



MEMORANDUM

To: Harbor Springs City Council
Date: December 12, 2025
From: Lynée Wells, AICP
RE: October 21, 2025 Draft Zoning Ordinance Concerns

The City is to be commended for the continued dedication to a transparent, thoughtful and collaborative zoning ordinance amendment process. Hours of meetings, community open houses, and public input has resulted in a draft code that is very close to the finish line. Know that this is the list of four items we have been sharing since October, and it is not our intention to have a never-ending, repeating review process. Like you, we are focused on having a new ordinance to be proud of.

These amendments must be adopted immediately—not after the comprehensive code update—because complete applications are reviewed under the regulations in effect at the time of submission. Once an application is deemed complete, it locks in those standards regardless of pending changes.

For example, under current regulations, a three-story building with a 5,000 square foot ground floor footprint would be handled through Administrative Review—a streamlined process with no Planning Commission oversight or public knowledge. To put this in perspective, **5,000 square feet represents the combined footprint of the Kelbel Building, Gurney's, and the adjacent art gallery.** A project of this magnitude could be approved administratively while these critical code revisions remain pending.

The risk of inappropriate development proceeding under soft standards is not theoretical—it is imminent. Any delay in adopting these amendments creates a window for applications that would fundamentally alter the character of the community without adequate review or public input.

At this juncture, we urge the Council to consider *four* issues and necessary amendments to the October 21, 2025 code before it is adopted because it has a few weak spots that could result in permanent changes to community character:

- Grammatical errors and incorrect references as outlined in the October 30, 2025 Aligned Planning memo and supported in the Beckett and Raeder itemized responses
- Administrative Review Committee 5000 sf. Threshold for Eligibility
- Building Heights in PD and CBD
- PD Standards

For item 1 relating to grammatical errors, the City Council can adopt the October 21, 2025 zoning ordinance with the recommendations of the Beckett and Raeder memo dated November 10, 2025.

The memo clearly states the recommended corrections from John Icoangeli. Council can simply include this direction in its motion for adoption. No new hearing is required.

For item 2, the Administrative Review Committee threshold for review, the Council can take one of three actions. First, the Council can recommend a lower threshold and provide clarity on the computation. Second, it can send the draft code back to the Planning Commission to address the square footage issue. Third, the Council can remove Administrative Review entirely and continue to recommend the Planning Commission work out an amendment at a later date.

For item 3, recall the issue with the house at 420 E. Main, where heights and stories were called into question with the Zoning Board of Appeals, which resulted in discrepancies and an out-of-scale development. The ZBA grappled with determining whether a partially below-grade level constituted a "story" and whether an open attic space was habitable, ultimately granting a variance for a three-story structure that some felt was out-of-scale. This case demonstrates how removing story maximums without establishing clear first-floor height limits creates ambiguity that leads to subjective interpretations and unpredictable outcomes. This same issue remains in the current code with the removal of maximum stories and no mention of maximum first floor heights.

For item 4, the PD process remains subjective, with very little objective standards. The only objective standards are: density not more than 1.5 times the underlying district. However, this is faulty because there are no density standards in the commercial, office or CBD districts as there is no minimum lot area. With the proposed PD, no minimum lot area allows someone to apply for any project, in any district, with a mix of uses and densities. Only in districts where density can be determined using a minimum lot area per unit can density be determined.

Additionally, the PD allows flexible setbacks and height, buildings can be at lot lines, and light-touch commercial can be considered in residential areas. Creativity in development can mean many things to many people, and subjectivity in review and approval opens the City to costly legal challenges.

As a planner, this is concerning because guardrails are needed to help neighbors and the community as a whole feel secure in the unpredictability of a PD process, which is inherently a tool to sidestep underlying zoning.

