

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MEETING MINUTES  
MONDAY, AUGUST 10, 2009**

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

**Present:** Chairman Albert Denton, Estelle DeVooght, Ken Tabor,  
Kendell Milton, Steve Kinnunen

**Excused:** Andy Sikkema

**Absent:** Andy Smith,

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

**II. APPROVAL OF JULY 13, 2009 MEETING MINUTES**

Estelle DeVooght, Moved, Ken Tabor, Seconded, to approve the July 13, 2009, Planning Commission minutes as written.

Ayes 5. Nays 0. Motion approved.

**III. ADDITIONAL ITEMS/APPROVAL OF AGENDA**

Steve Kinnunen, Moved, Al Denton, Seconded, to approve the agenda as written for the August 10, 2009, Chocolay Township Planning Commission meeting.

Ayes 5. Nays 0. Motion approved.

**IV. PUBLIC HEARINGS**

**A. HEIGHT INCREASE FOR DETACHED ACCESSORY STRUCTURES**

Mr. Gary Niemela, 111 Lara Lei Trail stated he appreciates the process that the Township has followed in considering increasing the current height of 15 ft for detached accessory structures. Mr. Niemela stated he would be very satisfied if the height for detached accessory structures could be increased to 16' 6". Trusses are changing and trusses with a 12/12 pitch are becoming very popular to not only add to

the look of the roof, but also to accommodate attic space/storage. The City of Marquette just decreased the height for detached accessory structures to 16' 6". Mr. Niemela also commented that the energy code just went from R39 to R49, but the code is not currently being enforced. However, Mr. Niemela stated that he would like to give people the opportunity to follow the energy code if they wish and this could be done easily with an increase in the height of detached accessory structures.

## **B. REZONING #144**

Mr. Frank Stabile, 121 Vista Hills Trail, stated that after hearing the comments from the Commissioners, the public and staff at the July meeting, he requested that Rezoning Request #143 be denied. He is now submitting a new plan per staff recommendation, Rezoning Request #144, which has a similar lay-out as the previous plan, but shows a reduction in the size of the development by almost 50%. On this new plan there will be only one lot behind the cemetery, which will need a private driveway. Green space will be approximately 3 ½ acres with an easement between Lots D and F. There will also be a 15 ft buffer along the west side of Lot C coming off of US 41, which will also be green space. The houses will not be visible from the highway, but you will see his home, which is not part of the PUD. All the lots will consist of at least 5 acres, which goes back to his plan of 10 years ago. Mr. Stabile hopes that this plan will bring the development more in tune with the neighborhood lay out and hopes the Planning Commission will provide preliminary approval.

## **V. PUBLIC COMMENT**

Dick Arnold, 312, County Road 545, stated that he's wondering why the Green Garden Hill Subdivision (across from his property), is now designated as Agricultural/Farming (AF). Mr. Arnold stated he did a survey of his own and found out that of the 224 pieces of property in the area, the majority are 15 acres or smaller and only 8 parcels out of the 224 have animals. Mr. Arnold stated he feels these properties should have remained designated as R-2. He feels that such a designation could decrease the value of these properties now that they are designated Agricultural/Farming (AF). Mr. Arnold also stated that he feels the Vista Hills development would be good for the area as Mr. Stabile has always maintained his property well and the plan will fit well in the area.

## **VI. PRESENTATION**

No presentations scheduled.

## **VII. OLD BUSINESS**

### **A. HEIGHT RESTRICTIONS FOR ACCESSORY BUILDINGS**

Ms. Thum reported that staff was asked to come up with a formula for the height of detached accessory structures and the projected problem with shading the neighbor's yard. Ms. Thum stated that there are a couple of options that the Commissioners can use. The maximum height now for a detached accessory buildings is 15 ft. At last month's meeting there was discussion to raise the height to 17' 2". Ms Thum discussed that the formula she came up with would be for every foot that the building is over 15 feet in an R-1 district, the side and rear setback would have to be increased by 2 ft. In an R-2 district, the side and rear setback for a building would be increased by 3 ft. for every foot over the 15 ft. The accessory height maximum in Commercial and Industrial District is also 15 ft.

