

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY PLAN COMMISSION  
MAY 27, 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, May 27, 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 7:00 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 April 22, 2008.

***A motion to approve the minutes was made by Mrs. Boy – seconded by Mr. Smith. The minutes were approved 8-1 with Mr. Phelps abstaining.***

**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.

Chairman Hook announced that the public hearing for Resolution 5-08 Amending the Michigan City Zoning Ordinance regarding towers, has been tabled and noted that there will be a special meeting on that matter on Tuesday, June 3, 2008 at 5:00 p.m. The meeting will be preceded by an Executive Session at 3:30 p.m.

**PETITION(S)**

The Chair called for reading of the petition.

Mr. Pugh read **Petition 902-08 for Minor Subdivision by Full Gospel House Church, lying west of Southwood Subdivision at the west end of Beech Street – Represented by Steven Thate, Surveyor.**

Surveyor Steven Thate, 3301 Franklin Street, came forward representing the Petitioner. He provided counsel with proof of publication and notice to adjoining property owners. He explained that this is a minor two lot subdivision, creating two identical lots. The church pastor would like to build a house on one lot and they are undecided on what to do with the second lot. They would be splitting two lots that are 18,000 square feet, each with 50' of frontage.

The Chair asked if there were any questions or comments from the Commission.

There being none, Chairman Hook opened the hearing for public comments.

Kyle Kazmierzak, Michigan City Fire Department, noted their concern that only one engine can fit down the street as it is now. They suggested that sometime in the future the City could consider the possibility of widening the street. If larger homes are being built, they would need to get their ladder truck down the street. He advised that the water source located on the corner is adequate.

There being no further comments, Chairman Hook closed the public portion of the hearing and called for Department Reports.

Mr. Pugh read the Department Reports:

**REPORT ON THE PETITION OF  
FULL GOSPEL CHURCH 902-08**

**WATER DEPARTMENT:** R. E. Russell, Superintendent, had no objections.

**SANITATION DEPARTMENT:** Al Walus, Gen. Mgr., had no objections.

**PLANNING DEPARTMENT:** We recommend approval subject to the provisions of the Michigan City Subdivision Ordinance.

Mr. Pugh added that Beech Street has a 50' right-of-way and it would be possible to widen the street at some point.

Mr. Phelps asked the purpose of the potential cul de sac as denoted on the drawing.

Mr. Thate replied that it is to get the 50' of frontage on each lot. He noted that portion of it would be dedicated to the public.

Mr. Phelps commented that it could not be connected to the street the way it is.

Referring to the drawing, Mr. Thate showed Mr. Phelps where the street ends at Beech Street.

Mr. Phelps noted the space around the two radii and asked if that would be considered the frontage.

Mr. Thate replied affirmatively and indicated that the half circle will be dedicated to the public and will also become a part of Beech Street.

Mr. Carr questioned the dedication of the improved space.

Mr. Thate stated that the owners' driveway will split off the existing pavement into both lots.

Mr. Hook asked Mr. Thate if the Fire Department's recommendation of widening the street would be a problem.

Mr. Thate stated that he is not sure how wide the actual pavement is, but there is a 50' right-of-way which is more than enough room.

Mr. Phelps pointed out that it would be up to the City (Board of Works) if they desire to do that.

Mr. Thate advised that when the pastor builds his house, there is already a driveway that goes past the church out onto Ohio Street. That drive could be used for emergency purposes.

Mrs. Boy asked if a wider cul de sac would suffice if they could make it keyhole shaped.

Mr. Kazmierzak explained that the problem is with the dead end street. The water source is on the north side of Beech Street and that is where they have to connect. It would not be wide enough for two trucks.

Mrs. Boy asked what needs to be done to make it work.

Mr. Kazmierzak replied that Mr. Pugh has indicated the road could be widened if necessary.

If the City does not intend to widen the road, Mrs. Boy asked if there was anything that could be done and if the outlet on the other side would be sufficient.