To solve for the four issues above, we suggest the following potential motions; none require a new hearing:

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| ISSUE 1 | Grammar/Referencing Issues | Fix Mistakes | Motion to approve the 10.21.25 draft zoning code with the recommended edits as outlined in the 11.10.25 memo from Beckett and Raeder. |
| ISSUE 2 | Administrative Review Option 1 | Lower threshold for Administrative Review eligibility | Motion to approve the 10.21.25 draft zoning code amending Section 8.5.5 from 5,000 sf. to 1,000 square feet of total area (including either footprint or volume of space if multiple stories, whichever is less) for administrative review. |

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| ISSUE 2 | Administrative Review Option 2 | Return to Planning Commission | Motion to return the 10.21.25 draft code to the Planning Commission to revise the Administrative Review process for reduced thresholds and clarity in computation. |
| ISSUE 2 | Administrative Review Option 3 | Remove Administrative Review of Site Plans | Motion to approve the 10.21.25 draft zoning code with the removal of Section 8.5.5, Administrative Review, thus resulting in all site plans reviewed by the Planning Commission. |
| ISSUE 3 | Story Height Option 1 | Return to Maximum Story Height in Existing Code | Motion to approve the 10.21.25 draft zoning code with the addition of story height as per the 2005 Zoning Code |
| ISSUE 3 | Story Height Option 2 | Regular first floor story height only | Motion to approve the 10.21.25 draft zoning code with a maximum first floor story height in CBD being 12'. |
| ISSUE 4 | PD Ordinance | Add objective standard for acreage | Motion to approve the 10.21.25 draft zoning code and add a minimum 10 acre threshold for PD eligibility in Section 10.2.1 adding item I: Lots 10 acres or greater may be eligible for PD consideration. |
| ISSUE 4 | PD Ordinance | Add objective standards for height | Motion to approve the 10.21.25 draft zoning code and height maximum of 10% taller than the underlying zoning district |

Why Administrative Review matters:

- a. Section 8.5.5 allows for a group consisting of the Planning Commission chair and member, Zoning Administrator, City Manager, Planner, and City Attorney to review site plans for projects that result in 5,000 sq. or less of new development or construction.
- b. Administrative Review of the scale and scope provided in the draft ordinance is a relic of the Redevelopment Ready Communities tool kit, which has not been appropriately translated to our local context and needs. For example, our buildings are much smaller than an urban or sprawling community context.
- c. While we understand the pros and cons of Administrative Review, we are concerned about the project size allowance to be afforded streamlined administrative review versus Planning Commission review.
- d. A recent review of other similar communities showed that Petoskey is considering allowing Administrative Review for projects 1,500sf or less and Saugatuck allows administrative review for projects 1,000sf or less. We did not find Administrative Review allowances for similar projects in Traverse City or Charlevoix.

- e. Wading into Administrative Review with smaller thresholds is desired as it demonstrates that we are not trying to sidestep the role of the appointed Planning Commission and that we are committed to transparency and implementing the public process as outlined in our Public Participation Plan.

Why objective standards in the PD ordinance matter:

- a. Reduces Legal Vulnerability: Clear, objective standards provide defensible criteria for decision-making that can withstand judicial review, whereas subjective standards invite legal challenges based on claims of arbitrary or inconsistent application.
- b. Shifts Negotiation from Courtrooms to City Hall: When standards are vague or overly discretionary, developers and opponents alike resort to litigation to resolve disputes, effectively transferring planning decisions from the Planning Commission to attorneys and judges who lack local context and community understanding.
- c. Ensures Predictability and Community Trust: Objective standards create a transparent framework that residents can understand and rely upon, making the development review process predictable for all stakeholders. When the community knows what standards will be applied and can see them applied consistently, it builds confidence in the process and reduces the perception that outcomes are negotiated behind closed doors or determined by who has the best attorney.
- d. Protects Municipal Resources: Litigation is expensive and time-consuming for small municipalities like Harbor Springs. Well-crafted objective standards minimize the risk of costly legal battles, allowing the City to focus resources on community planning rather than legal defense, while still providing flexibility for creative development solutions within defined parameters.

These amendments can be incorporated without requiring a new hearing and will significantly strengthen the ordinance's legal defensibility and community protection. Given the permanent nature of zoning changes, taking the time to address these issues now will prevent costly challenges and unintended consequences in the future.