chaired the committee that did all the work for this project.

There is new fitness equipment in Cahoon Memorial Park Walking Trail.

Mrs. Lieske noted that one person can have an impact on what occurs in a City. Councilman Vincent heard from a resident about a needed handicap parking space at the post office. That parking space is now there.

The City Hall parking lot is being redone, and is almost completed.

A survey has been sent out to residents that will provide information for the City to use moving forward.

Councilman Tom Henderson conducted a ward meeting tonight at the Bay Lodge and is addressing scheduled deer culling by the Cities of Avon Lake and Bay Village in Walker Road Park in the near future.

The Natural Gas Aggregation Program is now in place through NOPEC in Bay Village.

Right turn on red signs in some areas of the City are being standardized.

The City will continue with the same trash removal company in the future, with the contract soon to be approved. Pick-ups will still be on Tuesdays.

Mr. Barbour wishes everyone happy holidays and the meeting adjourned at 9:22 p.m.

Mark Barbour, Chairman

Joan Kemper, Secretary