Mr. Kazmierzak stated that at this point he would say no because he does not know where the water source is comparable to the road. He said their recommendation is based off the water source at the end of Beech Street, which is a dead end road.

Mrs. Boy asked if Mr. Pugh knew anything about the water.

Mr. Pugh stated that the report from the Water Department noted no objections.

Mrs. Boy asked if restrictions can be put on the height of the building.

Mr. Hook pointed out that this is just going to be a house.

Mr. Pugh added that the height is determined by the underlying zoning.

Mr. Kazmierzak stated that he might not be making himself clear. For clarification, he stated that their recommendation was aimed more toward the City and the possibility of widening the street so two trucks have the ability to get down the street.

There were no other comments. The Chair entertained a motion.

***Mrs. Nasser made a motion to approve Petition 902-08 for Minor Subdivision by Full Gospel Church. The motion was seconded by Mr. Milcarek, with the vote as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, Al Whitlow (NAYS): None***

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

## **PUBLIC HEARING**

**Resolution 5-08 Amending the Michigan City Zoning Ordinance regarding Towers (originally adopted 8/28/07) – TABLED UNTIL JUNE 3, 2008**

**OLD BUSINESS/NEW BUSINESS**

**Discussion of proposed Zoning Ordinance amendment regarding towers (requested by Thomas Milcarek) – *TABLED UNTIL JUNE 3, 2008***

**Discussion of Ordinance amending the Michigan City Zoning Ordinance relating to the definition of Hotel and Hotel-minium (withdrawn by Pat Boy on 2<sup>nd</sup> reading and referred back to the Plan Commission)**

Mr. Pugh explained that this was submitted to the City Council and was withdrawn on 2<sup>nd</sup> reading by Pat Boy and referred back to the Plan Commission. The Commission has considered amendments to it. Mr. Pugh stated that the real thrust of this ordinance is to make a hotel-minium a permitted use. Along with that, there was some confusion with the definition of a hotel and the last sentence because it talked about the size of kitchens, utilities, and appliances.

Mr. Pugh pointed out that the Commission has two options: Delete the last sentence in section 1; or delete section 1 in its entirety and send it back to the Council with just the hotel-minium.

Mrs. Nasser commented that a hotel and hotel-minium are two entirely different types of structures – they are owned and operated differently. She believes the ordinance before the Commission tonight should not incorporate the definition or term “hotel”, as there are existing ordinances which discuss hotels, hotel apartments, etc. The purpose of this ordinance is only directed towards a structure that is a hotel-minium.

Mrs. Boy stated that the problem with that the definition of hotel-minium refers to the definition of hotel/motel, and there were changes from the original in this particular ordinance.

Attorney Evans indicated that the proposed changes in the ordinance, if they were left in, would change the definition of a hotel to “A building or structure under a single management that provides no fewer than six rental rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. A hotel or motel shall maintain a central, internal lobby. A hotel or motel shall provide daily room cleaning and linen changes for its guests, and may include supportive areas such as meeting rooms, incidental retail sales and commercial services, central kitchen facilities, dining rooms, restaurants, lounges, office areas, swimming pools, recreational facilities, spas, and fitness/exercise areas and other similar services and amenities intended principally as services for registered guests.”

Attorney Evans explained that would be the new definition of hotel if the section that Ms. Nasser referred to earlier was kept in. That would also delete the last sentence which

was previously referred to by Mr. Pugh and Mr. Hook which added "Individual hotel (motel) rooms or suites shall be furnished and may include mini-refrigerators, bars, bar sinks, and microwave food heating equipment, but shall not include multiple bathrooms, full kitchens with full size refrigerators, stoves and/or dishwashers."

Attorney Evans continued explaining that the section which defines hotel-miniums says "A structure meeting the definition of a hotel (motel), and which in addition allows for individually-owned units with full kitchen facilities." She said that Ms. Boy is correct in the point that the hotel-minium meets the definition of a hotel. Attorney Evans stated that it has to be decided to keep this definition (which is encompassed in the ordinance), keep the old definition, or make additional changes.

