

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, January 19, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:15 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Tom Mahaney, Bruce Ventura, Kendell Milton (arrived at 7:22 p.m.)

*Members Absent:* Andy Smith (Vice Chair)

*Staff Present:* Steve Lawry, Township Manager, Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**December 1, 2013**

*Motion by Meister, seconded by Bohjanen, to approve the minutes as written.*

*Vote: Ayes: 4      Nays: 0      Abstain: 1 Ventura      MOTION CARRIED*

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

*Motion by Ventura, seconded by Mahaney, to approve the agenda as presented.*

*Vote: Ayes: 5      Nays: 0      MOTION CARRIED*

**IV. PUBLIC COMMENT**

Greg Seppanen, 1019 Ortman Road, said he was there to represent the people on Ortman Road in regard to Item VII.A. Seppanen stated he would be happy to answer any questions.

Public comment was closed.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Adoption of a Road Weight Limit Ordinance**

Steve Lawry, Township Manager, introduced the draft of the proposed ordinance with some changes made based on the Township attorney's recommendations. Lawry stated that this was brought to the Township Board by the residents of Ortman Road. The possibility of recurring requests for similar regulations for other roads was considered. Lawry stated that there are very few roads in the Township that are connected at both ends, providing alternative routes for trucks. So there are only a few roads for which this proposed ordinance might apply. The State highways and the County primary system are designed for truck traffic, so there would be no

reason to restrict trucks from those roads based on weight. The ordinance has been written to apply to just Ortman Road, but could be modified to apply to additional roads should future connectivity occur in the system. Lawry pointed out that there are a number of exceptions provided for in the ordinance to allow for delivery of services to that road. Lawry indicated that it is usually the service vehicles that do more damage to the road, as they may drive half on pavement, half on the shoulder, which is the weakest part of the road. He doesn't feel that this ordinance will stop the breakup of the road as it is right now, but it should help to protect the road for the future.

Bohjanen asked what was considered a service vehicle. Lawry indicated snow plows, garbage trucks, school buses, utility trucks, and local deliveries.

Mahaney asked what other roads might fall under this ordinance. Lawry said that Carmen Drive is a similar situation, connecting to both Cherry Creek Road and US-41, but is basically just there to serve the businesses. Truck traffic is fairly heavy on it for deliveries to stores. It also serves as a turnaround point for road maintenance vehicles servicing the intersection. Lawry does not think there is much truck traffic on Carmen that is not related to the above activities. Lawry also indicated that Little Lake Road north of CR 480 is similarly situated, but was built to a higher standard a number of years ago, and doesn't really show deterioration because of truck traffic. Lawry also mentioned there are a few others such as Lakewood Lane and Riverside Drive which are connected on both ends, but are a much more inconvenient route for truck traffic, and he has not heard complaints about truck traffic on those roads.

Sikkema stated that he lives on Little Lake Road, and he has observed that portion of Little Lake Road being used extensively by commercial trucks, including several local excavators who do not live on the road. He said Little Lake Road is used as a cut across, rather than going up to the corner of CR 480 and US 41. He indicated that Little Lake Road is not built to a commercial standard – it is a weight restricted road built to the same standards as any other local road, not to a truck standard. Lawry indicated that he was told that MDOT had paid to upgrade it when it was used as a detour road for the highway. Sikkema (retired from MDOT) indicated that MDOT had put an inch of asphalt on it, but every spring it is weight restricted. He said that Little Lake Road is built to the same standards as Ortman Road.

Sikkema questioned whether the Humboldt Township Ordinance was a good model as it was a unique situation, and he thought that ordinance had been rescinded. Lawry indicated that Humboldt's ordinance had been recommended to him by the Marquette County Road Commission as language that was already in place in the County. Sikkema said he thought that both situations involve cherry picking a certain road for special regulations.

Sikkema then asked if there is any data on how many trucks are using the road. Lawry stated no.

Mahaney stated that he lives down the other side of Ortman Road that comes to the

intersection with Cherry Creek Road often, and he does not recall seeing any double trailer trucks going through there. He was wondering if it was a phase when they were doing the road construction on US 41.

Seppanen offered some background –he has lived on the road for around 30 years. After talking with other residents who live on Ortman Road and Apple Trail, it was agreed by everyone that truck traffic has been increasing over the last 10 years as more and more truckers find it a convenient shortcut. He said the truck traffic comes in waves. It was properly used as an alternative during road construction but the increased traffic has been hard on the road, especially near the sharp 90 degree turn. But the heavier use tends to coincide with area jobs when these types of deliveries are occurring (especially by local truckers). Sometimes, use is related to avoidance of the signalized intersection at US 41 and Cherry Creek Road. Seppanen said the problem is that Ortman Road is not on the list of roads to be repaired by the County Road Commission or by the Township because it requires major repairs. Seppanen is trying to extend the life of the road so that the Road Commission doesn't let it go back to gravel. He feels there are other viable options for truckers to use roads that are designed to handle truck traffic, and adopting this ordinance would mean less damage would occur on Ortman Road. He said the Township Board looked at this as a viable option and he hoped it would be acceptable to everyone, including truckers accessing Fraco on Cherry Creek Road and the Lindberg gravel pit on CR 480.

Mahaney asked if it is mostly local truck traffic. Seppanen discussed specific road users and reasons for use.

Sikkema indicated that he has several problems with this ordinance, first being why you would exclude any road. He asked why not put weight restrictions on all local roads? Then no one can ask why their road is not on the list.

Lawry pointed out the excessive cost of posting all roads with signs. He said the Board presented the ordinance to the Planning Commission to hold a public hearing to get public input. If there are other roads that should be included, they can be added into the ordinance. However, he said that there are very few through roads, and there is no point in posting the dead end roads because trucks wouldn't be accessing them unless they have a destination on that road, and they are exempt from the ordinance if they have a destination on the road.

Sikkema introduced an issue that was discussed in Humboldt Township – that any truck that originated in another township should get to the highway as close to their point of origin as possible, and enter another township only via the highway. That way roads such as Old Kiln Road, Cherry Creek Road, and Little Lake Road wouldn't be used by trucks originating outside the Township. For example, a truck coming from West Branch Township would be required to use CR 545 and US-41 and not Little Lake Road.

Sikkema stated that the ordinance looks like we are addressing the needs of one

part of the community by including only one road, and it should include the whole Township if anything is done. Lawry stated that the Board asked him to develop the ordinance in response to requests from the residents of Ortman Road, but also requested a public hearing to see if there are other problems in the Township. He asked the police and other staff to identify issues, and there no others were known. Lawry thinks it would be a problem to enforce the ordinance with no signage, and he doesn't think the Township can afford to post every road in the Township. Seppanen indicated that it sounds like Little Lake Road would be another road that should be included in the ordinance. Mahaney said he thinks it's a good ordinance but he doesn't like that it seems very selective.

Ventura said that in Section II of the proposed ordinance only one road is designated, but we could add part 2 that would state that we would allow other identified roads to be added in the future. Also delete Section IV as the stated conditions pertain only to Ortman road – instead state that there would need to be a better, safer alternate route for any road that would be proposed for weight restrictions. With those changes, Ventura would support the ordinance because he thinks there is a concern on more than one road. He agrees with others that we are singling out a certain road, and by tweaking the language it can be used when and where needed.

The Commissioners further discussed trucking activities, reasoning, and enforcement issues.

Ventura indicated that other jurisdictions have adopted these ordinances so there is precedent. Sikkema expressed a concern about diverting truck traffic to some other road or neighborhood – shifting the problem to a different set of people or a different agency. He feels that the Commission needs to make sure there is an issue that needs to be resolved before enacting an ordinance. We don't have data on how many trucks are involved.

Bohjanen stated there are only a few roads in Chocolay Township that are "truck suitable" roads – US-41, M-28, Cherry Creek Road, CR 480, and CR 545. Coming up with an ordinance that would restrict through traffic on any of the other roads would seem relatively easy. He thinks we would only need signs where the through roads intersect with truck suitable roads, so maybe a dozen signs, but that may be worth the prevention of the destruction of roads, even if it's only the one road. He said for the price of the signs you wouldn't even be able to pave the approach to Ortman Road.

Dick Arnold, 312 West Branch Road, said that he has a CDL license. He feels the Township is moving too fast. As a truck driver, he would never go down Ortman Road – he looks for the straight shot. He feels there should be more research on exactly how many trucks are going down that road. He has talked with Fraco, and they are willing to avoid Ortman Road. Arnold indicated that if they are local truckers, all you really need to do is talk with the owner.

Milton stated he would like to see a truck count on both roads, since there only seems to be two roads that are affected by this type of truck traffic. He doesn't know why anyone would choose Ortman Road as a shortcut – it doesn't seem logical. Sikkema indicated that he can see the logic if the truck is coming or going from Fraco. Various scenarios were discussed, such as avoiding the signalized intersection. Mahaney indicated that he has seen quite a few of the mine trucks on Cherry Creek Road. Seppanen indicated he had never seen a mine truck on Ortman Road.

Sikkema stated that anytime you enact an ordinance, you should have a good reason. The Planning Commission is guessing about how much truck traffic is actually on these roads. Milton stated that all they have at this point is resident complaints for information, and if residents are complaining, the Commission should at least listen to what they are saying.

Meister stated that if you do a count now you are not going to get the same results that you would get once the snow is gone because they're not hauling right now. Mahaney agreed that there needs to be more data. Meister asked if there are any other roads of concern besides Ortman Road and Little Lake Road. There were no suggestions.

*Ventura moved, and Milton seconded, that the Road Weight Limit Ordinance be tabled until spring when a traffic count can be done on Ortman Road and Little Lake Road.*

*Vote: Ayes: 6      Nays: 0      MOTION CARRIED*

Discussion ensued on how the count would be done. Sikkema stated that the Road Commission may have this data already. Lawry stated he had asked, and that they do not have the information. Various methods were discussed. Meister asked about subtracting the exempt trips. Seppanen reminded the Planning Commission that the truck traffic is sporadic, so the count may not be indicative.

Bohjanen stated that no matter how the count comes out, if it is decided to have the weight limit ordinance, he feels that both Ortman Road and Little Lake Road should be included.

Sikkema noted that the motion at this point was just to collect more data. Sikkema asked Lawry when he felt would be the proper time to do the road count. Lawry indicated that it would have to wait until the weight restrictions come off in the spring. Sikkema indicated that would be mid-May. By the time the counters were in place, it would probably be end of June before the count would take place.

Lawry indicated he would let the Planning Commission know what he hears from the Road Commission, and what the plans are for the counts. Counts may be collected for a few days or a couple weeks.

**B. 2014 Annual Report Draft**

Woodward introduced the draft 2014 Annual Report. She would like to have comment and suggestions on the Planning Commission portion.

Woodward put the 2014 priorities in the report, and noted what has been addressed during the year. She suggested the Planning Commission address the 2015 priorities at the joint meeting on February 9. A statement can be added to the report that the 2015 priorities will be added after the joint meeting.

Meister indicated that the report seemed very thorough to him.

Milton asked about the air raid siren. Lawry indicated that was a complaint about the fire pager system. The old siren had a lock on it so it would not go off between the hours of 9 p.m. and 7 a.m. When it was replaced with the new one, Lawry was not aware that the time lock was not on it. It has now been programmed with a time lock. Bohjanen wondered what happened if there was a fire during that time. Lawry explained that firefighters also carry a pager for notification. Ventura stated he is surprised that people would complain. As a former firefighter, he relied on the siren. Lawry stated that this siren has the capabilities of providing more than one tone, so it could also be used for alert warnings (tornado, etc.). Bohjanen stated that the siren also makes people in the neighborhood aware of an emergency circumstance, and helps them to be more aware of emergency vehicles pulling out of the station. Lawry indicated that this was a firefighter concern – that people not only be aware of fire trucks pulling out on the highway, but also be aware of the firefighters trying to get to the station to answer the call.

Sikkema asked if a motion was needed. Woodward indicated yes, since it is the Planning Commission's official report.

*Meister moved, Mahaney seconded to approve the Annual Report as written.*

*Vote: Ayes: 6      Nays: 0      MOTION CARRIED*

Milton commented on the small type used in the report.

**VIII. UNFINISHED BUSINESS**

**A. Master Plan – discussion for final maps and joint meeting with Township Board**

Woodward indicated she especially needed input on future road connections and multi-use paths, and particularly critical non-motorized paths that might be maintained all year round (anything from paved shoulders to separate paths). She had provided information on Complete Streets designs and strategies. She indicated that Lawry had suggested some possible new road connections for consideration.

It was suggested that some connections could be created through establishing an easement for a public walkway which would also serve as a placeholder for future road access. It was suggested that some connections could be justified for improved emergency access, such as situations in which an emergency could leave residents vulnerable due to only one access point. Lawry also pointed out that the police say

that dead end roads may actually help deter crime because there's only one way out in case of an alarm, and an unknown car is more conspicuous. The purpose of the discussion is to recommend beneficial road connections, and try to get them implemented with future property development plans. In particular, the goal is to avoid future cul-de-sac development in favor of the following connections at the time of future property development. The Commission discussed each suggested connection.

