

CITY OF MANISTEE PLANNING COMMISSION

WORKSESSION AGENDA

Thursday, October 16, 2008 7:00 p.m.
Council Chambers, City Hall
70 Maple Street, Manistee, Michigan

I Call to Order.

II Worksession Items:

1. Proposed Ordinance Amendments
2. Misc.

III Adjourn.

All Planning Commission Meetings and Worksessions are open to the Public.

Worksessions are scheduled to allow the Planning Commission the opportunity to discuss in a less formal manner than a regular meeting. No motions or decisions can be made during a worksession.

The Planning Commission does not take public comment during worksessions. The public is not allowed to speak, ask questions, or express opinions on items which are being discussed during the worksession.



PLANNING AND ZONING
COMMUNITY DEVELOPMENT
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MEMORANDUM

TO: Planning Commissioners
FROM: Denise Blakeslee 
DATE: October 10, 2008
RE: October Worksession

Commissioners, the City of Manistee Planning Commission Worksession will be held on Thursday, October 16, 2008 at 7:00 p.m.

We will be discussing Ordinance Amendments. If you are unable to attend please call me at 398-2805. See you Thursday!

:djb

**AN ORDINANCE TO AMEND IN PART
AN ORDINANCE ENTITLED "MANISTEE CITY ZONING ORDINANCE"
WHICH WAS ADOPTED FEBRUARY 21, 2006,**

To Amend the Manistee City Zoning Ordinance

Article 2: Definitions

Section 224 W

ADD DEFINITION of Windmill, Accessory

Article 5: General Provisions

Section 515 Accessory Buildings and Structures

ADD Item G

Article 16: LI - Light Industrial

Section 1601 Uses Permitted by Right

ADD Item S

Article 17: GI - General Industrial

Section 1701 Uses Permitted by Right

ADD Item P

THE CITY OF MANISTEE, MANISTEE COUNTY, MICHIGAN, ORDAINS:

1. That Article 2: Definitions, Section 224 W be amended by ADDING Windmill, Accessory as follows:

WINDMILL, ACCESSORY: is a wind energy system used to produce electricity for on site consumption and not for resale.

2. That Article 5: General Provisions, Section 515 Accessory Buildings and Structures be amended by ADDING Item G as follows:

G. Accessory Windmills

1. Accessory Windmills shall not be constructed to a height higher than fifty (50) feet, as measured from the finished median grade elevation of the site.
2. Accessory Windmills shall be located in compliance with the front yard setback requirements of the district in which it is located or the height of the accessory structure, whichever is greater.
3. Accessory Windmills shall not be located closer to an adjoining parcel than the height of the

accessory structure or setback requirements, whichever is greater.

4. Accessory Windmills shall not be located closer than ten (10) feet to the principal structure on the property which it is located.
5. A detailed site plan shall be required and reviewed by the Planning Commission per **Section 2201. B.**

3. That Article 16: LI - Light Industrial, Section 1601 Uses Permitted by Right be amended by adding:

S. Windmills, Accessory, Subject to **Section 515.G**

4. That Article 17: General Industrial, Section 1701 Uses Permitted by Right be amended by adding:

P. Windmills, Accessory, Subject to **Section 515.G**

And make appropriate edits to indexes, tables and chart provisions as necessary

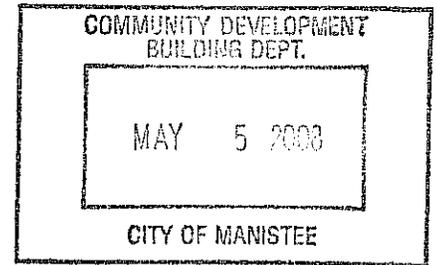
5. **CONFLICTING ORDINANCES:** that any and all ordinances of City of Manistee which may conflict with the provisions of this ordinance as amended, be and are hereby rescinded.
6. **EFFECTIVE DATE:** This Ordinance shall take effect seven days after publication in the Manistee News Advocate.

Cynthia A. Fuller, Mayor

Dated

ATTEST:

Michelle Wright Dated
City Clerk/Deputy Treasure



MEMORANDUM

TO: Jon Rose, Director
City of Manistee Department of Community Development

FROM: Michael Clark, Planner

DATE: May 2, 2008

RE: Vertical Zoning, Definition of Parcel, and Condominium Regulations

This memo is in response to the discussions regarding vertical zoning and the definition of parcel and its relationship to condominium regulations.

River Street Uses Description of Problem: The purpose of the draft would be to encourage a vibrant, pedestrian friendly retail corridor on River Street by limiting uses that front the street to retail, eating and drinking, and entertainment uses.