Ken Tabor, Moved, Steve Kinnunen, Seconded, that the Chocoley Township Planning Commission recommends to the Township Board approval to raise the minimum height of a detached accessory structure from 15 feet to 16' 6". In order to prevent blocking any sun, the following formula will be attached to any building with a height over 15 ft.

R-1 District:

The rear and side setback of any detached accessory structure will be increased by 2 ft for every foot over the 15 ft.

R-2 District:

The rear and side setback of any detached accessory structure will be increased by 3 ft. for every foot over the 15 ft.

Ayes 5. Nays 0. Motion approved.

### **B. REZONING #143**

Jennifer Thum reported that a couple of days after the July Planning Commission meeting, Mr. Stabile, (the applicant), contacted her about the meeting and his proposed plan. He stated that he wanted to change some things, and upon hearing those changes it was recommended that he ask the Planning Commission to deny Rezoning Request #143 in that it does not match the objectives of a Planned Unit Development (PUD) according to the Township Zoning Ordinance. We then asked him to submit a whole new set of plans and a rezoning application, which he did and that is Rezoning Request #144.

Al Denton, Moved, Ken Tabor, Seconded, that following the review of Rezoning Request #143, the Staff/File Review, and holding a public hearing, the Planning Commission recommends that the Township Board deny Rezoning Request #143 for the following reasons:

1. Mr. Stabile, (the applicant), has not provided enough open space to be in compliance with the objectives of the Township planned unit development section of our Zoning Ordinance.
2. The proposed plan is not in compliance with the Township's master plan.

Ayes 5. Nays 0. Motion approved.

### **C. WOOD BOILER ZONING AMENDMENT #34-09-06**

Ms. Thum explained that this is again before you because when the motion was made, it was to accept the changes, but the way the amendment was written in the minutes, it was not accurate. It was decided to bring it back to the Planning Commission for re-approval and discussion on the commercial wood boiler language that Ms. Thum added.

#### **Chimney Heights/Setbacks**

- a. 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.
- b. 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
- c. If there is an existing outdoor wood boiler already installed and there is new construction on a previous vacant lot of a residence not served by the outdoor wood boiler within 200 ft. of such wood boiler then the owner of such wood boiler shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from Chocolay Township.

## OWB Regulations:

- a. No fuel other than natural wood without additives, wood pellets without additives, coal and agricultural seeds in their natural state may be burned;
  - 1) The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces;
    - i. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
    - ii. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
    - iii. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
    - iv. Rubber, including tires or other synthetic rubber-like products.
    - v. Any other items not specifically allowed by the manufacturer or this provision.
- b. Outdoor wood fired boilers shall not be located in the front yard;
- c. Granting of a zoning compliance permit, constitutes an agreement between the landowner and Chocoley Township, that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with conditions;
- d. “Best Burn Practices” as issued by the Environmental Protection Agency shall be followed by all applicants utilizing outdoor wood boilers.
- e. In a couple of the ordinances there is talk about Commercial Outdoor Wood Boilers with a rated thermal output greater than 350,000Btu/hr. Should we mention something about commercial units in our ordinance?
- f. No OWB, regardless of the date of installation, is allowed to operate when conditions cause visible smoke plum to cross onto adjacent smoke on adjacent land or buildings for 12 minutes or more is a nuisance and a violation of the regulation.
- g. Outdoor furnaces may only be used from September 1 to May 31 each year.
- h. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

**III. Commercial Outdoor Wood Boiler or Outdoor Wood Boiler with a rated thermal output greater than 350,000 Btu/hr Analysis Requirement**

- a. Any person intending to install or operate a commercial outdoor wood boiler or an outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr shall obtain an evaluation, report and installation recommendations performed by a licensed professional engineer that includes the following information:
- b. What type of application will the outdoor wood boiler be used for;
- c. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized;
- d. The stack location relative to the property lines and building locations within 400 feet of the outdoor wood boiler;
- e. The stack height; and
- f. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, properly sized outdoor wood boiler, stack height and stack location.
- g. No person shall install or operate a commercial outdoor wood boiler or outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr unless it is installed according to the recommendations of the evaluation report in Section 3(D)(1). In any case, no person shall install or operate a commercial outdoor wood boiler or an outdoor wood boiler with a rated thermal output greater than 350,000 Btu/hr unless it meets the minimum setback and stack height requirements stated in Section 3(B) and 3(C) of this Chapter.