It was agreed that the road connections involving private roads would only be implemented if the residents want them. Recommended road connections involving at least one private road include (listed from north to south and west to east):

- E. Main St. southeast to Chocelay River Trail (there is an existing sewer easement in this area, and also a former rail grade with questionable ownership, and this may involve a waiver of public road standards for the private road)
- Ewing Pines Dr. south to Ortman Road
- Willow Road east to Cherry Creek Road in the vicinity of Fraco
- Cherry Creek Road east to Hidden Creek Tr.
- Hidden Creek Tr. South to Edgewood (Briarwood Subdivision)
- M-28 in the vicinity of Hiawatha south along Lion's Field and west to connect with Ridgewood or the cul-de-sac at the end of Candee Ln.

Recommended road connections involving public roads include:

- US-41 in the vicinity of the former Wahlstrom's restaurant east and south to M-28 behind the existing corridor development
- M-28 near Chocelay River Trail southwest to US-41 across from Veda St.
- M-28 near the hotel at the corner of US-41/M-28, southwest to US-41 near the connection to Carmen Drive
- Surrey Ln. south to Sandy Ln.
- Timberlane southwest to N. Big Creek Rd.
- **Cherry Creek Rd. south of CR 480 east to the vicinity of Truckey Court**
- **Little Lake Rd south of CR 480 east to S. Big Creek Rd.**

\*Note bolded items don't show exact route, but indicate a need for connections between these existing roads, possibly achieved on flagged parcels

Recommended non-motorized connections include:

- A new trail connecting Baker Street to the proposed road connecting US-41

and M -28 behind the existing corridor development

- Along Ortman Rd.
- Along Lakewood Lane
- Trail connection of the Briarwood subdivision to other neighborhoods
- Connection along US-41 to the “Beaver Grove community”

It was recommended to designate the bike path on the west side of US-41 in Harvey as a critical path that will be maintained year round. The Township is considering purchase of equipment to keep snow blown off the path during the winter. The Commission wants to add a strategy to the Master Plan that entails writing a letter to legislators regarding plowing the road, road shoulders, and any non-motorized facilities, with a goal of preventing snow from being plowed onto these facilities. This might be a multi-jurisdictional effort. Woodward will talk to MDOT and the Marquette County Road Commission to get information about the specific statutes related to depositing of snow on roads, road shoulders, non-motorized facilities, etc. She will e-mail this information to Sikkema for the next meeting.

The Commission read and discussed a fax from Mark Maki dated January 15, 2015. Short-term rentals were briefly discussed as in the Master Plan. Sikkema is opposed to short-term rentals. Meister would like to see this explored further as there are some good reasons for it, and most people are responsible. He thinks these uses can be regulated and controlled. Mahaney said he thinks it's worth exploring because it's a good way for people with fixed incomes to earn some money. He cited an example of 10,000 people who attend the Birkebeiner ski race and rent area homes for a long weekend. These people do not create a problem in the neighborhood, and it draws tourism. Meister says it also gives people access to Lake Superior. Bohjanen said this plan is for the future, and things change. The neighborhood and the demands of the community change peacefully over time. He doesn't think we should write something into the plan to prohibit that, but it should enable it to happen when the time is right. Sikkema said the regulations should be clarified in the zoning ordinance. He thinks Lakewood Lane is a residential, not a resort, neighborhood. The community should have input. Meister said the plan indicates it will be considered, not necessarily allowed.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

Woodward discussed concerns that developed as a result of updating the current zoning map. She said the Township had received verification of the successful DNR Trust Fund grant for Lion's Field. The Township will also receive free consulting assistance from ENP Associates in food systems regulation, particularly processing and retailing. This will be of future assistance for zoning ordinance updates consistent with the Master Plan. Woodward also created a sewer system map.



**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Zoning Maps – as originally adopted April 2008 (2)
- B. Zoning Maps – as amended through December 2014 (2)
- C. Planning and Zoning News
- D. Township Board minutes of 11/17/14
- E. Township Board minutes of 12/08/14
- F. Mark Maki Fax from January 15, 2015

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:30 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

SPECIAL MEETING  
CHOCOLAY TOWNSHIP BOARD  
CHOCOLAY TOWNSHIP PLANNING COMMISSION

February 9, 2015

A Special meeting of the Chocoday Township Board and Chocoday Township Planning Commission was held on Monday, February 9, 2015 at the Chocoday Township Fire Hall 5010 U. S. 41 South, Marquette, MI. Supervisor Walker called the Township Board meeting to order at 6:40 p.m.

Planning Commission Chair Sikkema called the Planning Commission meeting to order at 6:40 p.m.

PLEDGE OF ALLIGIANCE.

TOWNSHIP BOARD.

PRESENT: Gary Walker, John Greenberg, Judy White, Mark Maki, Susan Carlson, Richard Bohjanen.

ABSENT: Max Engle.

TOWNSHIP PLANNING COMMISSION.

PRESENT: Andy Sikkema, Tom Mahaney, Kendell Milton, Richard Bohjanen (on both boards) Andy Smith (arrived at 6:45) Bruce Ventura (arrived at 6:50 pm).

ABSENT: Eric Meister.

STAFF PRESENT: Steve Lawry, Kelly Woodward, Dale Throenle, Mary Sanders.

AGENDA.

The purpose of the Special Township Board/ Planning Commission meeting is to discuss the draft Master Plan and Planning Commission 2015 priorities.

Maki moved Bohjanen seconded to approve the agenda as presented.

AYES: 6

NAYS: 0

MOTION CARRIED.

PUBLIC COMMENT.

Tim Kopacz, 3 Hidden Creek Drive –His property is proposed to change from A/F to Rural Residential in the new Master Plan and he is in favor of that. He recommends maintaining the previous minimum lot size of 2 acres from the previous Rural Residential zoning district.

Jennifer Bruggink, 673 Lakewood Lane- Commented on the new Master Plan; and strongly opposes allowing waterfront property being used as resort or short term rental. She lives next to a house that was a single family home and it is now being rented by the week in the summer. There are problems with fireworks, parties, trash etc. She feels it has brought her property value down.

Tim Trobridge, 216 Timberlane - He would assume that there is a noise ordinance that would deal with fireworks or whatever it is that would bother neighbors. He thinks people purchase property to retire here later, and rent the property in the meantime. He feels that it would be almost impossible to enforce a prohibition on vacation rentals and would invite litigation.

PRESENTATIONS.

Supervisor Walker presented a Resolution of Appreciation to Susan Carlson, as she is stepping down from her duties as Chocoday Township Trustee.

For her dedication to the Township and its citizens as

Township Trustee from December 2008 to February 2015,  
Her commitment to the Township included participation on the Personnel Committee, Election  
Committee and assisting with the origin of the Chocelay Senior Center

SUSAN CARLSON

We do express our appreciation on behalf of the Township Board.  
DATED THIS 9th DAY OF FEBRUARY, 2015 AND RECORDED IN THE OFFICIAL RECORD

#### PRESENTATION / DISCUSSION OF THE 2015 DRAFT MASTER PLAN.

Kelly Drake Woodward, Planning Director introduced the February 4, 2015 draft of the Master Plan. She thanked Dale Throenle for countless hours of work formatting the document. After tonight's discussion of the draft Master Plan, The Planning Commission will need to make a motion to submit the plan to the Township Board for review and comment and approval to distribute the plan to other interested parties for a 63 day comment period. After the 63 day comment period, the Planning Commission is required to hold a public hearing, and consider all comment received before officially adopting the plan. The plan can be revised before final adoption.

The Township Board and Planning Commission had a lengthy discussion on the Master Plan including allowing short term home rentals of residences, Mixed Use zoning districts and expanding the Commercial District.

Trustee Maki felt that the survey asking the question on short term rental is not conclusive because an individual could answer the survey multiple times. Short term rentals in residential areas in Chocelay Township have not been allowed in the past 38 years. We really need to quantify what short term rental means. Residents can now legally rent their house for 30 days or longer.

Trustee Carlson knows people that currently rent lakefront property in Chocelay Township for vacations and do not cause problems. There should be enforcement if renters are causing problems.

Commissioner Sikkema feels that short term rental could be disruptive in a predominately residential neighborhood. If it is not restricted, more people will own homes to rent out as a commercial enterprise.

Supervisor Walker feels that the current ordinance is not clear on short time rentals, and there is no record of past enforcement taken. He feels that there is a major difference between a resort rental and a short term rental of a private home. We would most likely be defending that portion of our zoning ordinance in court. Right now a Bed and Breakfast is a conditional use, so it might be hard to say you can't rent your home.

Trustee Carlson suggested we look at Shelter Bay's regulations.

Treasurer Greenberg suggested that we look at wording for the zoning ordinance that states the owner must live in the residence at least six months out of the year.

Trustee Maki said that in the past, enforcement was difficult unless there was a complaint. The enforcing agent can now use the internet to look for advertising for residences that are doing short term rentals. There is also a law that states if you rent out your residence for more than 14 days you lose your homestead tax classification.

Trustee Bohjanen stated that the paragraph in the Master Plan pertaining to future land use in regard to short term rentals could be considered for implementation as a conditional use. That would involve contacting the neighbors within 500 feet of the property for input on the issue. There could possibly be areas of Lakewood Lane that would not object to it.

Commissioner Sikkema said we need a detailed poll to see what people want.

Supervisor Walker feels that we should use the term short term rental not resort rental.

Commissioner Mahaney commented that he has stayed at vacation rentals across the United States and they draw beneficial tourism. All of them have a list of rules and a deposit must be paid to ensure proper behavior when staying at these places. He feels that we need to further discuss short term rentals.

Commissioner Ventura commented that people look at their home as having certain rights and they may feel that renting their home short term is a right. If we pass an ordinance that denies them that right we may open ourselves up to takings. If it went to court, we would probably lose unless the ordinance is written very carefully. The courts tend to side with the homeowner.

Trustee Maki questioned the mixed use area. He feels that it would be too difficult to monitor. Putting all the layers of protection is a great concept, but not practical. He is concerned that the lay out of the Mixed Use Zoning will create strip development.

Trustee Bohjanen does not understand what the problem is with strip development? If you have three businesses in a row with separate driveways, it is called strip development.

Commissioner Sikkema stated that it will be hard to move forward with any type of business growth without sewer and water. Does the Board want to move forward with sewer and water in the Township that will encourage business development?

Supervisor Walker said that we cannot consider sewer and water without imposing taxes to pay for that. He is not sure our residents want that.

The Planning Commission has been discussing accessory dwellings, raising of animals, planned unit development, cluster development, form based code to encourage redevelopment, what to do with the vacant commercial area in Harvey and junk car ordinance. By showing future road connections, they hope to avoid future cul-de-sac development and promote better connectivity.

Milton moved Ventura seconded, that after thorough consideration of the February 4, 2015 version of the Draft Charter Township of Chocoy Master Plan 2015 Edition and subsequent formatting edits, the Planning Commission submits the draft plan to the Township Board and recommends that the Board approve the distribution of the subsequently revised February 9, 2015 version draft plan for comment as provided in the Michigan Planning Enabling Act with pictures included.

AYES: 6

NAYS: 0

MOTION CARRIED.

White moved Carlson seconded that after review of the February 4, 2015 version of the Draft Charter Township of Chocoy Master Plan 2015 Edition and subsequent formatting edits, the Township approves the distribution of the subsequently revised February 9, 2015 version draft for comment as provided in the Michigan Planning Enabling Act.

AYES: 5

NAYS: 1 (Maki)

MOTION CARRIED.

#### DISCUSSION OF PLANNING COMMISSION 2015 GOALS/ PRIORITIES.

- Looking at the Junk Car Ordinance and unlimited trailers on a parcel of property

Trustee White gave accolades to Planning Director Woodward and the Planning Commission for the wonderful document they put together in the Master Plan. She also thanked Dale Throenle and Suzanne Sundell for the beautiful lay out of the 2014 Annual Report.

Supervisor Walker read comments from Township resident Jean McLean, in favor of short term rentals.

PUBLIC COMMENT.  
Jennifer Bruggink, 673 Lakewood Lane- Commented again on short term rentals and the problems it causes for the neighbors.

Supervisor Walker adjourned the meeting at 9:20 pm.

Max Engle,  
Clerk

Gary Walker  
Supervisor

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, February 16, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Richard Bohjanen (Board), Tom Mahaney, Bruce Ventura

*Members Absent:* Andy Smith (Vice Chair), Eric Meister (Secretary), Kendell Milton

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**January 19, 2015**

*Motion by Bohjanen, seconded by Ventura, to approve the minutes as corrected (correct spelling of “at” to “that” on page 2, last sentence).*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**February 9, 2015 (Joint Township Board and Planning Commission)**

*Motion by Ventura, seconded by Bohjanen, to approve the minutes as written.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

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

*Motion by Ventura, seconded by Bohjanen, to approve the agenda with additions (Unfinished Business – VIII.D Road Weight Limit update).*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Dick Arnold, 312 West Branch Road, commented on the definition of a “building” in the zoning ordinance. Particularly the last portion which describes a building thus; *“it shall also include trucks, vans, recreational vehicles or other vehicles or parts of vehicles situated on private property, and used for the purposes of a building, whether or not mounted on wheels.”* He feels that including these items in the definition of a building is inviting junk.