After reviewing the permitted land uses within the C-3 Business District, we suggest that the following uses be subject to further regulations when fronting River Street:

- Medical Dental Office
- Professional Office
- Professional Service Establishment
- Financial Institution

These uses generally would not generate the desired pedestrian traffic along River Street and may actually act as a deterrent for pedestrians to continue past when they are at street level. Additionally, 'Studio for the Performing and Graphic Arts' should be a permitted use, especially noting that these can also often have a related retail or entertainment component to them. For example, an artist making pots, painting, drawing, or similar creation of a tangible product may be an entertainment draw and would likely produce items for retail purchase.

To address this, we propose language similar to the restrictions governing adaptive reuse, which restricts the types of uses within the first 25 feet of depth along the River Street frontage of the building. This would still allow office uses on the same floor; however, they would not have a negative impact on the pedestrian street environment. With this approach, all other uses would be permitted elsewhere in the district and on upper floors along River Street.

Another related discussion point was the potential of residential dwellings along the riverfront. Residential uses are not desirable on River Street and are not permitted. However, as in Section 1832(3) regulating multiple family dwellings, walkout units along the riverfront could be appropriate if privacy could be assured.

Condominium Description of Problem: There is confusion pertaining to the definition of "parcel" as it relates to the creation of traditional condominium units. Questions have arose regarding if a condominium unit will need to meet the definition of parcel, which would require it to also meet the minimum dimensional requirements for a parcel as defined in each district. A site condominium unit would meet the definition of parcel, however traditional condominium units or condominium conversions would not. The definition of "parcel" references "an area of land", and this appropriately covers site condominiums. The desired result with a site condominium is to have a development under collective ownership and control, but visually and functionally the same as a typical subdivision land development. Traditional condominiums however, would be individual units within a structure, owned by an association created by a collective of dwelling unit owners. The individual units would not and should not conform to the definition of "parcel". As drafted, however, the ordinance does not provide standards to deal effectively with traditional condominiums or condominium conversions.

It is suggested that condominium standards be included under Article Five, General Provisions section. The suggested language is attached.

Other Suggestions: While completing this assignment, we also noted a couple of conflicts within the ordinance. The first conflict relates to maximum residential density in the C-3 Central Business District. Section 1500 District Regulations, footnote (a) provides "not more than three units per fifteen hundred (1,500) square feet of building space", while Section 704 Schedule of Regulations, footnote (g) states "not more than one (1) unit for each 1,500 square feet of building envelope." Given the maximum parcel area of 2,500 square feet, a six-foot rear property line setback, and a maximum building height of four stores, and a minimum dwelling of 500 square feet, a maximum density of 18 units would be possible on the smallest parcel. This is not unreasonable in an urban area like the C-3 district, and we suggest amending Section 704 to conform to Section 1500.

Another policy question came about regarding Section 1504 C. It currently prohibits a residential use on the same floor as a commercial or office use. This could limit the possibility of having live/work units within the C-3 district. Live/work units could be a draw for owner operated business such as artists with gallery space, accountants, internet web site designers, architects, or similar occupations. If the City desired to include live/work units within the C-3 district, Section 1504 C should be amended to say:

C. Commercial or office uses located on the same floor as a residential use shall be structurally separated with no common entry corridor. An exception to this

Jon Rose, City of Manistee

May 2, 2008

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standard may be granted by the Zoning Administrator for a single dwelling and commercial or office use with the same occupants.

We have additionally completed and enclosed the draft of the Current Land Use Map for your review.

If you have any other questions, please do not hesitate to contact us.

c: Jay Kilpatrick, AICP

ARTICLE FIFTEEN
C-3 – CENTRAL BUSINESS DISTRICT

SECTION 1500 PURPOSE AND INTENT

It is the intent of this District to protect and strengthen the commercial core of the City of Manistee as a regional and specialty shopping, service and entertainment area; to encourage a broad range of compatible retail, service, entertainment and residential uses formed vibrant, walkable and attractive districts in concert with the objectives of the Master Plan and Downtown Development Authority Plan; while establishing standards to manage traffic and parking, operational impacts, parking and shared parking, loading/unloading area, landscaping, and building form intended to compliment existing commercial uses and surrounding residential neighborhoods.

