

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY PLAN COMMISSION  
APRIL 22, 2008**

The Michigan City Plan Commission met in a regular meeting in the Common Council Chambers, City Hall Building, 100 East Michigan Boulevard, Michigan City, Indiana, on Tuesday, April 22, 2008, at 7:00 p.m. local time; the date, hour and place duly established for the holding of said meeting.

**CALL TO ORDER**

Chairman Hook called the meeting to order at 7:05 p.m.

**ROLL CALL**

Plan Director John Pugh called the roll with the following noted present: Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, and Al Whitlow. (9 present, 0 absent) Staff in attendance: Plan Director John Pugh, Attorney Jennifer Evans, and Secretary Debbie Wilson.

**APPROVAL OF MINUTES**

The Chair entertained a motion for approval of the minutes of March 25, 2008.

***A motion to approve the minutes was made by Mrs. Nasser – seconded by Mrs. Boy. The minutes were approved 7-1 with Mr. Hook and Mr. Phelps abstaining as they were not present at the March meeting.***

**POLICY OF CONDUCT AND PROCEDURES**

With no objections, Chairman Hook dispensed with the reading of the Policy of Conduct and Procedures but asked that it be included as part of the record.

The Policy of Conduct and Procedures for the Michigan City Plan Commission states that the Commission is composed of nine persons. By statute, five must vote affirmatively to approve a petition. Thus, whenever less than a full board is present, the petitioner may wish to continue his/her hearing. Anyone wishing to speak on a petition or to the board in general at the end of the meeting may do so by approaching the speaker's roster and giving his/her name and address. Comments should be addressed to the Plan Commission, not to a petitioner or remonstrator or others in the audience. The Plan Commission vote is based on the evidence presented.

**PUBLIC HEARING – RESOLUTION 4-08 REGARDING AMENDING THE B-1 ZONING DISTRICT ALLOWING RESIDENCES ABOVE THE FIRST FLOOR**

Mr. Pugh noted that this matter was continued from March. As background, Mr. Pugh stated that this item has been discussed extensively with the Andrew's University Plan and students. He explained that this is an item that has been proceeding to the Zoning Board more than normal, which is an indication that the Zoning Ordinance needs to be amended. The Ordinance was amended 20 years ago to make it a special use; now it is necessary to make it a permitted use to allow apartments above the first floor in a B1 district. It is important to make commercial areas more residential and pedestrian friendly. Mr. Pugh recommended approval of the resolution for forwarding onto the Common Council.

Chairman Hook asked if there were any comments or questions from the Commission.

Mrs. Boy asked if there are tables within the Ordinance that would need to be changed as well.

Attorney Evans replied that the resolution also addresses those areas.

The Chair opened the public hearing and called for comments three times. Hearing none, Chairman Hook closed the public hearing.

The Chair entertained a motion.

***A motion to approve Resolution 4-08 was made by Mrs. Boy. The motion was seconded by Mr. Carr, with the vote as follows: AYES: Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, and Al Whitlow NAYS: None***

***With a vote of 9 ayes and 0 nays, the motion CARRIED.***

Mr. Pugh noted that it will be forwarded to the Common Council in ordinance form.

**REPORT FROM FACT FINDING COMMITTEE**

Mrs. Nasser reported that beginning in May the Fact Finding Policy and Procedures Committee will institute the new employee feedback sessions which will be conducted quarterly as outlined in the schedule as distributed.

For the record, Mr. Hook thanked Mrs. Nasser and the committee for what they have accomplished. It is a positive step and something that will improve the efficiency of the operation of the Planning Department.

### **OLD BUSINESS**

Mr. Smith stated that he would like to place on the agenda for next months meeting, the tower resolution which was approved by the Plan Commission on 08/28/07, filed with the City Clerk's Office on 09/11/07, and sent to the Common Council. He stated that there has been a lot of discussion about towers and for the record he pointed out that when the Plan Commission first considered the resolution for the tower, it had nothing to do with any legal lawsuits pending with regards to towers within Michigan City. It was an attempt to clarify the resolution so there would be something in place for the Planning Department to use as a guideline.

***Therefore, Mr. Smith made a motion to place the tower resolution, as approved by the Plan Commission on 8/28/07, on the Plan Commission agenda for May. The motion was seconded by Mrs. Boy, with the vote as follows: AYES: Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, and Al Whitlow NAYS: None***

***With a vote of 9 ayes and 0 nays, the motion CARRIED.***

In other business, Attorney Evans advised that last month the Plan Commission approved a resolution regarding the County-wide Plan. She has prepared a proposed resolution to forward onto the Common Council. The language set out in the resolution encompasses what has already been passed by the Plan Commission and it is in the form as directed to the Common Council. She distributed the proposed resolution for the Commission's review. If the language is acceptable, there would need to be a motion to approve it and forward it onto the Common Council.