He also thinks we need a definition of a farm, because he is concerned about the number of farm vehicles you can have on your property in relation to activity level.

He also questions the fact that you can have as many accessory buildings as you want, as long as you meet setback requirements. He feels this is wrong. There should be a limit on the number of accessory buildings. For example, on Riverland Drive, a resident has a house with an attached double garage, detached single garage, and also an approximately 25' x 45' metal building, yet he still has five junk cars sitting outside.

Arnold is opposed to zoning for more business on M-28. He pointed out the businesses that are sitting empty right now – over by Main Street Pizza there are four units, with three units empty, along the strip mall there are eight units, with two units empty and one has never been rented. He feels we should do some public relations and improve the areas we have. He has worked all over the U.P. and feels there is only one place that has a worse business district than Chocoday, and that is McMillan.

Public comment was closed.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Adopt a resolution to hold a public comment period and public hearing on the Master Plan.**

Woodward indicated she would like to be able to adopt the resolution so the public comment period can be opened up. After the 63 day comment period for surrounding jurisdictions and other agencies, there would be a public hearing. There will be a newspaper ad on this.

Bohjanen wondered if a report could be given at the next meeting regarding comments received to date. Woodward indicated that would be possible, and said we anticipate comments from the County at least.

*Ventura made a motion to adopt the resolution to hold a public comment period and public hearing on the Master Plan, seconded by Bohjanen.*

***Resolution for a Public Comment Period and Public Hearing***

***For the Draft Charter Township Master Plan 2015 Edition***

***Whereas*** the Charter Township of Chocoday Planning Commission has supervised an update to the 2005 Charter Township of Chocoday Comprehensive Plan to replace the Plan adopted on August 15, 2005; and

***Whereas*** the notice of intent to plan was sent to surrounding jurisdictions and other required parties per the Michigan Planning Enabling Act 33 of 2008 on March 11, 2010; and

***Whereas*** the public provided input to development of the Plan via a public meeting held on September 22, 2010, and was given further opportunities to provide input through two public opinion surveys conducted in 2010 and 2013; and

***Whereas*** the Charter Township of Chocoday Planning Commission and the Chocoday Township Board of Trustees have reviewed the draft Plan over the past 15 months, and provided comments for its refinement which have been incorporated into the Plan; and

**Now therefore** be it resolved that the Charter Township of Chocoday Planning Commission does hereby set a public comment period to begin on February 20 and end on May 18 at 3 pm;

**Be it also resolved** that the Charter Township of Chocoday Planning Commission does hereby schedule a public hearing on the Draft Charter Township of Chocoday Master Plan 2015 Edition to be held at their regular meeting on May 18.

Roll Call Vote:

Ayes: Andy Sikkema, Richard Bohjanen, Bruce Ventura, Tom Mahaney

Nays: None

Absent: Andy Smith, Eric Meister, Kendell Milton

## VIII. UNFINISHED BUSINESS

### A. Master Plan – Review final draft version, particularly the parts of the implementation plan that relate to potential Planning Commission tasks.

Woodward indicated that the Commission had been given a draft that contains photos and additional corrections that have been implemented since the Joint Meeting. She asked for any further input on the Plan, especially the regulatory tasks and other strategies, and indicated the wording was not changed, just the formatting.

Bohjanen indicated that he had a comment on page 15 about an ironic statement in the Master Plan (from the public survey, regarding the characteristics of rural character) that may not be in keeping with the rest of the Master Plan – *“Living in a place where you don’t have to deal with a lot of government regulations.”*

Mahaney had a comment on Page 126 – after listening to Greg Seppanen’s concerns about through traffic, his concern is with TC-2.4 *“Possible new road connections that provide multiple access routes into residential subdivisions, businesses, and other activity centers are depicted in Appendix G”*. He feels that putting new road connections into some of the neighborhoods would really change the character of that neighborhood, because people sometimes moved into a cul-de-sac for that reason – they don’t want to be bothered by through traffic. He doesn’t feel that this is a wise idea. He also disagrees with TC-2.6 *The Township will collaborate with Sands Township on a possible secondary access road connecting neighborhoods along Ortman Road west of Cherry Creek School with those along Silver Creek Road west of the Township Hall*. Mahaney lives off that road and there is a lot of walking traffic, with dogs, strollers, kids. This is a very residential neighborhood, and he sees no benefit. Putting in a through road would increase the traffic and the speed. Pretty soon you would have it connecting to M-553.

Woodward indicated the reasoning behind the “possible” new road connections was for improved public safety in case of emergency. The people on Willow Road only have one way out on Silver Creek Road, just like some people in western subdivisions (many in Sands Township) only have one way out on Ortman Road.



Mahaney indicated that people move there knowing there is only one way out. He doesn't feel it is such a good idea.

Sikkema indicated that previous discussion was that these roads would not be constructed unless the community asks for them. Some people don't understand what they are buying into when they buy on a private road. On the other hand, there are some people that buy into a private road knowing what to expect. There are some difficulties in managing development on private roads.

Ventura indicated that on Timber Lane there are around 175 residents which all exit on one road. If that exit would get blocked for some reason, there would be no alternative exit. Also, around 7:50 AM cars trying to get out on M-28 are backed up 6-8 cars deep. Ventura stated that he is one that would prefer a second way out. Mahaney indicated that he did not think that would change the character of that neighborhood. Ventura stated he did not feel it would become a cut-through, as it would be longer and winding. Sikkema stated that the person who lives at the end of the lane may not feel the same way.

Sikkema stated he feels that the local neighborhoods need to be consulted before doing anything with the roads. Mahaney indicated that just because the Township or Planning Commission feels a change needs to be made, that doesn't necessarily mean it would be what the neighborhood wants.

Bohjanen stated that the neighborhood connectors are far less likely to happen unless you had a compelling reason to do it, such as consensus with the neighbors or a health and safety issue. He feels that these proposed roads are just conceptual, but would enable more use of the land. He said the connection east of Willow Road will probably not happen, but the proposed new roads in the vicinity of the US-41/M-28 intersection are more probable since that would create more opportunity for property owners and potential business owners.

Sikkema indicated the maps show the Commission's thought process – as the property develops these designs can be incorporated into the development. He feels it's good to have it in the Master Plan.

Woodward said there are no strategies in the Capital Improvements section that indicate the Township will build these roads. There is language that was agreed upon by the Commissioners in Appendix G as follows, "This plan acknowledges that some new road connections should be implemented to provide improved emergency access, especially in situations where residents are vulnerable because their neighborhood has only one access point. The following connections are recommended as beneficial for implementation at the time of future property development." Woodward also reminded the Commission that they had expressed a goal to prevent future cul-de-sac development in favor of providing through connections. The plan also states that "the suggested locations are approximate, and do not indicate a requirement for any particular parcel. Additionally, it is intended that future road connections involving private roads will only be

implemented if the residents are in favor.”

Sikkema stated that he feels the Planning Commission is in consensus that this will not be imposed upon neighborhoods – they would need to approach the Commission. Ventura indicated the importance of the wording that indicates it will be considered when future development happens.

Sikkema asked for the Master Plan to be tabled for next meeting to consider in more detail.

**B. Finalize Planning Commission priorities for 2015**

Bohjanen stated that a lot of the priorities are going to work side by side – it will take months to be able to do these. He sees nothing on the list to eliminate, but may want to review the list and renumber the priorities.

Sikkema stated that he agrees with the “Finish unfinished proposed zoning ordinance amendments”, as this is something that should be done. Woodward stated there are only two of them. But when it gets to amending the Zoning Ordinance to implement the Zoning Plan of the Master Plan, there are some philosophies that must be discussed – how far does the Planning Commission go into converting over from our current zoning classifications to what is in the Master Plan. He feels that if we start by building a hierarchy and work down, it may become more manageable – go into major conversations first.

Woodward said in moving forward with implementation for the Zoning Plan, it might be useful to explore some zoning topics in more detail. She proposed that she could prepare a presentation for each meeting about a certain zoning topic of concern with discussion following. This would not be done with the idea of making any zoning changes immediately, but as an information gathering tool. Woodward would make this one of her priorities if the Planning Commission was interested. It was agreed to do this.

Sikkema indicated he would like to further explore the zoning classifications. Ventura agreed that a presentation on this topic would give people an idea of what certain terms mean, as he feels there are some misconceptions. Woodward suggested going through an exercise to think about which specific land uses might be appropriate for different areas to help with zoning classification. This could take several meetings to work through. Sikkema suggested that zoning classifications should be the topic of March’s presentation. Woodward stated that once you decide which land uses could be appropriate, you have to then decide what conditions might be associated with that use, if any. This is an example of how looking at the topics in greater depth would help.

Woodward asked for clarification of what is meant by the zoning classifications – Sikkema indicated it was how current zoning classifications would translate into the future ones. Sikkema thinks that as a Commission they have to decide if they want

to tackle changing the classification structure, and then changing the classification of specific parcels. The Master Plan would be the guide for these changes. Mahaney asked about the motivation for changing the zoning classifications. Woodward stated that, for example, the Commission said they wanted to add a Rural Residential district because of concerns about residential protection in rural areas – concerns such as the size of accessory structures and kinds of uses allowed in more densely developed areas, etc.

Mahaney suggested the residents should be involved. Sikkema agreed we should try to better inform residents about what the potential changes would mean, and he wants people to voice their opinion – they should be more informed. Bohjanen indicated there was a public comment at the joint meeting where after much discussion the resident stated her impression that she wasn't being heard.

Woodward stated what she needed was a list from the Commissioners on the topics they may want covered. The Township can provide notice on the website that will tell people what the topic of the month will be. Sikkema indicated it should just be one topic at a time and we should also publicize it on the message board.

Sikkema stated he wanted to know if the plan is to change the zoning classification structure. Woodward referred the Zoning Plan in the Master Plan. Bohjanen indicated that the Master Plan vision may not be appropriate to implement immediately, but at some time it may become appropriate. He said we probably don't need to look at everything at once – we may implement portions of the plan in phases. Woodward said she will give some thought as to an implementation schedule and the steps that would be involved.

Bohjanen asked about the Asset Management Plan for Township roadways. Woodward stated that Steve Lawry, Township Manager, with staff assistance had started entering road rating data into Roadsoft Software last fall. Lawry is developing a road plan for the Board. Bohjanen feels that the plan should probably go through the Planning Commission before going to the Board. Sikkema indicated that he has done road asset management previously, and sometimes the results seem counterintuitive – one road gets fixed even though it looks good in order to preserve it for a longer period of time, at the same time a road that has gone beyond its life expectancy may not be immediately prioritized. Residents have a hard time with this.

Sikkema would like to have Jim Iwanicki or Kurt Taavela come talk to the Planning Commission about asset management, and how the Road Commission may be able to help us. Woodward will contact the Road Commission.

Woodward asked about putting the monthly presentations on the Priority List – Priority 1. Ventura suggested moving "Begin planning for implementation of high

priority Master Plan projects” from Priority 2 to Priority 1.

Mahaney wondered about moving the “Plan for four-season transit facility” up higher on the priority list for grant purposes. Sikkema suggested we make a presentation to the County Transit Board to try to gain their support. He will have more time available and offered to work on it. Mahaney stated this would really enhance the community. Woodward stated that the Silver Creek Church expressed the desire to have a transit stop near their facility. Woodward stated she will send a copy of the draft Master Plan to the Chairman of the Transit agency board.

Ventura stated that he would like guidance from the Trustees on the land use decisions such as short-term rentals – he feels they are elected officials and they get input from the public and should make the decision.

Woodward asked if “Short-term Rentals” is something that should be discussed as one of the zoning presentations and discussions at their meetings. Ventura feels the issue is being forced on them and thus has to be addressed. Sikkema indicated that since the Master Plan is still in the beginning stages, he would not be opposed to moving this topic to the top of the list of discussion. Ventura stated this might hold up the Master Plan. Bohjanen stated that we are just laying the groundwork for the Master Plan by approving the resolution to make it available for public comment and a public hearing – we aren’t able to move the Master Plan any faster than that.

Woodward wondered if the Commission was talking about going forward with a zoning ordinance change regarding short-term rentals. Ventura stated that if the Trustees see clear to delineate a clear direction regarding short-term rentals, they can direct the Planning Commission to draft provisions to accomplish that. He does not feel it should be a Planning Commission decision whether to allow short-term rentals. Sikkema suggested Woodward provide information on current ordinance provisions and issues of enforcement. Woodward stated that staff has agreed that an attorney opinion is needed on current ordinance interpretation and enforcement, and she is seeking approval for this expenditure. Sikkema suggested that this be put on the agenda for next month so that the Commission can communicate to the Board what assistance and direction they need to move forward. Ventura questioned the statement made at the Joint Meeting that someone renting their residence for more than two weeks would lose their homestead exemption, and there was discussion on whether that was a valid statement. He asked Woodward to check into that before the next meeting. Sikkema suggested that “Short-term rental” be moved to Priority 1, and that it be the topic of discussion at next meeting rather than the zoning classification. Woodward indicated she will get the information together, along with options on how to proceed.

Mahaney asked for an update regarding accessory homesteading provisions. Bohjanen asked for clarification on the exact meaning of accessory homesteading.