PERMITTED USES

- ◆ Accessory buildings with floor area less than or equal to the footprint of the principal structure
- ◆ Accessory uses related to uses permitted by right
- ◆ Convenience Store w/o fuel pumps
- ◆ Dwelling, Upper Story and Riverfront Accessory, subject to Section 1504
- ◆ Eating and Drinking Establishment
- ◆ Financial Institution
- ◆ Gallery or Museum
- ◆ Home Occupation, Minor, subject to Section 1847, B, 1.
- ◆ Hotel
- ◆ Medical or Dental Office
- ◆ Outdoor Recreation Park
- ◆ Personal Service Establishment
- ◆ Place of Public Assembly, Small
- ◆ Professional Office
- ◆ Professional Service Establishment
- ◆ Retail Business
- ◆ Studio for Performing and Graphic Arts
- ◆ Subdivision, Plat or Condo (of permitted uses)
- ◆ Theater
- ◆ Uses similar to uses permitted by right, subject to Section 530.

SPECIAL USES

- ◆ Accessory buildings with floor area greater than the footprint of the principal structure
- ◆ Accessory uses related to special uses
- ◆ Adaptive Reuse
- ◆ Bed & Breakfast
- ◆ Contractor's Facility
- ◆ Drive-through Establishment
- ◆ Duplex
- ◆ Dwelling, Multiple unit
- ◆ Home Occupation, Major
- ◆ Laundry and Dry Cleaning Establishment
- ◆ Marina
- ◆ Mixed Use Development
- ◆ Parking Facility Public
- ◆ Planned Unit Development
- ◆ Uses similar to permitted special uses

*Special Use Requires Key Street Frontage

- ◆ Places of Public Assembly, Large*
- ◆ Sports and Recreation Club*

ADDITIONAL STANDARDS

- ◆ Site Plan requirements subject to Section 2203, except for upper story or riverfront dwellings, which are subject to Section 2201, A.
- ◆ Vehicular Parking Space, Access and Lighting requirements subject to Section 514.
- ◆ Landscaping requirements subject to Section 531
- ◆ Signage requirements subject to Article 21
- ◆ Outdoor Lighting requirements, subject to Section 525
- ◆ U.S. 31 Corridor Overlay District requirements, subject to Article 19
- ◆ River Street Frontage Limitations, subject to section 1503, G

DISTRICT REGULATIONS ^(b)

Minimum Lot Area:	2,500 sq. ft.	Minimum Lot Width:	25 ft.
Maximum Dwelling Units/Acre	^(a)	Max. Building Height	4 stories, or 50'
Minimum Building Setbacks		Maximum Lot Coverage	100%
Front ^(c)	0 ft.	Waterfront Yard	20 ft
Side ^{(d) (e)}	0 or 4 ft. (each side)	Minimum Living Area	500 sq. ft.
Rear ^(e)	6 ft.		

^(a) Not more than three units per each fifteen hundred (1,500) square feet of building envelope

^(b) Except as may be permitted pursuant to Section 1870, Planned Unit Development.

^(c) Subject to Section 502, G

^(d) Where a building is not proposed to be sited on the side lot line, a minimum yard of four (4) feet shall be provided.

^(e) When a proposed commercial use is contiguous to a parcel in the R-1, R-2 or R-3 districts, the Planning Commission may require an additional buffer consisting of a ten (10) foot side and/or rear setback, a four (4) foot high landscaped berm or solid fence up to six (6) feet in height, or any combination thereof.

SECTION 1501 USES PERMITTED BY RIGHT

The following uses of buildings and land shall be permitted within the C-3 District subject to the provisions of Article 22, Site Plan Approval.

- A. Accessory buildings with floor area less than or equal to the footprint of the principal structure
- B. Accessory uses related to uses permitted by right, subject to Section 516
- C. Convenience Store, without fuel pumps
- D. Dwelling, Upper Story and Riverfront Accessory subject to Section 1504
- E. Eating and Drinking Establishment

- F. Financial Institution
- G. Gallery or Museum
- H. Home Occupation, Minor subject to Section 1847, B, 1
- I. Hotel
- J. Medical or Dental Office
- K. Outdoor Recreation, Park
- L. Personal Service Establishment
- M. Place of Public Assembly, Small
- N. Professional Office
- O. Professional Service Establishment
- P. Retail Business
- Q. Studio for Performing and Graphic Arts
- R. Subdivision, Plat or Condo (of permitted uses)
- S. Theater
- T. Uses similar to uses permitted by right, subject to Section 530.

SECTION 1502 USES PERMITTED BY SPECIAL LAND USE PERMIT

The following uses of buildings and land may be permitted within the C-3 District, as special land uses subject to the provisions of Article 18, special land use approval.