Mrs. Boy stated that her question was what the big difference is between the new definition of hotel and the old definition of hotel and what change this would make.

Attorney Evans explained the new definition says that a hotel provides no fewer than six rental rooms or suites. The old definition does not say anything about how many rooms. It says "An establishment containing lodging rooms, for occupancy by transient guests in contradistinction to a lodging house, boarding house, or a rooming house, and which provides customary hotel services such as maid, telephone and secretarial, bellboy and desk services, the use and upkeep of furniture, and furnishings and laundry of linens." The new definition will also add additional services such as supportive areas such as meeting rooms, incidental retail sales, commercial services, central kitchen facilities, dining rooms, restaurants, lounges, office areas, swimming pools, recreational facilities, spas, and other services... She said it adds a lot of extra services to the definition as well.

With regard to the part to be deleted, Mrs. Boy asked if that is the only definition of hotel in the current code.

Attorney Evans replied that there is also another definition for hotel apartments, and under the proposed ordinance, this would delete the hotel apartment definition.

Referring to "delete" in the proposed ordinance, Mrs. Boy asked if that is the complete definition of hotel in the current code.

Attorney Evans noted her confusion with what Mrs. Boy is asking.

With regard to the current code for hotel, Mrs. Boy asked if it is the same thing that is being deleted by this ordinance. She asked if there is anything more in the code that she missed.

Attorney Evans replied "no".

Mr. Hook commented that anymore it is becoming quite common under green laws or desires, not to change linen every day. A hotel or motel could be in violation of our City Ordinance if they didn't change the linens every day.

Mrs. Boy suggested it could say to change it for each new guest.

Mr. Hook pointed out the ordinance says every day.

Mr. Whitlow said the hotels policy can provide for it, but the guest could turn it down. Since the hotel is providing the service, it would not be in violation.

Mr. Hook remarked that is just a minor item. He advised that what the Commission is trying to do is make this language being sent to the Council, solely and specifically pertaining to a hotel-minium – no language suggesting a hotel or motel; strictly for hotel-minium, which by definition means the rooms can be rented or they can be sold to someone and sublet by the unit.

Mr. Pugh stated that would give the Commission the option of deleting section 1 in its entirety and section 2 would become section 1.

Attorney Evans advised that could be done as long as the Commission wants to keep the current definition.

Mr. Whitlow noted his concern that if the proposed definition of hotel is already located somewhere else in the ordinance, then it is not needed in this proposed ordinance amendment. He asked Attorney Evans if that language is somewhere else in the current code.

Attorney Evans answered that the new language for a hotel is not. There is a separate definition.

Mr. Whitlow said that it would be in conflict with what is already there in another portion of another section that defines a hotel.

Mr. Whitlow wanted clarification and asked if this language stands somewhere else if this is deleted.

Attorney Evans replied that if section 1 is deleted, then the old definition controls, not the new one.

Mr. Whitlow stated that it would be up to the Council if they wanted to change that to bring that particular recommendation back to the Plan Commission in a separate resolution.

Attorney Evans advised that was correct.

Mr. Whitlow stated that it is his opinion in order to keep this proposed amendment clear, to keep that information about hotels out of this proposed amendment, and if there is a change needed in the current language; let that come back to the Commission as a recommendation.

Mrs. Nasser agreed with Mr. Whitlow and stated that when the Commission first started this process, the reason they entered into this really did not have to do with changing the definition of a hotel; it was to create an ordinance that definitely dealt with a hotel-minium, which was something that was never in the code. Mrs. Nasser confirmed that she does not have a problem with going back and looking at the hotel definition and revising the language if the City Council would like the Commission to do that; but to be specifically clear, she agreed that this ordinance should be strictly for hotel-miniums.

Mr. Hook also concurred that there should be no reference to hotels or motels in it.