Steve Kinnunen, Moved, Kendell Milton, Seconded, to table zoning amendment #34-09-06 until the September meeting to allow staff to rewrite this amendment to be reviewed and to further discuss commercial and industrial use.

Ayes 5. Nays 0. Motion approved to table until September meeting.

**D. PROPOSED ZONING AMENDMENTS #34-09-01, #34-09-03, #34-09-04, #34-09-05, #34-09-10, #34-09-13**

Ms. Thum reported that at last month's Township Board meeting, the trustees requested that some of the zoning amendments be sent back to the Planning Commission for more detailed explanation and review.

Draft Amendment #34-09-01 – Multi-Family Residential District (MFR); Section 4.3:  
(D) 1

Existing language:

1. Density is limited to seven homes per acre.

Proposed amended language:

1. Density is limited to *five* homes per acre.

The trustees wanted a good and clear explanation as to why we are decreasing the density limit.

Ms. Thum reported the change is being made due to the increased size of the newer mobile homes being built today, which take up more space.

Steve Kinnunen, Moved, Al Denton, Seconded, to recommend to the Township Board for approval at their next meeting.

Ayes 5. Nays 0. Motion approved.

Draft Amendment #34-09-03 - Agriculture/Forestry (AF); Section 4.7: Kennels were completely omitted from the AF district, in the old zoning ordinance; Kennels were a conditional use within the RR-2 & RP districts.

Proposed addition:

1. Add to Section 4.7 (C) 11. *Kennels*

Trustee Maki, was not sure why we need to change this.

Kendell Milton, Moved, Al Denton, Seconded, to recommend approval to the Township Board to reinstate into the new ordinance, Kennels with the addition of “are allowed on 20 acres or more”, which is from the old ordinance.

Ayes 5. Nays 0. Motion approved.

Draft Amendment #34-09-04 – Height and Placement Regulations; Section 6.1:  
(Schedule of Regulations)

Existing language:

	District	Front	Side	Rear
1.	MFR	30	30	30

Proposed amended language:

2. MFR 30 10 35

The trustees wanted to know why the Planning Commission was asking for this to change, is there a specific site plan in mind?

The Commissioners in attendance unanimously agreed not to place the wording in the zoning ordinance.

Ayes 5. Nays 0. Motion approved.

Draft 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:

1.	MFR	2 Acres	200 feet
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The trustees wanted to know why the Planning Commission was asking for this to change, is there a specific site plan in mind?

Ken Tabor, Moved, Steve Kinnunen, Seconded, to table this item until the September meeting and ask staff to come up with some information for language with regards to spacing between buildings.

Ayes 5. Nays 0. Motion to table approved until the September meeting.

Draft Amendment #34-09-10 – 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.

The trustees wanted to know how this would work with sled dogs and they wanted to increase the number to 4 or more domestic pets.

Estelle DeVooght, Moved, Ken Tabor, Seconded, to recommend to the Township Board for approval at their next meeting the “Existing Language listed above stating “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”.

Ayes 5. Nays 0. Motion approved.

Draft Amendment #34-09-13 – Add to Article VI: Add 6.1 after “said structure/s.”

Proposed language:

NOTE: Lots of less than 20 acres, but not less than 5 acres within the AF district prior to the adoption of this Ordinance are legal nonconforming, April 21, 2008.

The trustees wanted to drop the 5 acres and have it read, “lots of less than 20 acres within the AF district prior to the adoption of this Ordinance are legal nonconforming lots.”

Ken Tabor, Moved, Al Denton, Seconded, to recommend to the Township Board for approval at their next meeting the omission of “but not less than 5 acres” from the proposed language listed above.

Ayes 5. Nays 0. Motion approved.