- A. Accessory buildings with floor area greater than the footprint of the principal structure, subject to Section 1804
- B. Accessory uses related to special uses, subject to Section 1805
- C. Adaptive Reuse, subject to Section 1807
- D. Bed & Breakfast, subject to Section 1813
- E. Contractor's Facility, subject to Section 1820
- F. Drive-through Establishment, subject to Section 1828
- G. Duplex, subject to Section 1829
- H. Dwelling, Multiple Unit, subject to Section 1832
- I. Home Occupation, Major, subject to Section 1847
- J. Laundry and Dry Cleaning Establishment, subject to Section 1850
- K. Marina, subject to Section 1852
- L. Mixed Use Development, subject to Section 1858
- M. Parking Facility, Public, subject to Section 1865
- N. Place of Public Assembly, Large, subject to Section 1868

- O. Planned Unit Development, subject to Section 1870
- P. Sports and Recreation Club, subject to Section 1880
- Q. Uses similar to permitted special uses, subject to Section 1886

SECTION 1503 DIMENSIONAL STANDARDS.

Within the C-3 District, the following dimensional standards shall apply:

- A. Parcel Area - No building or structure shall be established on any parcel less than two thousand, five hundred (2,500) square feet in area.
- B. Parcel Width - For all uses the minimum parcel width shall be twenty-five (25) feet.
- C. Yard and Setback Requirements - The following requirements shall apply to every parcel, building or structure.
 - 1. Front Yard: The minimum setback shall be 0 feet.
 - 2. Side Yards: Except as provided in subparagraph 5 below, the minimum width of either side yard shall 0 feet. Where a building is not proposed to be sited on the side lot line, a minimum yard of four (4) feet shall be provided.
 - 3. Rear Yard: Except as provided in subparagraph 5 below, the minimum rear setback shall six (6) feet.
 - 4. Waterfront yard: For properties abutting the Manistee River Channel, the minimum setback from the ordinary high watermark shall be twenty (20) feet; provided however, that such setback shall not apply to docks, boat launching ramps, and riverwalks.
 - 5. When a proposed commercial use is contiguous to an parcel in the R-1, R-2 or R-3 districts, the Planning Commission may require an additional buffer consisting of a ten (10) foot side and/or rear setback, a four (4) foot high landscaped berm or solid fence up to six (6) feet in height, or any combination thereof.
- D. Building Height. Except as a part of a Planned Unit Development, no structure in the C-3 District shall exceed the lesser of four (4) stories or fifty (50) feet in height.
- E. Living Area: No dwelling unit shall be constructed in the C-3 District which has less than five hundred (500) square feet of living area.
- F. Lot Coverage: Up to 100% of the parcel area may be covered by buildings.
- G. River Street Frontage: For buildings that front on River Street, at least the first 25 feet of depth at street level of the building shall be limited to the following uses:
 - Eating and Drinking Establishments
 - Gallery or Museum
 - Personal Service Establishments
 - Retail Business
 - Studio for Performing and Graphic Arts

- Theater

SECTION 1504 UPPER STORY AND RIVERFRONT DWELLINGS

- A. Upper Story and riverfront accessory dwellings are permitted in existing structures within the C-3 district. New structures proposing upper story or riverfront dwellings shall be governed as a mixed use.
- B. Upper Story and riverfront accessory dwellings shall be accessed by a secure entrance dedicated for the exclusive use of building residents and guests.
- C. No commercial or office uses shall be located on the same floor as a residential use shall be structurally separated with no common entry corridor. An exception to this standard may be granted by the Zoning Administrator for a single dwelling and commercial or office use with the same occupants.
- D. No dwelling unit shall exceed a maximum of two (2) bedrooms.
- E. Each dwelling unit shall have a minimum floor area of five hundred (500) square feet.
- F. A basic site plan shall be required and reviewed by the Zoning Administrator per Section 2201, A.
- G. Dwellings along the riverfront are permitted only where resident privacy can be provided by building design, courtyards, topography, or similar design.

CONDOMINIUM REGULATIONS

Draft #2, May 1, 2008

1. Add to Section 204:

COMMON ELEMENTS: The portions of the condominium project other than the condominium units.

CONDOMINIUM UNIT: A condominium unit established in compliance with the Condominium Act which consists of a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the condominium master deed.

CONDOMINIUM ACT: The Michigan Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended, or successor legislation.

CONDOMINIUM CONVERSION: A condominium project involving one or more pre-existing buildings and proposed to contain two or more condominium units some or all of which were under single ownership before the filing of a notice of taking reservations under Section 71 of the Condominium Act.

CONDOMINIUM CONVERSION PLAN: The plans, drawings and information prepared for a condominium project as required by Section 66 of the Condominium Act and as required by this ordinance for review and approval of the condominium project.