Woodward stated that at one point, the Planning Commission had discussed this as a way to handle local regulation of animal agricultural activities as accessory to residential uses. At the time, the Planning Commission decided that more public input was needed, so this prompted the 2013 public opinion survey. Bohjanen asked if accessory homesteading activities were mostly related to small farming operations as opposed to mixed use, such as mother-in-law homes, etc. Woodward stated it is mostly about urban livestock. She explained that the reason it was called accessory homesteading was to differentiate from agricultural regulations in the Right to Farm Act, so there might be some portion of local control.

Woodward sees the Short-term Rentals, Accessory Homesteading, and Accessory Housing Units and several others as being the topics of interest to be explored during the next year, before any attempt is made at zoning changes. She suggested the Planning Commission could implement zoning changes in a piecemeal fashion or work on it over a period of time and implement all changes comprehensively. This would be a Planning Commission decision.

Sikkema wanted to avoid having an activity allowed as part of a piecemeal zoning change and then prohibiting it with a future zoning classification change. Mahaney stated he thought the Accessory Homesteading provisions were related more to a land use area formula than zoning district. Woodward stated that a land use doesn't necessarily have to relate to zoning districts – it could be related to available land area for a particular purpose.

Woodward said she thinks it's beneficial to present clear alternative approaches to the citizens when asking for their input as opposed to asking a general question. She also suggested that the proposed information sessions will help by introducing the topic and educating folks on the options, which may help to get some buy-in for change. The Commission further discussed the process for future implementation of zoning changes, such as community workshops, neighborhood meetings, etc.

Sikkema indicated that once the Priorities are set, they should be copied in the Planning Commission binders for every meeting to keep everyone focused.

**C. Provide direction for potential revisions of Ordinance #55 and the Zoning Ordinance related to parking of vehicles and storage of vehicle parts.**

Woodward stated that the current ordinance is pretty good – there are areas of concern, such as the unlimited number of trailers you can park on a property. People seem mostly to object to things they can see – such as junk vehicles, or big vehicles, such as motorhomes, parked in the front yard or along their adjoining property line blocking their view of the neighborhood. She asked whether it is important to control the number of trailers, or more important to address where/how they are stored? Some ordinances state these vehicles cannot be parked in the front yard, but not everyone can park in the side or back yard, so there may need to be a

provision for exceptions if there is proper screening or inability to park elsewhere on the lot. She said the Commission may want to address the number of trailers that can be stored on a property. But one consideration is whether it's less problematic for people to store their trailers on their own small parcels in a neighborhood with limited screening options, or to allow them to be stored on someone else's larger parcel out of view (meaning some parcels might be approved as a multiple storage area). Woodward asked for direction on how to approach the issue – should regulations relate more to zoning district, or parcel size, or screening?

Sikkema had a number of suggestions – there are some things that may be difficult to enforce. “Lawn equipment” may need to be added to the definition of “motor vehicle” in 3B. Woodward indicated we may want to include aircraft (in the case of a helicopter parked in a yard). Mahaney stated the definition does include “...every vehicle which is self-propelled by means of an engine, and shall include but is not limited to...” So these items are covered. Ventura said that it would be more correct to say motor instead of “engine” (for electric vehicles, for instance). Sikkema said every time it mentions “essential parts of the engine”, the words “essential parts of the drive train” could be substituted. By changing to drive-train, it would include other parts such as the transmission, axles, drive shaft, etc that are needed to propel the vehicle forward. Ventura indicated that the language may be constrained by the 1949 Public Act 300.

Bohjanen objects to the run-on sentences that need a diagram to untangle or that communicate an unclear message.

Sikkema then brought up Section 4A.2 – “Two vehicles or trailers, or a combination thereof, that are temporarily inoperable because of mechanical failure and are not in any manner dismantled, and have all main component parts attached.” Woodward asked if they are not dismantled, how would she know if they are not working just by looking at them? Sikkema then asked what defines a mechanical failure – are flat tires included? Woodward has seen ordinances that have provisions related to vehicles having to be “regularly used for its intended purpose” to be parked or stored outdoors, but it is difficult to determine how often a vehicle is used, except that you have evidence that a vehicle is not being used in the winter if the snow is not removed or the path plowed. Commissioners thought this would be difficult to enforce and could cause delays.

Bohjanen stated he thinks the issue is related to zoning districts and property size – considering this could solve most of the problems. Sikkema stated that one of the recurring problems is people storing trailers that they don't own on their property, such as trailers belonging to relatives. Another would be storing semi-trailer vans with no restrictions on the number of trailers per property. He doesn't think dismantling the semi trailer and using the body for storage is allowed because then you'd have a vehicle “part” stored outside, which is not allowed. There is also the question of the number of agricultural vehicles or equipment allowed on a property.

Bohjanen asked where it says unlimited number of trailers. Sikkema stated it doesn't say unlimited, but there is no limitation stated. They can be stored outside as long as they are duly licensed and operable, etc.

Bohjanen asked if there is much of a problem with using a semi-trailer for a storage unit. Maybe it's better than having all that stuff lying around the yard. He also thought another thing missing from the discussion is the implication of leaking fluids. If equipment is not being used, sooner or later it will leak fluid. Sikkema stated that this has been talked about, and assumed it's regulated by the MDEQ.

Woodward said we could have a provision that exceptions to the rules require special review and approval if certain standards for screening, lot size, etc are met. Sikkema asked that an example of such a provision be provided for the next meeting.

Bohjanen stated that lot size is important, but he feels setbacks and screening are more important. Woodward stated that most ordinances that have setback requirements just reference the setback requirements of the zoning district in which the property is located, but sometimes they just have a fixed setback number regardless of zoning district. Bohjanen stated that the smaller lots are probably not as likely to accumulate a number of trailers, but if there was a requirement for a limited visibility screen, such as a fence or a hedge, that would make a difference. If you have a height limitation, they would have less impact.

Sikkema said it's not as reasonable to complain about the seasonal storage of a recreational trailer in the side yard when that trailer is in regular use, but it's more of an issue if someone were to purchase a semi-trailer and leave it parked in the side yard all the time for storage.

Woodward asked how the Commission wants to handle semi-trailers. In the above instance, the requirement for regular use would prohibit the semi-trailer permanently used for storage. Ventura indicated that one of the keys to the issue with the trailers is if they are out of sight, it is not an issue. Woodward suggested a requirement that if they have more than one trailer stored on the property, the additional trailers have to be stored out of sight and screened. Ventura said that's getting close.

Sikkema stated that in order to get people to move here, we have to be able to protect their investments. He appreciates Bohjanen's point that we don't want to restrict people from using their property, as long as they don't degrade their neighbor's property. Mahaney thinks lot size could come into play.

*Ventura moved, seconded by Bohjanen, that the discussion on Vehicle and Nuisance Ordinance – Ordinance 55 – Vehicle and Trailer Parking be tabled until the next meeting.*

AYES: 4   NAYS: 0   MOTION CARRIED

Ventura asked if a private road has a right-of-way. Sikkema indicated that it has a 66 foot private easement, not a right-of-way.

**D. Road Weight limit update**

Steve Lawry, Township Manager, indicated that he talked with Jim Iwanicki of the Marquette County Road Commission after the previous meeting, and asked if the Road Commission would be willing to do the truck counts. He was informed that they are willing to do the counts on both Ortman Road and Little Lake Road after the seasonal weight restrictions are removed – May at the earliest. No details have been worked out yet, but Lawry anticipates a data collection time of two weeks on each road. Lawry indicated that at this time there didn't appear to be any other roads in the Township that warranted counts. This could change as traffic patterns change.

Ventura asked if the counters have the ability to discriminate between car and truck traffic. Lawry indicated that his understanding is that they are based on the timing of the axles striking the hose – if close enough it counts as a double axle. If you have a pickup truck pulling a trailer, it may count as a truck. It is not actually measuring the weight, just the timing between axle strikes.

Lawry indicated we may not be able to do both roads at the same time. He has not tried to set dates as yet, since it has been mentioned that the traffic tends to be sporadic. We would try to work things so the counters could be placed when activity seems to be starting. Sikkema indicated that last year was an unusual year for Ortman because of the construction that was going on.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

Woodward indicated that in the area of enforcement, for the next couple months she will be working on things identified by the assessor as possible violations due to failure to obtain a permit. After the snow melts, she will become more aggressive on the other types of violations. For the upcoming meetings, she will be working on presentations on short-term rentals, accessory dwelling units and tiny homes, and mixed use compatability.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:07 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister



# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, March 16, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:03 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair) (arrived at 7:25 p.m.), Eric Meister (Secretary), Richard Bohjanen (Board), Tom Mahaney (arrived at 7:04 p.m.), Bruce Ventura

*Members Absent:* Kendell Milton (excused)

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**February 16, 2015**

*Motion by Bohjanen, seconded by Ventura, to approve the minutes as written.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

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

Sikkema asked if there was anyone there on a specific topic – John and Irene Janofski indicated they were there for the Lot Split Application (Item VII.A). Sikkema proposed that this topic be moved up in the agenda to accommodate the Janofski's.

*Motion by Ventura, seconded by Meister, to approve the agenda as amended (New Business item VII.A Lot Split Application to be heard after item V. Public Hearings, and before Item VI.A Presentations)*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

**A. Land Use Explorations – Short-Term Rentals of Single-Family Homes, Kelly Drake Woodward, Planning Director/Zoning Administrator.**

Woodward stated this presentation is the first in a series of land use explorations related to future zoning decisions that may arise in implementing Master Plan recommendations. The first topic is the short-term rentals of single-family homes, which are sometimes called vacation homes.

Woodward suggested the first step in the decision process is to determine if there are existing problems or anticipated future problems associated with short-term

rentals of single-family homes that need to be addressed. If we cannot clearly identify or articulate such problems, then we may decide not to proceed further at this time. If we can clearly identify and articulate such problems, then we may move on to the next step, which is to evaluate current regulations – zoning or general ordinances – and see if they adequately address the identified problem. If the answer is yes, the problems are adequately addressed by current ordinances, then we proceed no further. If current regulations are deficient, we proceed to the next step which is to research and investigate various regulatory approaches, get public input, and then adopt regulations.

Woodward has divided the presentation into four areas: (1) Land Use Introduction; (2) Problem Identification: Past / Present / Future; (3) Regulation: Past / Present; and (4) Exploration of Future Approach.

Woodward compared short-term rentals of single-family homes with various lodging uses. Short-term rentals vary in intensity according to the frequency of the transient use and level of direct supervision (presence of manager or owner). To the outside world, the impact may be similar to friends, family or a housesitter visiting a single-family home, with or without the homeowner present. Woodward feels the single defining characteristic of a short-term rental is transient use of a single-family home. It may be an accessory or principal use of the home depending on the circumstance. This is in contrast to hotels or motels, which are a principal lodging use which may also involve other accessory uses such as bars or restaurants. Woodward also showed examples of short-term rentals available in our area as advertised on different websites, including the Lake Superior Community Partnership.

For Problem Identification, Woodward stated that she has searched through historical Township records, and finds no evidence of violation notices or citations issued in the last 10 years related to short-term rentals of single-family homes. The Township Attorney has also searched his records to 1997, and has found no instances of the Township prosecuting violations relating to “vacation rentals”. In recent Commission meetings, people have offered public comment about vacation rentals, indicating problems with trash, noise, unruly gatherings, people trespassing (because they don’t know the location of property lines), and an uncertainty of having “strangers” next door. These types of complaints are common with non-rental residential situations as well. In imagining other possible problems, people may assume there will be a lower level of maintenance of homes used for short-term rentals, however the opposite is often true as indicated by the photos of advertised properties. The homes need to look good to be competitive in the rental market. There can be problems if occupancy exceeds the capacity of sewer, water, or fire protection systems (which could be true of any residence). Some people cite concerns with protection of residential or neighborhood character. There is a possibility that use of single-family homes for short-term rentals will reduce the amount of housing available for locals.

Woodward continued with a discussion of Regulatory Approaches. There are some

difficulties with current regulations, particularly definitions. One of the problems is that short-term rentals of single-family homes are not expressly addressed in the zoning ordinance. To make the assumption, according to current regulations, that short-term rentals are not permitted anywhere would be problematic, according to the Township Attorney. To prove this use is not totally excluded, it would have to be shown that the use is equivalent to a “hotel”, “resort”, or “recreational structure”, which is also problematic per existing definitions.

Woodward explored key definitions with the Planning Commission, offering suggested clarifications should the Commission decide to pursue regulation of this land use. She suggested that “Short-term rental housing” be defined as a single-family dwelling unit that is offered for transient lodging (accompanied by appropriate definitions for “dwelling unit” and “single-family dwelling”). She said that “Tourist Home” is usually equated with “Bed & Breakfast”, which is an owner-occupied single-family dwelling unit in which transient accommodations and morning meals are provided to guests as an accessory use of the residence. “Recreational structure” differs as a structure intermittently used for transient lodging accommodations but not permanent residence. “Hotel / motel” is a facility principally used for transient lodging accommodations and which may include accessory facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreation. “Resort” is a facility used for transient lodging accommodations where the principal use is recreation or entertainment (such as a ski resort with lodge), unlike single-family rentals where the principal use is residential. Per current definitions, these uses are easily confused and thus regulatory intent is not clear.

