

**CHARTER TOWNSHIP OF CHOCOLAY
PLANNING COMMISSION MEETING MINUTES
Monday, April 13, 2009**

I. MEETING CALLED TO ORDER AT 7:30 PM/ROLL CALL

Present: Chairman Albert Denton, Estelle DeVooght, Dr. Ken Tabor,
Kendell Milton, Andy Sikkema

Absent: Andy Smith, Steve Kinnunen,

Staff Present: Jennifer Thum (Planning and Community Development), Laurie
Vashaw-Eagle (Recording Secretary)

II. APPROVAL OF MARCH 9, 2009 MEETING MINUTES

Ken Tabor motioned to approve the March 9, 2009, meeting minutes as written, seconded by Estelle DeVooght.

Ayes 5. Nays 0. Motion approved.

III. ADDITIONAL ITEMS/APPROVAL OF AGENDA

Andy Sikkema motioned to approve the agenda as written for April 13, 2009, seconded by Kendell Milton.

Ayes 5. Nays 0. Motion approved.

IV. PUBLIC HEARINGS

No public hearing(s) scheduled.

V. PUBLIC COMMENT

No public present.

VI. PRESENTATION

A. SUPERIOR WATERSHED GROUP

Ms. Geri Larson from the Superior Watershed Group provided a short presentation. Ms. Larson stated that The Superior Watershed Group is a nonprofit organization that serve the entire Upper Peninsula pertaining to buffers, watershed protection, etc. Ms. Larson stated that they have served Chocolay Township quite a bit in the past with projects such as park improvements, erosion control, environmental conservation and restoration. She also stated that there are already some buffers and protections in place within the Township. She suggested that the Township look into applying for the DEQ Coastal Plan that would then be applied to creating a Natural Features Inventory for the Township. This type of inventory could help the Township staff better evaluate site plans, assist in updating the comprehensive plan, the zoning plan, and natural resources overlay. Ms. Larson will leave information pertaining to various types of funding with Jennifer Thum to provide to the Township staff.

VII. OLD BUSINESS

A. MOYLE CONSTRUCTION

Jennifer Thum explained that she recently inspected the McDonalds/Gateway Plaza site with our engineering consultant, Mike Pond, to make sure everything was proceeding as approved. It was observed that construction was exceeding past the spot shown on the approved plans. Township records show that the original site plan signed and dated November 6, 2006, was not submitted to the County Building Department and was not what Moyle and TriMedia believed they had approval for. Jennifer reported that she, Mike Pond, and George Meister from TriMedia met to try to resolve this issue. Ms. Thum reported that the group agreed to disagree in regards to the final approval given and that TriMedia should approach the Township Planning Commission for final approval of Phase I so work can begin on this phase of the project.

Phase I consists of McDonalds, a financial institution with a drive-thru and seven other buildings. Phase II is going to consist of buildings east of the culvert. TriMedia and Moyle Construction are not sure of what the layout for Phase II will actually look like, so this will not be on the agenda for FINAL approval. At this point TriMedia and Moyle Construction are only seeking approval for Phase I.

Ms. Thum reported that with exception to the conditions placed with the suggested approval motion, TriMedia has provided all the documentation we need for Phase I's final approval. Ms. Thum reported that she doesn't see any problems with Phase I. As part of the conditions, Ms. Thum would like to recommend that our engineering consultant review the site for grading, landscaping and any other concerns.

Al Denton moved, Ken Tabor, seconded, that the Chocolay Township Planning Commission grants final approval for Phase I of SP-05-01 McDonald's/Gateway Plaza. Plans dated April 6, 2009 consisting of sheets 1.0, C2.0, C3.0, C4.0 referring to keynotes and landscaping only and sheet C5.0 are the approved site plans accompanied with the following conditions:

1. The developer submits an illumination plan with site specific lighting features and specifications. These plans and specifications are to be reviewed and approved by Township staff and its consulting engineer.
2. Elevations are to be submitted, reviewed and approved to ensure that building height does not exceed 30'.
3. The developer will adhere to the 30' required buffer adjacent residential zoning district.
4. Plans will be reviewed and approved by the Township's consulting engineer.