2. Amend section 204:

CONDOMINIUM: A building, or group of buildings, or parcel of land, in which dwelling units, offices, or floor area, or land area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

3. Add to Section 208:

GENERAL COMMON ELEMENTS: Components of the grounds, building, or development collectively owned and available for use by all of the co-owners as defined within the master deed.

4. Add to Section 213:

LIMITED COMMON ELEMENTS: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

5. Add to Section 220:

SITE CONDOMINIUM: A development in compliance with the Condominium Act containing or designed to contain structures or other improvements and in which each co-owner owns exclusive rights to a an area of land on which a structure or structures may be constructed as a site condominium unit.

SITE CONDOMINIUM UNIT: A specific area of land, described in a master deed and established in compliance with the Condominium Act, which is under private ownership and is part of a larger development connected by other site condominium units, limited common elements, and general common elements.

6. Add the following in Article Five, General Provisions:

SECTION 533 CONDOMINIUMS

- A. Purpose. This section further regulates condominiums, whether for residential use or non-residential use.
- B. Site Condominium development as defined herein shall be regulated per the standards set forth in the Subdivision Control Ordinance and the condominium act. A condominium unit which is, or which is proposed to be a parcel as defined herein, shall meet the requirements of this ordinance pertaining to lot or parcel area, width, and the required yards.
- C. Section 523 A and B shall not apply to parcel divisions resulting from condominium development projects.
- D. Submittal of a Condominium Plan. A condominium plan shall be submitted for review and approval in accordance with the site plan review and approval process of Section 2200-2209. Such plan shall include the documents and information required by Section 66 of the Condominium Act, and the following information to the extent not included in such Act:
 - 1. The information required for a detailed site plan review under Article 22 of this Ordinance.
 - 2. A narrative describing the overall objectives of the condominium development.
 - 3. Existing building footprint for Condominium Conversions.
 - 4. Area and volume of each proposed condominium unit, including area of living areas.
 - 5. Common elements (including general and limited)
 - 6. Location and dimensions of each building, lot, and total development.
 - 7. The condominium plan shall depict a building envelope around each building so as to demonstrate compliance with the minimum lot area requirement, the minimum lot width requirement, and the minimum

building setback requirements of the district in which the condominium is located.

8. Approval or tentative approval of the proposed design and location of the entrance to the condominium from the City Engineer and/or Michigan Department of Transportation, if applicable.
9. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
10. Such other information as the Planning Commission may reasonably request in their review of the proposed condominium development. Unless requested by the Planning Commission, the proposed master deed and condominium bylaws need not necessarily be submitted with the application.

D. Standards for Approval. To receive approval, a condominium development plan shall satisfy the following requirements:

1. The plan shall satisfy the standards and requirements for detailed site plan approval pursuant to Article 22 of this Ordinance.
2. The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project, shall comply with the Condominium Act and other applicable laws, ordinances or regulations.
3. Unless modified pursuant to Section 1870 hereof, the condominium development shall comply with all applicable provisions of this Ordinance, including without limitation, density, minimum living area of units, lot coverage, building height, lot area, lot width and yard size requirements with respect to each of the buildings in which the condominium conversion is located.
4. If a condominium development is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the City of Manistee.
5. The City may require the condominium development to include pedestrian sidewalks at specified locations; street lighting at intersections or otherwise within street rights-of-way; and greenbelts or other landscaping in order to obscure the view of other types of land uses that may be near or adjacent to the condominium, such as commercial or industrial uses, highways, railroads and the like.
6. The condominium development shall be connected to public water and public sanitary sewer facilities.

- E. Compliance with City Ordinances: Condominium development shall meet the standards of the applicable zoning district, as well as all other standards in the City of Manistee Zoning Ordinance, and other applicable local, state or federal laws.
- F. Expandable or Convertible Condominium Conversions. Approval of a final condominium conversion plan shall not constitute approval of expandable or convertible portions of a condominium conversion project unless the expandable or convertible areas are specifically reviewed and approved by the Planning Commission in compliance with the procedures, standards and requirements of this section.
- G. Review of Condominium Master Deed and Bylaws. An approved condominium plan shall be incorporated by reference in the master deed for the condominium. The Master Deed shall be subject to the approval of the City Attorney, consistent with this section and any conditions of approval of the condominium. A copy of the master deed as recorded with the County Register of Deeds shall be provided to the City.

7. Add to section 401, B.

- B. Condominium Project. A nonconforming developed or undeveloped parcel shall not be converted to a condominium, except in conformance with this Ordinance.

8. Revise section 514, F.

- F. For all permitted uses and special land uses in the C-3 District, except hotels, motels, and residential use condominium conversions, the parking provisions of this Section shall not apply.