Woodward discussed Michigan laws that do not equate bed and breakfast uses with hotels, specifically because bed and breakfast uses involve single-family structures. This includes Act 188 of 1913 Hotels, Inns, and Public Lodging Houses; and Act 230 of 1972, the State Construction Code act.

Woodward related research summarizing how definitions and use regulations have changed over time in the Township. From 1962 to 1976, dwellings were defined as permanent or transient occupancy, excluding tourist cabins (which are presumably temporary occupancy). Following that time, the only definitions that specifically address single-family occupancy are those for “single-family dwelling” and “bed & breakfast”. The “single-family dwelling” definition does not address occupancy type, although the definition for “bed & breakfast” specifies both permanent and transient occupancy (owner and guests). Current definitions for “resort” and “recreational structure” address temporary residency incidental to recreational use.

Woodward then explained County Regulations concerning single-family dwellings. Before construction, the Health Department authorizes permits for the septic and well infrastructure based on the number of bedrooms. The Building Codes Department issues occupancy permits if the structure meets Code requirements at the time of occupancy. However, there are no County codes relating to the subsequent operation of “short-term rentals” or “Bed & Breakfast” uses in single-family dwellings.

Woodward then cited the potential regulatory approaches to take if it is decided to regulate this land use – (1) Regulate external impacts that are not unique to short-term rentals uses through community-wide ordinances (Nuisance Ordinance, Noise / Unruly Gathering, Trespassing); (2) Zoning regulations related to distribution and operation (allow only in designated areas, cap on the number permitted at any one time or within a certain area, and performance standards); (3) Stand-alone ordinance with annual registration / licensing; and (4) Ban short-term rentals.

We have limited ability to monitor these uses and enforce performance standards such as occupancy limits and rental period restrictions. We can more easily monitor parking and maintaining an up-to-date contact name for a local representative in case there are reported problems. We can and do enforce ordinances related to noise and trash accumulation and storage. We would need increased staff time to handle renewable licenses or inspections.

A prohibition may be difficult and cost prohibitive to enforce or litigate. A ban may be seen as an “anti-tourist” sentiment and may have a negative impact on residency and tourism. The end result could be to punish owners and tenants who have done nothing wrong.

If we allow the use with restrictions we would have more information about the frequency of use and impacts. We would be better able to control the location and conditions of approval. We would still support tourism and allow homeowners an opportunity for supplemental income. Woodward concluded her presentation, and asked for questions.

## **VII. NEW BUSINESS**

### **A. Lot Split Application #LS15-01, PID #52-02-305-012-00 and PID #52-02-305-011-00, commonly known as 250 and 254 Riverside Dr., Janofski**

Woodward provided the introduction – Janofski’s own two adjacent parcels, and would like to shift the boundary line between them by 25 feet to the west. Currently, the eastern parcel is 100’ wide and is thus non-conforming to the minimum lot width of 125’, so the proposed boundary change would make that lot conforming. The other lot would remain conforming. Concerning current setbacks, the eastern parcel has an existing structure with a 6.8’ side setback which is nonconforming with a 10’ minimum required side setback. The proposed change would make the side setback conforming at almost 32’.

The staff memo addressed the four standards in the Lot Split Ordinance that are used to evaluate an application for a Lot Split when it does not create a new building site. The Planning Commission is to review the application and materials presented, and make a recommendation to the Township Board, either as presented or as changed.

Mr. Janofski came forward with a survey indicating the proposed change. He said that the existing structures were built in the 1920’s and 1940’s. Woodward indicated

that she had received a supporting statement from the County Road Commission.

*Moved by Bohjanen, seconded by Ventura, that after review of Lot Split Application LS15-01; and review of the staff report dated 3/11/15; the lot split pertaining to Parcels #52-02-305-011-00, 254 Riverside Rd. and #52-02-305-012-00, 250 Riverside Rd. as presented at the March 16, 2015 Planning Commission meeting, be recommended for approval to the Township Board as presented, having met all standards of Section 42.6.B of Ordinance #42 Lot Splitting.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

Woodward indicated to Janofski's that this would be on the agenda for the next Township Board meeting on April 1, 2015 at 5:00 p.m.

**B. Short-Term Rentals of Single-Family Homes - Discussion**

Bohjanen asked about current regulations for long-term rentals of single-family homes. Woodward indicated there are none. Bohjanen asked if he would need Township approval before leaving town for a year and renting his home. Woodward said no, but it could affect his Principal Residence Exemption (PRE) for that year for tax purposes. Bohjanen mused that if you are worried about losing your PRE, you are not charging enough rent.

Gary Walker, Township Supervisor, explained that there is a State of Michigan ruling following the IRS Code that states that if you rent your home for more than 14 days out of the year, you are not able to claim a homestead exemption (because you have to pay income tax on the rent).

Smith asked if this has been a topic of frequent complaint. Woodward said no. Someone complained about a residential property with a house and three Air Stream trailers being used for seasonal residence, although they admitted it was probably limited to use by family members. Their main concern was parking the trailers too close to the property line, and people trespassing because they don't know the location of the property lines. Sikkema asked about the person at the joint meeting that had discussed this with Woodward. Woodward indicated that the citizen had asked about regulations, but had not called with a current complaint. Sikkema asked if anyone had checked with the police to see if there were any complaints dealing with short-term rentals. Woodward said she could check with them to see if any complaints were specifically related to short-term rentals. She is not sure if their records give this indication. Sikkema was trying to determine if there is actual data related to the extent of the problem.

Bohjanen said another option would be to do nothing. He thinks we should not regulate just because we can. Sikkema agreed with this.

Walker stated that our zoning powers are not infinite. As a government, we have to identify something that involves health, safety, and welfare. If we are going to regulate this, we have to make findings that say why we are regulating. Ventura

asked if health, safety and welfare include protection of property values. Walker indicated that it may, but we would have to be able to establish that a short-term rental lowers property values. We cannot simply speculate that this is what “may” happen. Meister stated that you could just as easily speculate that it would increase the values.

Paul Laurich, 872 Cherry Creek Road – he stated that he has managed both long-term and short-term rentals in the area. He stated he has more problems with his long-term rental tenants. Short-term renters have jobs, credit cards, and are here to spend money on vacation with their families. In his four years of short-term rental experience, there has never been anything broken or stolen, and no bounced checks. With long-term renters, they get into a place and they think they own it. Once they are in, it is hard to get them out. Another thing about short-term is that the rentals have to be kept in nice shape and be well-maintained or people will not rent them. Sometimes it actually makes the neighbors clean up their properties.

Mahaney said he has researched several websites, and a number of the homes that are listed are going for good money on weekly rates. With that kind of rate being charged, they are taking care of their homes. He doesn’t feel that they are attracting riff-raff at those rates.

Meister indicated that with the internet, it is becoming easier to rent out a place, so this will have to be addressed at some point. Smith indicated it would make it easier to catch the ones that are improperly claiming homestead exemptions.

Ventura indicated that if you go to a hotel in a larger city, you pay an occupancy tax to the local municipality – this may be something that the Township could be doing. Meister indicated that he stayed in a vacation home in Florida and he had paid a 12% occupancy tax. Woodward doesn’t know if that could be implemented here. Sikkema said he thought any tax would go to the Convention and Visitor’s Bureau, not the Township.

Sikkema asked if Commissioners feel that Lakewood Lane is mostly families or recreational property? Ventura indicated that there are both. Sikkema wondered if it was balanced more one way or the other, and asked what we want to see there?

Smith stated that you can bypass the rule regarding renting for less than 30 days by renting for a 31 day period, even if the tenant only pays for 2 weeks. He thinks people will get around that rule.

Sikkema stated he lived on Lakewood Lane for about 2 ½ years – and asked if other Commissioners would want this happening next door to them. He thinks the Planning Commission has to take into consideration what the residents who are raising families there want to see. Mahaney said you also have to consider the desires of the property owners offering the rentals.

Sikkema is concerned about people moving out if the area is opened up to short-term rentals. Mahaney said the internet indicates that there are rentals along

Lakewood Lane right now, and they may have been there for some time, and as far as we know, there are no complaints. Maybe the tenants understand and respect where they are.

Sikkema stated that one of the options is to just let it go and do nothing. Smith stated that if there were a bunch of written complaints then it would seem like the Planning Commission should look at it. Sikkema said a cavalier attitude about this could cause people to move out of the Township. Mahaney stated that he did not think that Smith was saying to turn a blind eye to it, but if there are no known issues right now, what is the need for regulation? What are we trying to correct?

Sikkema asked for a consensus decision regarding any action. Bohjanen agreed that everyone should render an opinion and reach a conclusion, but reminded the Commission that nothing need be done until zoning ordinance changes are pending. He said nothing needs to be done as a result of the Master Plan, and there is no citizen petition urging action, so this is not crunch time. Sikkema said the Township knows nothing of the residency decisions that are being made and why people move out of the Township. Bohjanen said there are many who don't move, and we don't know why they stay either.

Smith said he owned a lakefront lot and that several buyers declined to purchase after they discovered there were covenants mandating a minimum 6 month rental period.

Meister indicated there doesn't seem to be any decrease in property values on Lakewood Lane right now, but restrictions could be considered if there is indication that citizens want them, considering there will be those that don't want restrictions as well.

Ventura indicated that the Planning Commission should not take any action on it until the Township Board directs that something needs to be done. The Board is the one that gets information from the public. Walker indicated that it would be nice if the Planning Commission would communicate their conclusion to the Township Board.

The Commission discussed enforcement. Walker doesn't think that short-term rentals are really addressed in our ordinance right now, and doesn't feel that the ordinance could be enforced. Bohjanen indicated that the Nuisance Ordinance can be enforced, so in the interim, if there are complaints, they should be addressed in the same manner as long-term residences.

Sikkema saw something in the national news about people renting out large houses in California for parties. He would not want to live on Lakewood Lane with a short-term rental next to him. He feels if it was him, he would file a complaint, and if the Township said nothing could be done about it, he would move out and turn it into a short-term rental. Smith asked for a definition of short-term. Is it 2 weeks, 30 days, 60 days, 90 days – how long does it take till it's considered long-term? Mahaney stated he could see both sides of it. He can see certain property owners not wanting

transients – he also sees the other side of being a private homeowner and not wanting to be told what he can and cannot do. Sikkema asked why we can regulate a transmission business in a garage, but not someone renting out their home as a business?

Bohjanen stated that he has a long history of being against the idea of regulating to solve disputes between neighbors. It's not a matter of like or dislike – you have to regulate based on health, safety, and welfare. Sikkema agrees there needs to be a government interest.

*Moved by Ventura, seconded by Smith, to have Planning Director Woodward write a brief summary to the Board explaining why the discussion of this item is being tabled following a determination that no action is necessary at the present time.*

*Vote: Ayes: 5 Nays: 1 (Sikkema) MOTION CARRIED*

**C. Request for comment on Land Use Order of the Director rule change for portion of Marquette to Munising Junction Trail located on State owned land in Alger and Marquette Counties**

Woodward explained the DNR request for comment on their proposal to allow side-by-side ATV's on the portion of trail where ORVs are already allowed from the casino east into Alger County. Currently ORV's and vehicles more than 50 inches in width are prohibited. The DNR wants to do this because the "ORV trail" connects with an "ORV route" on which the vehicles are allowed, so it is confusing to riders. The Planning Commission is being asked to submit a recommendation to the Board for comment to the DNR either in support or opposition.

Sikkema indicated that this would allow side-by-sides, along with jeeps and other licensed vehicles along this route.

Ventura commented that he had talked with Carol Fulsher from the Iron Ore Heritage Trail (IOHT) Recreation Authority about a year ago about the idea of extending the IOHT to include the charcoal kilns that are at Deerton and Rock River, because they were part of the iron ore heritage as well. She said she didn't have any money right now to do that sort of thing. His comment would be that if the Planning Commission says yes to the DNR for wider vehicles, it makes it that much harder to then make this part of the IOHT. They ran into a similar problem west of Ishpeming and ended up having to put two parallel trails, one for ORV's and one for bikes, walkers, and skiers.

Smith indicated that if the DNR is proposing this, they have put a lot of thought into this and there must be a very good reason for their proposal. Sikkema stated it seems like the DNR wants to clean up some of the confusion on trail versus route.

Ventura asked what happens on these trails when two of the wide vehicles meet head to head. Bohjanen indicated that the two routes that he utilizes to get to hunting and fishing spots present the same problem with jeeps and trucks. If you come head to head with a vehicle that you can't pass, one has to back up.



Ventura mentioned the IOHT goes all the way to Kawbawgam Road and doesn't stop at the casino. Bohjanen stated there is no parking on the casino road – the only parking would be at the Pocket Park at Kawbawgam. Ventura indicated he is not opposed to it, but it is not as simple as it is suggested.