Ayes 5. Nays 0. Motion approved.

B. ZONING AMENDMENTS

Jennifer Thum reported that Township staff is bringing to the Planning Commission the proposed zoning amendments that were either tabled or denied at the last meeting. Ms. Thum reported that some changes were made to the wood boiler and the flag proposals as follows:

#1 Amendment 34-09-05 – Height and Placement Regulations; Section 6.1:
(Schedule of Regulations)

Existing language:

	District	Minimum Lot Size	Minimum Lot Width
1.	MFR	20 Acres	None

Proposed amended language:

2.	MFR	2 Acres	200 feet
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Al Denton moved, seconded by Ken Tabor to table this until the next meeting so Jennifer Thum can work on the language and e-mail the language to everyone for their input. Revisit at the next meeting.

Ayes 5. Nays 0. Motion tabled until the next meeting.

#2 Amendment 34-09-06 – Outdoor Wood Burning Boilers and Appliances;
Section 6.5: (Conditions of Approval) Section 6.5 (A) and (B) 1. B

Existing language:

1. Minimum chimney height of 15 feet, measured from the grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling within 1000 feet, whichever is higher.

Proposed language:

- a. A setback of 75 feet from any and all lot/property lines, easements, and right-of-ways;
- b. The outdoor wood-fired boiler shall be located at least 300 feet from the nearest residential dwelling, not served by the furnace;
- c. If the outdoor wood-fired boiler is located within 500 feet of the nearest residential dwelling, the chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;
- d. No fuel other than the natural wood without additives, wood pellets without additives, coal, and agricultural seeds in their natural state, may be burned;
- e. Outdoor wood-fired boilers shall not be located in the front yard;
- f. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocolay Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- g. If the outdoor wood burning appliance meets the Phase I EPA standards, the outdoor wood boiler located within 300 feet of the nearest residential dwelling must have a chimney height measured from grade to the chimney top must be a minimum of 2 feet higher than the nearest neighboring principal dwelling;

- h. If the outdoor wood boiler meets the Phase II EPA standards, a setback of 50 feet from all lot/property lines, easements, and right-of-ways. The outdoor wood-fired boiler shall be located at least 200 feet from the nearest residential dwelling not served by the boiler. There are no chimney height requirements for a Phase II outdoor wood boiler.
- i. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicant utilizing outdoor wood boilers.

Estelle DeVooght moved, Ken Tabor seconded, to approve the proposed language for Amendment 34-09-06.

Ayes 5. Nays 0. Motion carried.

#3 Amendment 34-09-08 – Nonconforming Uses and Structures; Article XIV, Sections 14.1 & 14.2:

The Zoning Board of Appeals shall not issue use variances, (Chocolay Township Zoning Ordinance Article XV, and per the Michigan Zoning Enabling Act; Act 110 of 2006) nor can the Planning Commission.

The Township Board, would amend the Zoning Ordinance to include the use that the Township Board may deem should be allowed within a designated Zoning District. Therefore, the Township Board would not be approving or issuing a use variance, but amending the ordinance, per MZEA, to accomplish the desired action or in this case, the desired use within said district(s).

Proposed action:

1. Remove any and all reference to and regarding USE VARIANCES.

Ken Tabor moved, Al Denton, seconded, to approve the proposed language for Amendment 34-09-08 as written.

Ayes 5. Nays 0. Motion carried.

#4 Amendment 34-09-10

1. Article II, Definitions:

Add to definition regarding “Kennels”

Existing language:

Means any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats or any combination of, other than ordinary agricultural activities

Proposed amended language:

Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding three in number, for other than ordinary agricultural activities.

After a second review, Al Denton moved, Ken Tabor seconded, to approve the proposed language as written for Amendment 34-09-10.

Ayes 4. Nays 1. Motion carried.