Mrs. Boy noted her concern by not changing the definition of a hotel, the new definition specifies that it is under a single management and it provides no fewer than six rental rooms or suites. She thinks that maybe this is something that should be included in the hotel definition, and part of this ordinance includes rewriting the hotel definition.

Mr. Hook disagreed and said that was not the Commission's charge and that is where the confusion has come in. The Commission was suppose to be doing something that pertains strictly to hotel-miniums and not to hotels and motels at this particular point. That is needed for clarification so when someone reads about a hotel-minium, it is pertaining to a hotel-minium only.

Mrs. Boy pointed out that in the definition of hotel-minium, it refers to the definition of hotel.

Mr. Hook clarified that is what they want to eliminate. It should not be in there.

Mrs. Boy stated that they have to refer to something to describe the hotel-minium other than individually-owned units. She said something might be missed if they don't make those changes to the definition of hotel.

Mr. Smith asked if it could be defined as in that specific section, and take up the hotel part of it at another time, so the two sections are clean.

Mrs. Boy stated that the Commission could do that, but the question from the Council was whether the definition of hotels should include the part about the mini refrigerators, bars, bar sinks, microwaves, and kitchen facilities, because the definition of hotel-minium was less descriptive of the same thing. Mrs. Boy stated that she thinks if the last sentence is included, there possibly would be a problem with the hotel definition in the future. She said if it was taken out, changing this to have it under single management and having no fewer than six rental room or suites, would improve the definition of hotel as it refers to the hotel-minium.

Mr. Pugh stated that would be the second option to delete the last sentence in section 1.

Mr. Phelps stated that right now section 1 has a definition for hotel.

Attorney Evans reiterated that if section 1 is deleted in its entirety, the old definition would apply, which does not have any reference to a minimum number of units.

Mrs. Boy recommended deleting the last sentence of section 1 "Individual hotel (motel) rooms or suites shall be furnished and may include mini-refrigerators, bars, bar sinks, and microwave food heating equipment, but shall not include multiple bathrooms, full kitchens with full size refrigerators, stoves and/or dishwashers." She believes there is a definition of hotel which is updated from the current one which will be more applicable to the definition of hotel and is referred to in the definition of hotel-minium.

Mr. Hook commented that one of the problems with that is in a luxury suite it is not unusual to find more than one bathroom, and this would be restricting it. He said it would be less likely to find a full refrigerator.

Mrs. Boy said that she suggested taking out the sentence that refers to that.

Mr. Hook asked Attorney Evans if the definition of hotels says something about not having multiple bathrooms.

Attorney Evans read what would be left after taking out what Mrs. Boy proposed: "A building or structure under a single management that provides no fewer than six rental rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. A hotel or motel shall maintain a central, internal lobby. A hotel or motel shall provide daily room cleaning and linen changes for its guests, and may include supportive areas such as meeting rooms, incidental retail sales and commercial services, central kitchen facilities, dining rooms, restaurants, lounges, office areas, swimming pools, recreational facilities, spas, and fitness/exercise areas

and other similar services and amenities intended principally as services for registered guests.”

Mr. Hook asked Attorney Evans to read what a hotel-minium would say.

Attorney Evans read “A structure meeting the definition of a hotel (motel), and which in addition allows for individually-owned units with full kitchen facilities.”

Mr. Hook stated he thinks that would address what the Council wants.

Mrs. Boy agreed.

The Chair entertained a motion.

***Mrs. Boy made a motion to amend the proposed ordinance (filed April 9, 2008) by, in section 1 deleting the last sentence “Individual hotel (motel) rooms or suites shall be furnished and may include mini-refrigerators, bars, bar sinks, and microwave food heating equipment, but shall not include multiple bathrooms, full kitchens with full size refrigerators, stoves and/or dishwashers.”. The motion was seconded by Mr. Whitlow.***

The Chair opened the hearing for public comments.