*Bohjanen moved, and Smith second, to recommend that the Chocolay Township Board submit a comment to the Michigan DNR in support of the proposed Land Use Order of the Director rule change for a portion of Marquette to Munising Junction trail located on state owned land in Alger and Marquette Counties, the effect of which would remove a prohibition against operating a wheeled motorized vehicle which is greater than 50" in width along said trail.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

## **VIII. UNFINISHED BUSINESS**

### **A. Provide direction for potential revision of Ordinance #55 and the Zoning Ordinance related to parking of vehicles and storage of vehicle parts**

Woodward stated that the Planning Commission had identified one problem as the ability to park an unlimited number of licensed and operable vehicles and trailers on a property. The Planning Commission needs to think about whether they want to restrict the number of vehicles, and whether the appropriate number allowed would depend on the zoning district and property size. Another thing to think about is where the vehicles are parked, and whether a setback or screening requirement would help alleviate complaints.

Woodward stated that per request she has provided the Planning Commission with an example of an ordinance with exceptions to the rules – it is from Schoolcraft Township in Kalamazoo County – it basically states that the Supervisor has the authority to grant a waiver from the vehicle storage location requirements if there are special circumstances beyond the control of the applicant that make compliance unfeasible or impractical, if adjoining property owners are not adversely affected, and if the spirit of the regulations are still observed. The waiver could be granted with conditions. Woodward said she did not recommend that it become the Supervisor's job, but this was presented as an example of flexibility in regulation. Summaries of regulations in other municipalities were also provided.

Sikkema indicated that he has seen issues brought up a number of times about the overall number of trailers and types of trailers, and parking and condition of agricultural equipment. There are also concerns about ownership of licensed vehicles – people are storing other people's vehicles on their property. He knows of one person who is leaving the Township because he is not putting up with his neighbor's junk anymore. Woodward asked if this particular instance was on the enforcement list. Sikkema thinks it is – the person has told him that he has talked about it before and nothing ever changes. Sikkema stated that since the last meeting he has had two people come up to him and complain about the junk – one

was about a person who runs a business out of their house, but doesn't live at the house – right now there are three hot water heaters setting in the yard.

Meister wondered if part of the problem is the enforcement – if the problem isn't reported to Woodward, there is sometimes no way of knowing that it is happening. Sikkema indicated that Woodward's time is taken up with many things. These types of things sometimes take a lot of time to resolve. Sikkema indicated that he is not for over-regulating, but he doesn't think you can just turn a blind eye to this.

Smith indicated that the only reason he would entertain modifying this ordinance is because there has been a resident coming to every meeting for three years with the same complaint. Maybe the language just needs to be cleaned up a little bit. If you have 80 acres and can park everything in the back, you are not a nuisance to the neighbors.

Bohjanen stated he thinks the things that could be dealt with are parking in the road right-of-way, screening, and health and safety. Aesthetics and neighborhood fights are not something you can control. The prohibition about parking in the road right-of-way is already in the ordinance, but maybe the language needs to be made clearer that you cannot store your junk there. Something about screening could be added to the ordinance, so it would be a change, not a whole rewrite. Concerning the numbers of trailers that could be stored, maybe that can be solved in relation to zoning standards – it's a lot different if you have 20 acres to store things on.

Meister stated he agrees with Smith that there are some things in the ordinance that need changes, but not a complete overhaul. There are some minor oversights that could be corrected rather than rewriting the whole ordinance.

Sikkema said someone who lives on Lakewood Lane could buy a 50 foot trailer and park it in their driveway as a storage unit and it would be allowed. Ventura asked if this was something that could be solved by requiring that they must be parked in the back yard. Bohjanen wondered about the official definition of back yard. If your house is 200 feet from the road, and it faces the lake, between the house and the road is your backyard.

Sikkema suggested that the Planning Commission be proactive in looking for the loopholes in the ordinance that could be exploited. Smith indicated that most normal people would not park nine trailers in their yard, but currently this could happen. He feels something should be done to some degree to prevent the one person who may think it is okay from doing it. Ventura asked how you would determine the right number. Sometimes the type of trailer and use would be a determining factor. Bohjanen suggested required setbacks for trailer parking. Woodward suggested allowing one trailer to be parking in front of the home, and requiring the rest to parked in the rear. Smith indicated that there are some places that you would not be able to get to a back yard. He wondered if there is anything in the ordinance that prohibits people from storing other people's vehicles on their property. Woodward said there is currently no prohibition as long as they are licensed and operable.

The Commission discussed the possibility of semi-trailers being used for storage, and the fact that the licenses are forever. Supervisor Walker indicated that you could write the ordinance to refer to trailers that are licensed and used as being allowed. Sikkema indicated that this has come up before, and there is no way to tell if the trailer has been moved or not – how far do they have to move it? This is an enforcement difficulty.

Woodward stated that if the Planning Commission would provide her with what they feel are the problems and what needs to be improved, and then she can provide some options.

The storage of multiple trailers was further discussed. Mahaney asked about ordinances that state that certain size vehicles cannot be parked in the neighborhood. Meister indicated that there should probably be a distinction between storage trailers and recreational vehicles – doesn't know if there is a way to differentiate.

Enforcement difficulties were further discussed. Supervisor Walker indicated that one of the things that's been encountered at the Township is people coming in with photos that they could only have obtained by trespassing on someone else's property. The problem is not visible from the roadway, which is problematic for Woodward because she cannot enter onto the property for inspection without the owner's permission.

Bohjanen asked about grandfathered conditions. Woodward indicated that there is no grandfathering with a stand-alone police power ordinance. So if we change the rules, then we enforce the new rules. However, the Zoning ordinance has non-conforming clauses to allow things to be grandfathered in. Woodward indicated that there are regulations in the zoning ordinance prohibiting the parking of vehicles of a certain size in certain zoning districts.

Woodward summarized what she has heard from the Planning Commission at this point is that if there are multiple trailers and they are screened, it is probably not a problem.

Mahaney wondered if the Planning Commission should shoot for a size limit. Sikkema indicated that some RV's are bigger than semi-trailers.

Ventura wondered if there could be something added to Regulation 4.A.1.a about the R1 zone being limited to 3 vehicles and AF being limited to 5 vehicles. Woodward said she would have to see if we can add references to the zoning ordinance in a stand alone ordinance.

Woodward indicated that you can have "inoperable" vehicles as long as they are screened. Smith feels that if you have enough property and everything is screened, there should be no problem. Sikkema indicated that our current regulation does address screening adequately.

The Commission discussed agricultural equipment which is not licensed. Ventura

stated the ordinance has an exception only for vehicles “used” for agricultural purposes, so if they’re not used they’re junk vehicles. Woodward stated that this ordinance applies to premises primarily used or zoned for residential occupation. So, a 40 acre parcel in the AF district with a house – would that be primarily for human occupation? There are things that will need to be clarified.

Smith stated Section 4.A.1 could potentially produce problems. Ventura stated part of this could be fixed by saying the license needs to be held by the property owner. Woodward stated she didn’t know if she could get ownership information.

Sikkema asked about buying a used semi-trailer with tires, license it for \$75, and use it for storage – how does the Township deal with that. He feels this is something that could show up in residential neighborhoods and cause problems. Meister asked if we were just looking to ban semi-trailers.

Ventura indicated there was something in Section 4.A that states, “...and does not violate any of the zoning or building laws of the Township, County, or State of Michigan ...”. It does reference zoning, so could we not use zoning districts as a way to regulate it. Woodward indicated that question would be asked of the Attorney.

Sikkema asked Woodward to do more research on the above items. Woodward asked the Planning Commission also to send her examples they might find.

**B. Master Plan – Continuing review of final draft version and comments received to date**

Woodward asked that the Planning Commission decide whether to implement changes related to public comment (specifically from Alger Delta Cooperative Electric) now or at a later date. The Commission decided to implement any changes at one meeting at the conclusion of the public comment period.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER’S COMMENT**

None

**XI. DIRECTOR’S REPORT**

Woodward indicated she had given the Commissioners some information on upcoming training, or if anyone would like to do the Citizen Planner this year, she can get ahold of Brad Neumann for information.

Sikkema asked Woodward on the status of the Beaver Grove Community Farm – Woodward indicated that they are getting ready to host workshops and Field Days – the first one is March 26 at the Township Hall related to northern fruits. Hannah Brisson is doing the presentation. Other topics will relate to soil testing and development of swales for water catchment. They are looking for people who have knowledge and experience in these areas to help with the presentations. There is a new management team member – Phil Britton. The money from the first grant will be used for a banner, which

will have a code on it that you can scan with your phone and it will take you to their website. The website is in the development stage. They will be developing the children's garden this year, including a structure.

Smith said that the neighbors are complaining because of excess garbage on the disc golf trails. Woodward stated she had a hard time believing it is the disc golf players because they maintain the trails. Supervisor Walker indicated that once the disc golf started, the police and DPW indicated to him that they were getting a lot less garbage. There are quite a few kids that use the trails back there. Walker suggested Smith have the person making the complaint come in and talk with us.

Supervisor Walker thanked the Planning Commission for the work that they do. He stated they were a very vital part of Township Government, and that he appreciates everything they do.

## **XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

## **ADJOURNMENT**

Sikkema adjourned the meeting at 9:30 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, April 20, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Smith at 7:03 p.m.

**ROLL CALL**

*Members Present:* Andy Smith (Vice Chair), Eric Meister (Secretary), Bruce Ventura, Kendell Milton

*Members Absent:* Andy Sikkema (Chair), Richard Bohjanen (Board), Tom Mahaney

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Dale Throenle (Community Development Coordinator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**March 16, 2015**

*Motion by Meister, seconded by Ventura, to approve the minutes as written. Comment made by Ventura that the minutes were very extensive and thorough.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

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

*Motion by Milton, seconded by Meister, to approve the agenda as written.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

None. Public Comment closed.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

**A. Land Use Explorations – Land-Use Classification, Kelly Drake Woodward, Planning Director / Zoning Administrator**

Woodward indicated that the discussion is based on the “Land-Based Classification Standards (LBCS)”, which is a project between the Federal Highway Administration and the American Planning Association to standardize land-use coding to facilitate cross-jurisdictional data sharing between government entities. This is based on the Standard Industrial Classification (SIC) Codes. For Chocolate Township, it can provide a basis for a comprehensive, organized approach for zoning land use tables.

The LBCS is divided into five dimensional categories: (1) activity; (2) function; (3) structure type; (4) site development character; or (5) ownership. Woodward presented and summarized these five categories as below. Ventura asked about the use of the word “or” in the above – does this mean they need to pick between the

different classifications, or would the matrix include all of them? Woodward indicated the method usually uses combinations of categories.

**Activity** refers to how the land is actually used – what is taking place physically and what you would observe happening. Woodward said categorizing land use by activity is one of the best ways to address nuisance impacts as it reflects what is actually taking place on the site.

The four digit codes for classifying land uses by **activity** include: **1000** – Residential (household, transient, or institutional); **2000** – Shopping, Business, or Trade (shopping, restaurant, or office); **3000** – Industrial, manufacturing, and waste-related (factory or heavy goods storage, solid waste management, construction); **4000** – Social, institutional, or infrastructure (school or library, emergency or public safety, utilities, mass storage, health care, interment or cremation, military base); **5000** – Travel or movement (pedestrian, vehicular, trains or rail, boating and other port / marine, airport or spacecraft); **6000** – Mass assembly (indoor or outdoor gatherings of many people); **7000** – Leisure (active or passive, flying, water); **8000** – Natural resources-related (agriculture, livestock, pasturing, logging, quarrying, mining, dredging); **9000** – No human activity or unclassifiable.

**Function** is based on the economic function or type of establishment (which can be a variety of activities all serving a single function or establishment, such as an office and factory). It could also be useful for fine-tuning for compatibility in a mixed-used setting, or differentiating between districts.

The four digit codes for **function** are: **1000** – Residence or accommodation (private household; housing services; hotels, motels and other accommodations); **2000** – General Sales or services (retail sales and services; finance and insurance; real estate, rental and leasing; business, professional, scientific, and technical services; food services; personal services; pet and animal sales and service); **3000** – Manufacturing and wholesale trade (food, textiles and related; wood, paper and printing; chemicals, metals, machinery, and electronics; miscellaneous manufacturing; wholesale trade; warehouse and storage); **4000** – Transportation, communication, information, and utilities (transportation services, communications and information; utilities and utility services); **5000** – Arts, entertainment, and recreation (performing arts; special purpose recreational institutions; amusement, sports or recreation establishments; camps, camping and related; natural and other recreational parks); **6000** – Education, public administration, health care, and other institutions (educational services; public administration; other government; public safety; health and human services; religious; death care; associations and non-profits); **7000** – Construction-related (building, developing and general contracting; machinery-related; special trade contractor; heavy construction); **8000** – Mining and extraction establishments (oil and natural gas; metals; coal; nonmetallic; quarrying and stone cutting); **9000** – Agriculture, forestry, fishing, and hunting (crop production; agricultural support; animal production; forestry and logging; fishing, hunting, and game preserves).

**Structure Type** is especially useful when coding for appearance and continuity of the public space, as in form-based codes.