#5 Amendment 34-09-11

1. Article XVIII. Signs and Fences

Add 18.12 from “Fences” to “Flags”

Proposed language:

18.12 Flags

(A) Flags, other than corporate, commercial or advertising flags shall be permitted in all residential zoning districts, on developed residential lots. Flags shall be subject to the following regulations:

- 1. Flags shall meet the sign setbacks within Section XVIII and the height limits for structures within Section VI.***
- 2. Up to three (3) flags of any combination but not more than one (1) corporate, commercial or advertising flag shall be permitted on a single lot, shopping center, or business.***
- 3. No flag shall be displayed with the flag of the United States of America, which is of greater area or which is placed at a greater or the same height as that of the flag of the United States of America flag.***

4. *No corporate, commercial or advertising flag shall be located on any lot other than the business lot that the flag is advertising.*
5. *All out-of-doors flags shall be displayed from a pole or other mounting device which is permanently affixed to the ground or a building.*

Jennifer Thum informed the Commission members that she removed anything of restricting the size of the American flag. The only language that remains pertains to not having another flag be taller or larger than the American flag.

Ken Tabor moved, Kendell Milton seconded, to approve the proposed language as written for Amendment 34-09-11.

Ayes 5. Nays 0. Motion carried.

#6 Amendment 34-09-12:
Add to Article II Definitions:
After “Family Day Care Home”:

Proposed language:

Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device or any such device attached to a building or structure for display out-of-doors.

Flag, Business: A flag displaying the name, insignia, emblem, logo, or the like, of a business and/or corporation.

Andy Sikkema moved, Ken Tabor seconded, to approve the proposed language As written for Amendment 34-09-12.

Ayes 5. Nays 0. Motion carried.

#7 Amendment 34-09-14:
Add to Article XVIII: 18.4 Remove (C)

Current language:

(C) The flag of any state or nation respectfully displayed.

After a second review, Kendell Milton moved, Ken Tabor seconded, to approve the removal of Amendment 34-09-14, Article XVIII: 18.4 (C).

Ayes 5. Nays 0. Motion carried.

#8 Amendment 34-09-15:
Add to Section XI after Building Grades fill to increase height.

11.12 Outside Lighting

- A. On site lighting shall be directed away from residential properties and public or private streets.
- B. Light emitted in non-residential developments which are adjacent to residential development(s) shall be compatible with the character of the adjacent residential areas.
- C. Information shall be supplied on the style, manufacturer's part number, height direction, location, wattage, type of bulb and intensity of outside lighting on the final site plan for final approval.
- D. Building Lighting:
 - a) No building-mounted or pole mounted floodlights are allowed. Signs may be lit with floodlights provided the light is focused downward on the sign and does not spill beyond the sign. Shields or adjustable louvers shall be required on floodlights to control beam spread.
 - b) Landscape lighting shall be allowed, provided shielding and louvers are utilized to limit lighting to objects only. Lamp wattage shall be low as possible to illuminate the object without causing glare on the site or neighboring property.
 - c) Gas station canopy lights shall be provided with flat lenses to limit glare. Illuminant levels shall comply with Illuminating Engineering Society Standards.
 - d) Lighting standards in parking shall have 20 foot maximum mounting height.
 - e) Searchlights, strobes, lasers or similar high intensity light for outdoor advertisement or entertainment are prohibited.
 - f) Lights mounted on buildings shall not be a flashing, moving or intermittent type.

Ken Tabor moved, Estelle DeVooght seconded, to approve the proposed language as written for Amendment 34-09-15.

Ayes 5. Nays 0. Motion carried.

#9 Amendment 34-09-16

Remove from Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B
(on lots of 5 acres or more)

Proposed language:

Outside wood boilers, including conditions of approval.

Andy Sikkema moved, Kendell Milton seconded, to approve the removal of
Amendment 34-09-16, Article IV; Sections 4.1 C, 4.2 C, 4.3 B, 4.4 C, and 4.6 B
(on lots of 5 acres or more).

Ayes 5. Nays 0. Motion carried

VIII. NEW BUSINESS

A. KENDELL MILTON APPOINTMENT TO ZBA

Jennifer Thum reported that at the previous meeting, the Planning Commission Chair, Mr. Al Denton, resigned from the Zoning Board of Appeals (ZBA). As a result, someone needs to be appointed from the Planning Commission to serve on the Zoning Board of Appeals. Mr. Kendell Milton has volunteered to serve on the ZBA as the Planning Commission represented member.