Bob Bailey, 311 Kenwood Place, acknowledged that he was pleased with the action the Plan Commission is taking. He would like to see Michigan City as a destination place rather than just an overnight place to stay. He does not see a reason to restrict hotels and is very glad the Commission is taking the action that they are.

Walt Miller, 1009 Lake Shore Drive, asked if the definition of hotel-minium is the same as condo/hotel.

Mr. Hook replied that it can be bought and rented and it is under control of one management, so it would be the same.

There were no other public comments; therefore the Chair declared the public portion closed.

***With a motion and second on the floor, the vote was as follows: (AYES): Patricia Boy, John Carr, G. Wallace Hook, Tom Milcarek, George Mock, Nolah Nasser, Bill Phelps, Tim Smith, Al Whitlow (NAYS): None***

***With a vote of 9 ayes and 0 nays, the motion CARRIED and the proposed ordinance will be resubmitted to the City Council.***

**OLD BUSINESS**

None

**NEW BUSINESS**

None

**PUBLIC COMMENTS**

Howard Mason, 108 Carolina Avenue, stated that he did not understand addendum A and addendum B, and if the two would be lumped together or individual.

Chairman Hook advised that there will be two items before the Plan Commission that would be taken individually and discussed.

Bill Facciponti, 904 Lake Shore Drive, came forward and commented that the tower matter has been before this body for three years. He distributed a series of e-mails he sent to Jennifer Evans. He is concerned with the procedures being followed for ordinance amendments and asked for clarification on what the procedures should be.

Attorney Evans replied and explained in regards to the special meeting being held next Tuesday on June 3<sup>rd</sup>, that there will be two proposed ordinance recommendations on the table. The Executive Session is just going to address the legal issues that may affect one or the other or both and any pending litigation. There cannot be any additional amendments to either one of those two proposals which comes from that meeting that can be decided upon that night. What would have to happen is, based on legal issues and their affect, if the Plan Commission then decided to have a public meeting and didn't like either one of those, they would need to have a different 10-day notice with a new proposed ordinance. They could not vote on changing something without having a public hearing with the required statutory notice. Attorney Evans continued explaining that a special meeting was called in regards to the ordinance being sponsored by Mr. Milcarek. That special meeting was sponsored by an additional member in writing, and that request was put on the agenda for at least 10 days out. That notice was published in the paper.

Attorney Evans continued in that the notice regarding what was being discussed this evening is a different situation because it previously had been discussed by the Plan Commission and was tabled. The public notice came during the last public hearing.

In summary, Attorney Evans advised that after the Executive Session, the Plan Commission will look at each proposal, and if they choose to make changes to either

one, it will require another proposed amendment which will go to another meeting of which will need a published notice. The reason the other one could be taken off the table and reset in a public meeting is because the language of the other one was exactly the same and that notice was previously published.

Mr. Facciponti requested that the Commission please read the documents he provided. He said he did not see any public notice posted for tonight's public hearing. With regard to next week's hearing, a notice was posted for a public hearing for a special meeting that was being called. He said the two (special meeting and public hearing) are not the same and what he sees are actions completely inconsistent with the code. He requested that this be clarified so everyone knows what needs to be done.

Ben Ross came forward and read a letter to set the record straight on misconceptions about his conduct. He outlined the steps he took for the construction of his tower.

There were no other public comments, therefore the Chair declared the public portion closed.

The Chair entertained a motion regarding tabling the resolution.

***A motion was made by Mr. Smith to table Resolution 5-08 Amending the Michigan City Zoning Ordinance regarding Towers (originally adopted 8/28/07) until June 3, 2008, at 5:00 p.m. 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, Al Whitlow (NAYS): None***

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

### **ADJOURNMENT**

The Chair entertained a motion to adjourn.

A motion to adjourn was made by Mr. Phelps and seconded by Mrs. Nasser. The meeting adjourned at 8:00 p.m.

/s/ George Mock, Secretary