The four digit codes for structures have been broken down as follows: **1000** – Residential buildings (single unit; multi-unit; specialized units – barracks, dorms, hotels, single-room occupancy, temporary structures, converted structures); **2000** – Commercial buildings and other specialized structures (office or bank; store or shop; office or store with residence above; office over store; malls, shopping centers; industrial buildings – light and heavy; warehouse or storage facility); **3000** – Public assembly structures (theater; indoor games; sports stadium or arena; exhibition convention or conference; churches; capitol buildings; passenger assembly); **4000** – Institutional or community facilities (medical; school or university; library; museum or exhibition; public safety-related; jails and other correctional; cemetery, monument or mausoleum; funeral home and cremation); **5000** – Transportation-related facilities (linear or network feature; automobile parking facilities; bus stop shelter; bus or truck maintenance; water transportation or marine; air and space transportation; railroad facility); **6000** – Utility and other non-building structures (utility structures on right-of-way; water-supply related; sewer and waste-related; gas or electric power generation; communication towers; environmental monitoring station; sign or billboard; other miscellaneous – kiosks, roadside stand, welcome centers, playground, fountain, sculpture, outdoor stage); **7000** – Specialized military structures; **8000** – Sheds, farm buildings, or agricultural facilities (grain silos and other storage structures; livestock facility; animal feed operations facility; animal waste-handling facility; greenhouses; hatcheries; kennels and other canine-related; apiary and related; other ag related accessory buildings); and **9000** – No structure (subsurface).

The **Site Development Character** category is the overall physical development character of the land. This category could be useful in a build-out analysis or other analysis of development potential or vacancies. This category could also be used for assessing.

Classifications for **Site Development** included: **1000** – Site in natural state; **2000** – Developing site (graded with no structures or use, temporary structures); **3000** – Developed site – crops, grazing, forestry, etc.; **4000** – Developed site – no buildings or structures; **5000** – Developed site – non-building structures (landscaped, billboards, roads, tanks, or reservoirs); **6000** – Developed site – with buildings; **7000** – Developed site – with parks or trails; **8000** – N.A.; and **9000** – Unclassifiable per site development character.

The last category is **Ownership**. This is the relationship between the land use and land rights (public, private, mixed public / private, easements). It is useful for knowing which regulations supercede others, and which are out of local government control. Ownership impacts development character through decision-making authority. Classifications for **ownership** are: **1000** – No constraints – private ownership; **2000** – Some constraints – easements or other use restrictions; **3000** –



Limited restrictions – leased and other tenancy restrictions; **4000** – Public restrictions – local, state, and federal ownership; **5000** – Other public use restrictions – regions, authorities, tribes, etc.; **6000** – Nonprofit ownership restrictions; **7000** – Joint ownership character – public entities; **8000** – Joint ownership character – public, private, nonprofit, etc.; and **9000** – Not applicable.

Woodward introduced the draft land use matrix that is the type of table that would be implemented with future zoning revisions. The table lists general categories of land uses with more specific land uses below, and eventually would indicate which land uses are permitted in the different zoning districts that could be developing based on master plan recommendations. She would like to get input on the organization of the table.

Milton asked if the category / matrix was flexible enough for a residence and a library to share a structure. Woodward indicated that in the table (#240) she did indicate mixed-use applications, and the Commission would still need to decide which uses could be combined in the different zoning districts.

Meister asked if the idea behind this was that someone could find what they want to do on the table and look across to find where they would be allowed to do it. Woodward indicated that was the intent.

Lee Blondeau, 2001 N. Traci Lane, asked for clarification on SIC codes. Woodward indicated it stood for Standard Industrial Classifications, and could be used as a basis for detailed use standards. The new proposed mixed-use classification as recommended by the Master Plan was discussed. Woodward feels this will add some flexibility for property owners.

Ventura asked where the three digit classifications in the use matrix came from, since the LBCS codes were four digit numbers. Woodward didn't feel there was a need for four digit numbers, but if we want to be consistent with the LBCS for data base purposes, we could go to a four digit system.

## **VII. UNFINISHED BUSINESS**

### **A. Review potential revisions of Ordinance #55 related to parking of vehicles and storage of vehicle parts**

Woodward introduced the discussion starting from a list of the things she thought the Planning Commission had identified as potential problems in previous meetings, including:

- Number and types of trailers that can be parked on a property
- Parking location and condition of agricultural equipment
- Parking of multiple vehicles (which may be more acceptable if out of sight in the rear)
- What is allowed might be related to size and the use of the trailer (whether for recreation or storage)
- What is allowed might be related to lot size or buffers / screening provided

- The problem may be more related to where the vehicles are parked (near property boundaries or within view of the road or adjacent properties) and setback requirements or screening standards may help alleviate complaints

Woodward created a draft that would address all these issues, and it may be more detailed than need be, but it is a starting point. From here it can be simplified. New definitions are related to where cars can be parked on the lot as well as specific vehicle types - agricultural, and recreational, also mobile homes. The proposed draft clarifies the provisions for parking vehicles in the right-of-way, because currently our ordinance says that you are not to park in a public right-of-way EXCEPT for when it is a duly licensed and operable vehicle. Woodward also proposed a prohibition about parking vehicles where it presents a fire or safety hazard or obstructs building entrances. Another newly proposed provision is that any vehicle over 8 feet tall be stored at least 10 feet from the lot line so the view is not blocked by someone's trailer.

Smith asked if this is based on other existing ordinances. Woodward stated that the provisions are similar to other township ordinances.

Woodward tried to develop provisions to control vehicle parking in the front yard. It also controls the number of trailers that can be parked or stored in the front or side yards - anything over three have to be parked in the rear and substantially screened. There are provisions related to the parking of agricultural vehicles in the front or side yards (unless the principal use is a farm). There is a proposed provision dealing with inoperability determinations (which would still need to be looked at by the attorney) – if the Zoning Administrator cannot see the license, it will be presumed inoperable, although the owner would have the opportunity to show (within a specified time frame) that the vehicle is licensed and operable. There is also a provision dealing with seasonal use of parked recreational vehicles on the premises, and a prohibition against using semi-trailers as storage containers.

Smith feels that the summary of comments that were brought up at the last meeting is pretty accurate.

Milton wondered about “substantially screened” – how big and how far. “Substantially screened” is by a solid fence or wall or by landscaping or other natural barriers of ample height and density so the vehicles are barely discernable (such as a hill or tree cover). This is found in Section 7.A.2, related to the storage of recreational vehicles or trailers in the rear yard. The Commission discussed Section 4.D.4 “Waivers on front and side yard provisions – Sec. 4.D.4.a states “The premises have unique conditions that are beyond the control of the applicant that make it unfeasible to locate currently licensed and operable vehicles in full compliance with these requirements, such as unique parcel configuration or terrain” and Section 4.D.4.b states “The front and side yard areas are completely screened from view by a vegetated buffer at least fifty (50) feet wide.”

Meister asked about parking a car that is for sale in the road right-of-way. He

indicated that it looks like we allow property owners to display vehicles for sale for a period of time, but we are proposing that the vehicles can only be placed in the right-of-way if it meets the uniform traffic code. Most people offering vehicles for sale park at least a portion of the vehicle in the right-of-way. He feels that it would be okay, as long as they are not impeding traffic. Woodward stated that it is not actually legal to park in the right-of-way except as indicated by applicable vehicle codes, so the Township rules should be consistent with the State's rules.

Woodward discussed the proposed requirement that parking only be allowed on an improved surface in front or side yards. We do include gravel as an improved surface, which most other ordinances do not. Dirt would not count as an improved surface, however there are unimproved dirt driveways in the Township. The Planning Commission needs to decide if they care if people park all over the front yard, or if parking needs to be limited to the vicinity of the driveway (the size of which is limited). There are various ways to approach this, and some are more complicated than others. Meister asked if someone has a recreational vehicle, would they have to park it on a graveled spot. Woodward indicated that the proposed draft says if you want to park/store recreational vehicles in the side yard, you can have a separate improved surface for that, but otherwise the improved parking surface would need to be connected to the drive that goes out to the road. Ventura indicated that there may be some confusion on using the words "parking" and "storage". If an RV is stored for 6 months, he doesn't feel it is parking, it is storage. He felt that this may need to be clarified – to him "parking" means you are using the vehicle on a regular basis. Anytime you are using a vehicle on a regular basis, you would need a hard surface to park it on or a driveway of some sort, where for storage, you may not need the same type of surface. Woodward indicated that everything in the ordinance refers to both "parking / storage", except for the heading on Section 4.D, so it is currently not differentiated.

Smith indicated that he has not had the opportunity to drive around the Township and research the potential impacts of the draft ordinance. He asked if anyone else had taken the opportunity to drive around. Milton asked if they needed to approve anything at this point. Woodward indicated it was up to the Planning Commission. The next step in moving forward is for the Planning Commission to make any changes they would like to make, and then schedule a Public Hearing.

Meister indicated he was still unclear about the recreational vehicle storage / parking. He knows there are a lot of people that store their recreational vehicles in their yard, and does not feel they would want to put in a gravel pad to store them on – they would usually just park their RVs on the grass on the side of the house for the winter. He doesn't feel that people would want to start putting gravel pads all over their property. Woodward indicated this might have to be reworded somehow – this is found in Section 4.D.1 and Section 4.D.2, which says the parking surface can only include the areas privately or publicly connected to the road access or easement, except you can have one improved parking surface in the side yard, as long as it is

located as far as possible from the side property line. Woodward stated you could just take out the word “improved” in that Section 4.D.2. Meister feels that to leave it as it is there would be a lot of people that would be in violation with their recreational vehicles and boats.

Milton feels that people should be able to park vehicles on any surface that they want to. Woodward indicated the purpose of the provision is not to control the parking surface – it’s to keep vehicles from being parked all over the front yard. So if there is another way to prevent vehicles from being stored in the yard area without requiring that they be parked on an improved surface, she is open to suggestion.

Ventura indicated that approach was used in the City of Marquette to limit front yard parking. There was a lot of push-back at the beginning of the ordinance, but after people saw the improved appearance, especially with rental properties, they came around to accepting the ordinance as a good thing. The City ordinance prohibits parking on anything but a paved surface.

Meister doesn’t feel it should be included, simply because a lot of people would be in violation, and he doesn’t feel that it is part of the problem – it’s more the number, rather than where they choose to park their vehicle. Woodward stated that then you would have to determine how many vehicles to allow.

Milton indicated that there needs to be a level of reasonableness. Woodward suggested a simpler requirement that parking has to be on or near the driveway, and not taking up more than a certain percent of the front yard. Smith asked if the percentages were based on other ordinances that Woodward reviewed. Woodward indicated it was, but still if you have a big yard, 40 or 50% allowance can mean that a lot of cars could be parked there. Meister asked if parking for cars and trucks was currently a problem, or is it just trailer parking. Smith said it’s a potential problem, but regarding trailers, the potential problem seemed to be that if you have permanent license plates on trailers, you could park many of them in the yard. Woodward indicated that there are residents that call to complain about the number of vehicles in someone’s yard, and she has to tell them that if they are duly operable and licensed, they can have as many as they want.

Woodward feels the whole group needs to be okay with the proposed ordinance changes before they go public. With three people missing this meeting, they may want to take more time to be able to drive around the Township and get a feel for how the ordinance will affect the people in the Township. Meister indicated that when he drove around the Township, it wasn’t the cars and trucks that he saw as being the biggest issue, it was more the miscellaneous junk. Smith indicated that he would like more time to drive around and analyze the ordinance.

Woodward indicated that many of the original provisions are unchanged, yet the ordinance may look a little different as it is organized – the exceptions to the rules are organized by type now. Woodward discussed the proposed provisions in detail to make sure the Commissioners understand before they tour the Township.

One new provision is Section 7.B – Temporary occupancy of one recreational vehicle on a private parcel used for residential occupancy is permitted for no more than 90 days per year, except for in a campground. You are not permitted to have two dwellings on a property, but some people use trailers as guest houses during the summer.

Semi-trailers, with or without wheels, are not permitted for storage. Smith asked if this was regardless of property size or buffering / screening. Woodward indicated it was. Ventura stated that he thought this is what it was all about – getting rid of the trailers for storage. He thinks we should leave it in. Smith indicated he didn't think it would matter if you had a large property and could properly buffer them. Woodward indicated that the provision could be changed to read that semi-trailers and similar types of vehicles could only be used as storage containers if they are in the rear of the property and substantially screened from view. The Planning Commission thought this would be a good idea.

Ventura indicated he felt it would be difficult to enforce the 40% and 50% front yard provision- this would be hard to explain to people and would take a lot of time to enforce. Woodward indicated that if the Planning Commission was going to simplify anything, it should be that section.

*Moved by Meister, seconded by Ventura, that the review of potential revision of Ordinance #55 Vehicle and Trailer Parking and Storage be tabled until the next meeting.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

*It was reiterated that the homework was to go out and find examples of problems, and also to keep the meeting materials for use at the next meeting.*

## **VIII. NEW BUSINESS**

### **A. Land Use Classification – Discussion**

Woodward indicated that this discussion will help the Planning Commission with land use classification for future zoning ordinance updates. Each category includes both principle and accessory uses.

Milton asked about the Tier 1 and Tier 2 distinctions. Woodward said when the Commission revised the home occupation provisions, they divided them into Type 1 and Type 2, so on the use matrix these two types are handled separately. Type 2 home occupations are currently only allowed in single-family residences. This is why only Tier 1 Home Occupations are indicated under multi-family residential categories.