Al Denton moved, Ken Tabor seconded, that we the Chocolay Township Planning Commission appoint Mr. Kendall Milton to serve on the Zoning Board of Appeals as our representative. Mr. Milton's term will be from April 13, 2009 to May 24, 2011.

Ayes 5. Nays 0. Motion carried.

B. CHOCOLAY DOWNS

Jennifer Thum reported on the high points of the Chocolay Downs meeting held on April 4, 2009 as follows:

- Water Testing – The Township will provide water kits and the location of each well to NMU. NMU will gather the water samples at a minimum once a year with staff from the Township. NMU will conduct the water test at their lab and send the results to Chocolay Township.

- Police Protection – Police Chief Greg Zyburt discussed that the vandalism that usually occurs is in the rear of the property by greens 12, 13, 14, 15 and the individual tee boxes. The previous owners have installed gates and natural barriers to try to prevent 4-wheelers and snowmobilers from trespassing. There was also discussion pertaining to new wireless technology that will be installed around Chocolay Township and a possible antenna for that system being installed around the golf course and clubhouse. Also, to help with security at the golf course, NMU will install security cameras that the Township police could watch via the wireless technology. Chief Zyburt stated that this would be especially helpful since the Chocolay Township police would be the first to respond to any incidents at the golf course and detain the individual(s) until NMU Public Safety could arrive.
- Fire Protection – Chocolay Township Fire Chief, G. Johnson spoke about response time. Mr. Art Gischia asked if the Fire Department would have to use the ponds on the golf course if needed. Chief Johnson explained that this should not be an issue as there are several water pumps not far from the course and the Township has a portable pump they could use if needed. There was discussion about the future clubhouse/restaurant. NMU will provide the Fire Department with a list of the chemicals they have and their location.
- Future Development – NMU and Chocolay Township discussed the current and future signage and the possibility of a new clubhouse. Chocolay Township will provide NMU with GIS layers, traffic study, sign ordinance and any other information pertaining to Chocolay Downs. NMU has talked to Lansing about the liquor license transfer and it will be about 6 months before they can utilize this at Chocolay Downs. All NMU golf events have been moved to the course. There is also the possibility of utilizing the course in the winter for cross country skiing and snowshoeing.
- There was also conversation about grant writing. Chocolay Township will look into what types of grants they can write that might aid Chocolay Downs/NMU and our community. Ms. Thum will look into this and get with Mrs. Martha Haynes with the NMU Foundation Department.
- Intern – Professor Haynes has 4 candidates that would work for the position at Chocolay Township. Ms. Thum is to contact Mr. Haynes about meeting these individuals and to hold interviews for the intern position. The intern would help with any grant administration, water testing, and help process any applications for new development such as the liquor license.

IX. PUBLIC COMMENT

No public present.

X. COMMISSIONER'S COMMENT

Al Denton stated that he has concerns pertaining to the Water Testing at the Chocoday Golf Course and feels that Township staff and not an intern should perform these tests. He also suggested that the water testing be sent to another facility for testing so there is no discrepancies or concerns pertaining to this.

Mr. Denton also stated his concern in regards to the "Police Protection" at the Chocoday Golf Course and feels that it should be the decision of Chief G. Zyburt, or whomever is on duty, to detain or arrest an individual or individuals who are involved in an incident(s) at the golf course instead of detaining them for NMU Safety to arrive.

XI. DIRECTOR'S REPORT

Jennifer Thum reported that at the joint Planning Commission and Township Board meeting, the members will be asked to review the MDOT plans, proposed zoning amendments and thoughts on a township newsletter. This joint meeting will take place on May 20th, 2009 at 7:00pm.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Planning and Zoning news, March, 2009
- B. Michigan Planner, February, 2009

XIII. ADJOURNMENT

Estelle DeVooght moved, Ken Tabor seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 8:40 p.m.

Albert Denton, Chairperson