In affirmation, Mr. Hook stated that in essence this has already been approved by the Plan Commission, and Attorney Evans has just put it in written form.

Attorney Evans stated that is correct.

The Chair entertained a motion.

***A motion to approve the language of the resolution and forward it onto the Common Council was made by Mr. Whitlow. The motion was seconded by Mrs. Nasser, with the vote as follows: AYES: Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, and Al Whitlow NAYS: None***

***With a vote of 9 ayes and 0 nays, the motion CARRIED.***

As a matter of clarification, Mr. Pugh asked if this document is in proper form to send to the City Council.

Attorney Evans replied affirmatively.

Mr. Pugh commented that he is happy to see this proposed resolution to the City Council recommending adoption of the County-wide Plan, as adopted by the Plan Commission. He stated that this has been a two-year process.

### **PUBLIC COMMENT**

Bill Facciponti, 904 Lake Shore Drive, came forward and questioned why the tower language is being put back in motion again. The exact language the Plan Commission sent to the City Council last year was turned down by the Council. They chose to recommend the language which had been adopted by the Sheridan Beach Homeowner's Association (SBHA) and got sent back to the Plan Commission to look at. He said that the path is already known in that it will go to the Council and get sent back to the Plan Commission and the SBHA will be back there recommending the same language again. He continued explaining that the only reason the language died was because it failed to be acted upon before the transition of the City Council. He also pointed out that Mr. Pugh recommended no changes at this time because of the upcoming rewrite of the Zoning Ordinance. He questioned why the Plan Commission would be going forward at this time with language that was already turned down.

Chairman Hook stated that he believes it died for lack of action.

Attorney Evans stated that was correct.

Mr. Facciponti explained that the resolution which died was the one with the revised language, as recommended by the SBHA, which the Council sent back to the Plan Commission to look at. The original language sent forward from the Plan Commission was not accepted by the City Council and they moved to use the SBHA language instead. Mr. Facciponti requested the Plan Commission change their motion to put forward the resolution with the language the City Council recommended.

Chairman Hook advised that the language in the original resolution is what the Plan Commission is sending to the Common Council.

For clarification in this matter, Attorney Evans explained that the proposed resolution is back on the table for public comment next month. It died at the end of last year when the proposed language was sent down for Plan Commission recommendation.

Mr. Facciponti asked which language she is speaking of.

Attorney Evans replied that it would be the language proposed by the SBHA.

Attorney Evans explained that what the Plan Commission is trying to do is get this matter back onto their agenda for next month to relook at this language based on what they previously proposed. Nothing was acted on and there is a new City Council which does not encompass the same members as last term. At that time the public will have the opportunity to talk about the language again. The Plan Commission will then have the opportunity to decide whether or not they want to send a proposed ordinance to the City Council and if they want the exact same ordinance they previously had or if they want additional changes or modifications to it. This just gets the ball rolling and it sends a message in regards to the language they believe the ordinance should encompass rather than other proposed language.

Mr. Facciponti asked "they, being this body?"

Attorney Evans replied affirmatively.

Mr. Facciponti asked if that was the original language sent to the City Council prior to the SBHA suggested changes.

Attorney Evans stated that it is a different City Council and they also want to have the opportunity to review that language again. At that point they can make modifications to that language and listen to public comment. They want to bring it back and they have the ability to do that.

Mr. Facciponti questioned Mr. Pugh's recommendation that no changes be made due to the complete rewrite of the Zoning Ordinance.

Attorney Evans advised that this body can take Mr. Pugh's recommendation into account or they can disregard it.

Carol Mason, 108 Carolina Avenue, noted her confusion on which language the motion included and asked for clarification.

Chairman Hook stated that it is the Plan Commission's language. He advised that there will be an open public hearing at next months meeting and it can be discussed at that time.

Mrs. Mason asked if the language in the motion is different than the SBHA recommendation.

Chairman Hook replied that it is.

Mrs. Mason asked if she could get a copy of that language.

Chairman Hook stated that a copy is on file in the Planning Department.

Howard Mason, 108 Carolina Avenue, stated that he does not understand some of the business direction that this body is doing. He noted that there was an addendum for the tower matter and asked who puts items on the agendas.

Chairman Hook stated that it is a multitude of people – the public, the Department, the Mayor, the Common Council, and the Plan Commission.

Mr. Mason asked who put this particular item on the agenda (who requested it).

Mr. Pugh replied that he put it on the agenda after conferring with the Mayor. The Mayor asked him to put it on so that the Plan Commission would have an opportunity to review it.

There being no other public comment, Chairman Hook closed the public portion of the meeting.

### **ADJOURNMENT**

The Chair entertained a motion for adjournment.

A motion to adjourn was made by Mr. Phelps – seconded by Mrs. Boy.

Chairman Hook declared the meeting adjourned at 7:25 p.m.

/s/ George Mock, Secretary