## **VIII. NEW BUSINESS**

### **A. REZONING REQUEST #144**

Jennifer Thum reported that Rezoning Request #144 is a request from Mr. Frank Stabile of 121 Vista Hills Trail, the properties in consideration are parcels #52-02-126-019-040, 52-02-126-019-20, 52-02-126-30. These parcels are where the proposed development and approved private road Vista Hills Drive are located. Mr. Stabile has petitioned the Chocoday Township Planning Commission to rezone the parcels of property from the current zoning classification of AF (Agricultural/Forestry) to PUD (Planned Unit Development). The entire proposed development is approximately 45 acres and the

applicant is requesting the rezoning due to only a private road being approved in 2000 and changes to the township zoning map. Ms. Thum reported that the applicant has added some open space, but removed his lot and the two additional rear lots out of the PUD. Which could cause problems in the future. Ms. Thum also had reservation about Lot E, which abuts US 41 and really is not connected to the proposed PUD. Staff still does not feel that this is a typical PUD.

There was much discussion by the Commissioners pertaining to the placement of the easements and the green space. Mr. Stabile and his engineer (Mr. Cambensy) explained a discrepancy of the easement between Lots A and B and stated that the easement will be between Lots D and F.

Al Denton, Moved, Estelle DeVooght, Seconded, that following the review of Rezoning Request #144, the Staff/File Review, and holding a public hearing, the Planning Commission recommends preliminary approval with the following conditions:

1. The applicant will provide a 15 ft buffer along the west side of Lot C, to ensure that the development will not be seen from the road.
2. The applicant will provide an easement between lots D and F.
3. The applicant will increase the open space lot to 3.42 acres.
4. The applicant and engineer will follow the Section 9 and 10.2, for final development requirements and procedures.
5. The applicant creates an agreement for maintenance of the road, for his lot and for any future owners of his home and the back lots.

Ayes 4. Nays 1. Motion approved.

## **B. 2010 BUDGET**

Jennifer Thum discussed a couple of changes to consider for 2010. First, she would like to move the meetings to the first Monday of the month instead of holding them on the second Monday of the month. The Township Board would like their meeting packets earlier and moving the meeting would allow more time for her to assemble the meeting packets for the Township Board meeting. Second, she would like to know if the Commissioners would be in favor of starting the meeting at 7:00 PM instead of 7:30 PM

The Commissioners agreed to change the meeting to the first Monday of each month beginning in January 2010. The meeting time of 7:30 PM will remain the same for 2010.

Ms. Thum reported the Township is looking at possibly purchasing right-of-way in the future along the highways in our township to make it easier to install bike paths.

Ms. Thum asked the Commissioners for their thoughts on how much money should be budgeted in 2010 for the Marina Park and the Veteran's Park? Please let her know your thoughts by calling or e-mailing her.

Ms. Thum also reported that she is going to budget money for a training class to be held in the Township for the Commissioners in December, 2009 and one sometime in 2010.

Ms. Thum reported she will provide more information and projects for consideration at the September meeting.

## **IX. PUBLIC COMMENT**

Stephanie Gencheff, 597 Lakewood Lane, stated she is very concerned about the height increase of 1 ½ ft for detached accessory buildings and feels such an increase is unnecessary.

George Kazymowski 741 Lakewood Lane, stated he is building a home and is concerned about the difficulty with trusses pertaining to averaging the height. He stated that if you're working on anything with a grade this will make it even more difficult to determine. He stated that a lot of houses in Michigan have 2-4 steps up to the entrance and removing the word average will create difficulties in the future for 2 story houses.

## **X. COMMISSIONER'S COMMENT**

Estelle DeVooght stated that Rezoning Request #143 and #144 were the messiest plans she's ever seen.

## **XI. DIRECTOR'S REPORT**

Jennifer Thum reported that one of the grants applied for has been denied and she is still waiting to hear on the other one. She also reported that another intern will be starting in September.

Mr. Kinnunen asked about the status of the Gateway Plaza. Ms. Thum reported that McDonald's should be opening soon and she's heard that most of the store fronts are filled.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Planning and Zoning News, July, 2009.
- B. Marquette Township Planning Commission minutes, July 9, 2009.

**XIII. ADJOURNMENT**

Ken Tabor, Moved, Kendell Milton, Seconded, to adjourn the meeting as there was no further business to address. The meeting adjourned at 9:20 p.m.

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Albert Denton, Chairperson