Ventura asked for a definition of the LUI Code. Woodward stated the LUI code is something she has used before in ordinances – it is called the Land Use Intensity code. It would be assigning a range of intensities to the potential uses, and it would be related to screening requirements – LUI 1 probably would not have screening requirements at all. If you have LUI 6, which is the highest intensity uses, you would have the most substantial screening requirements. This would be implemented

when something new is built, or something is redeveloped. She would like to incorporate something like this in the future. The zoning districts correspond with what is outlined in the draft Master Plan, but are subject to revision.

Woodward asked that the Planning Commission study the land uses in the table in relation to the LBCS tables, and see if the proposed land use table is comprehensive and has a reasonable organization.

Ventura asked if they are to assign codes to each use in each zoning district, such as P (Permitted), C (Conditional), or a dash (Not Permitted). Woodward said eventually, yes. First she wants to focus on the categorization of the uses. For example, some categories (such as 211) include many different types of businesses – the Planning Commission needs to decide if they belong together, or in separate categories based on Township context.

Meister asked if the zoning districts were new. Woodward stated that some are new, but some are new in name only – for example, RV (Residential Village) is essentially a new name for the current R-2 zoning district, and RN (Residential Neighborhood) is essentially a new name for the current R-1 zoning district.

Meister asked if they are deciding if these are right before putting them on the map. Woodward stated that this was already done in the Master Plan. The zoning districts listed on the chart are indicated as per the Master Plan, but may be subject to change – for example, two zoning districts are listed for Residential Waterfront and Agriculture Forestry categories, but perhaps only one distinction will be necessary.

Smith asked if Woodward thought this would give the Township overall more flexibility – encourage more development in Chocolay Township. Woodward stated that the mixed use zoning districts will allow some increased flexibility in redevelopment and reinvestment, with attention to controlling the compatibility factors. Perhaps this would encourage vacant properties to be reused or redeveloped sooner. Smith wondered if, at present, there were just too many hurdles for prospective businesses. Woodward stated that property owners may also have something innovative in mind which doesn't fit with current ordinance requirements. This would provide more flexibility. Smith asked if there were very many inquiries on things not currently allowed. Woodward stated yes.

Woodward asked if this should be discussed at the next meeting with the whole group. Meister indicated he thought the junk ordinance should be the priority to get resolved at next meeting, with the secondary being the land use classification.

Woodward asked if they wanted a land use exploration presentation for next month's meeting, such as accessory buildings or mixed use compatibilities, or would they prefer to work more on the land use classifications. Ventura was in favor of working on the land use classifications rather than jumping into something else. Smith indicated that he will need some time to look over everything.

The Commission decided to look in particular at the land use categories in detail by

assigning permitted status (P, C, or -) to all uses in the first three zoning districts, which are the mixed-use zoning districts (MU-C, MU-N, MU-V). In other words, Commissioners will have homework to label each use in the first three zoning districts as being either Permitted, Conditional, or Not Allowed. For reference, the descriptions upon which the zoning districts are based are in the draft Master Plan (Chapter 7 has the future land use plan / descriptions, relationship of future land uses with current and future zoning, and future zoning plan, while the current zoning map is in Appendix M and future land use map is in Appendix U.) The draft Master Plan is on the website at <http://www.chocolay.org/masterplan/masterplan.php>.

Woodward also indicated that at the next meeting, the Master Plan comment period will be complete, and there will be a Public Hearing and decision on adopting the draft Master Plan.

Smith asked that Woodward send an email to all the Planning Commission members on what needs to be done on this topic. Ventura asked that along with the email, Woodward include a chart that explains what each district abbreviation stands for to avoid confusion. Woodward indicated she would do this.

**B. Preparing for future development along the Harvey corridor**

Woodward indicated that she is getting a lot of inquiries about properties that could be redeveloped. There is nothing in the ordinance right now on buffers and screening for uses that have a lot of outdoor storage. Woodward is asking that the Planning Commission let her develop a proposed zoning amendment to deal with reasonable screening of outdoor storage uses in the Village of Harvey. She is concerned that current development could impact the area for many years. She would also like the Commission to consider implementing the Master Plan recommendation LU-10 to recommend that the Board hire a team of consultants to create a development plan for the Harvey corridor area. Money is available in the current budget to go towards the project.

Meister indicated that the only property that is deeper would be the Wahlstrom property, otherwise they are relatively shallow. If someone put a commercial business in there, he feels there are already green space requirements for parking lots. Woodward stated that there are only requirements for parking lots with 50 cars or more. Meister indicated he doesn't see where they would have enough property to set aside additional property for the buffer beyond the right-of-way. As an example, Woodward indicated there is another property near Wahlstrom's that has been proposed with parking in the front and the building to the rear. Since there would not be 50 parking spaces, there would be no requirement for parking lot landscaping. Similarly, there are no screening requirements for a use that has a lot of outdoor storage.

Milton asked if the consultants would be addressing this issue. Woodward indicated they might develop some general recommendations to go along with a form-based code if we moved in that direction. Milton asked if they would be local. Woodward

indicated it was possible.

Meister sees it as being useful, but doesn't see a large demand for businesses wanting to come into Chocolay Township. If this is restricting further, it might keep these properties from being developed. Woodward indicated that now is the time for shaping future development. Meister indicated this would take away a substantial part of their property. Woodward said she could development options that are compatible with a small space.

Ventura indicated he would be in favor of the first proposal as a first step for redevelopment. Buffering isn't well defined – may need to give people examples, as they are much more comfortable with examples – anything that can be done to improve the appearance of the corridor helpful to residents, tourists, and business owners. Woodward indicated she wasn't trying to block the view, just filter the view aesthetically. Ventura said the highway aesthetic program was a good start, but the plantings weren't all successful. Woodward indicated the proposed standards would apply to the private space. Ventura thought it could be a joint public and private screening effort – it provides more space for the screening and is mutually beneficial to both.

Smith asked about the two options given – Woodward indicated that one is immediate and the other will take a longer time to implement. She would like both options addressed as soon as possible.

*Ventura moved, Meister seconded, to direct the Planning Director to draft ordinance revisions for the area containing prime redevelopment opportunities in the Village of Harvey (meaning the US 41 Corridor) for the purpose of facilitating a beneficial mix of uses and improving pedestrian-oriented environment, with special attention to buffering of outdoor storage, display, or sales areas, and also to encourage a public / private cooperation within the MDOT right of way.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

Smith asked if there was any discussion on the second item of making a recommendation to the Township Board to hire consultants. Milton indicated he would like to wait to see what Woodward comes up with in the first option, and go from there.

Ventura indicated that redevelopment is not driven by the Township, but by private monies. If private money saw an opportunity here, they would be coming in. There is not a lot we can do, other than make it look better, until we get a water system. This would encourage major development.

Woodward indicated that one item involved with the study that might help stimulate market interest is that the consultants would involve the property owners in the planning process to see what is envisioned. This planning process would also provide guidance to developers regarding available sites and market demand.

Meister indicated that if people were able to get grant money to help develop the



property that would be an incentive. Woodward stated that she had talked with the MEDC Community Assistance Team representative for the Upper Peninsula, and she had suggested the Corridor Improvement Authority might be a mechanism to help fund redevelopment.

Meister indicated that part of the Township's problem is that everyone is in Marquette every day, so they shop there. People in Marquette do not come out here. Chocolay has to depend on a small population and compete with Marquette.

Ventura feels that we already have information on some of the proposed work, such as water and sewer. Woodward may be able to incorporate standards into the mixed use language, where it doesn't involve expenditure of funds. Smith said it might be beneficial to have more information on barriers to redevelopment that are created by other regulations, such as building codes.

*Milton moved, Ventura seconded to table Item 2 until the next meeting, after Woodward has had a chance to develop the strategies from the first motion.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

#### **IX. PUBLIC COMMENT**

Lee Blondeau, 2001 N Traci Lane, commented that when you are talking about the screening, snow storage needs to be taken into account. Snow storage is usually in the setback area, but it's not good to put it on landscaped areas. Woodward asked for clarification, and Blondeau indicated he was concerned about where to put the snow when you start looking at screening and setbacks, it doesn't leave any snow storage.

Smith indicated that in most city lots, there is only enough capacity for every other snow before it has to be hauled away. Smith also indicated that in Marquette, aesthetically you hardly ever see any snow storage in the front of the building – they are designed to push the snow to the back.

Dick Arnold, 312 West Branch Road – he is opposed to Section 7.B of the vehicle ordinance which allows people to stay 90 days of the year in a recreational vehicle – who is going to keep track of the days? There are parks that people can park their recreational vehicles in to stay. He feels that Chocolay Township is murdering residential districts. There is also nothing in the ordinance that says the recreational vehicles need to be owned by the property owner, so he feels this should be a consideration – people that can't park their trailers in town are bringing them out to Chocolay to park.

Arnold also felt that unlicensed vehicles should be reduced to one – how many can you work on at a time? Also wondered how long can the vehicle be there? His neighbor has a tractor with two rear wheels that have been off since 2011, and it is in the front yard. Vehicles that are not used daily or are unlicensed should be stored inside or in the back of the house, not in the front yard. When people drive by, this is the impression they get of your neighborhood.

Arnold commented that there is a limit regarding the size of commercial trucks parked in the area, but there is no limit on the size of recreational vehicles parked in someone's yard. Some are quite large, and when parked in the front yard they restrict the view of the neighbors.

Arnold stated that if the Planning Commission is going to do an inspection tour, he has a few addresses in mind – Seeds and Spores farm, West Branch Road ½ mile off of 41, Kawbawgam Road going to the east end of the lake, and County Road 480 and Gentz's Road.

Arnold stated that in the AF district there is approximately 8,000 acres, with 841 parcels – he said that 512 are non-conforming. Approximately 13 parcels have horses, 11 have cows, buffalo or llamas, and 20 raise hay, corn, or other crops. Out of 841 parcels, there are only 43 parcels that are actually farming. He feels that most of the people out there are not even aware they are in the farming district – he thinks it should be rural residential. Right now, there is no limit to the size of an accessory building and there is no limit to how many you can have. There are some beautiful areas with beautiful houses – why should 43 people overrule almost 500? He thinks farming should be a conditional use on 20 acres or more. People have a garden size plot and want to be called farmers in Chocoday Township. Arnold also brought up race tracks and shooting ranges.

Public comment closed.

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

Smith asked about the progress of the AT&T tower. Woodward indicated she did not know. She did indicate there will be another communication tower for site plan review next month, but at this time she is not aware of the location.

Smith indicated that he had pictures of concerns on the Disc Golf trail.

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

Woodward indicated that she had given the Planning Commission a written report in their packets.

#### **XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

#### **ADJOURNMENT**

Smith adjourned the meeting at 8:49 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# **CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES**

Monday, May 18, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Tom Mahaney (arrived at 7:03 pm), Bruce Ventura, Kendell Milton

*Members Absent:* None

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant), Gary Walker (Township Supervisor)

**II. MINUTES**

**April 20, 2015**

*Motion by Ventura, seconded by Milton, to approve the minutes as written.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

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

*Motion by Bohjanen, seconded by Ventura, to approve the agenda as written.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane – She realizes that a lot of work has been done on the Master Plan and it is admirable, but her position is that we need to be mindful that we are a bedroom community of less than 6,000 residents. Yes, we should have development, but it should be mindful. She thinks we should consider the issue of aging in place. She does not feel that we need to be fixing up the marina parking lot versus fixing Lakewood Lane. We need to keep green spaces on development lots. Presently, if she has an accessory building on her property which is the same size or less than her dwelling, she can place as many accessory buildings as she wants on her property, which means her whole green space would be used. She doesn't think this is what the Township really wants, and feels in part, that the Master Plan does address this. She feels that the concept of providing beach access is acceptable. Most of the Planning Commission has heard her talk about the "Unwelcome" sign at the Welcome Center – "Private Beach, Keep Out". It's been about six years since she first started talking about it, and it still is there. In regard to lot sizes, the Master Plan talks about the lots being non-conforming if they are less than 125' as required now. Most lots in Chocolay Township, when they were developed, were 50'. Why would we want to change from 125' to 100' – if we want to protect resources along the lakeshore as the Master Plan indicates we shouldn't allow a 400' parcel of land to be split into 4 – 100' parcels. Instead there would be 3 parcels, which leaves more green space and has less impact on resources. She agrees with standards for accessory buildings to accommodate energy needs. She doesn't want there to be a bunch of outbuildings along the road – the buildings need to be done so they are "in character" with the community and have vegetative buffering. She feels we need to keep it simple and educate people. Last year, everyone worked hard on the fire ordinance, but when the police were called on a fire issue recently, they did not enforce it as she expected.

Jennifer Bruggink, 673 Lakewood Lane, addressed the issue of short-term rentals of single-family

homes in the residential district along Lakewood Lane. She feels that if the Township adopts regulations allowing people to rent out their property by the week in the summer, the Township is saying to current residents with children on Lakewood Lane “bye” – the Township doesn’t care about them and doesn’t want families on Lakewood Lane. With two daughters, she no longer feels comfortable in letting them stay home with strangers next door every week. She feels that the Township is saying to people who have lived here a long time, and don’t live here anymore, that their interest in keeping the property for the someday inheritance of their children or for income is more important than the families that live here now. She would not buy a house where she knew there were going to be short-term rentals nearby. She already has the neighbor on one side doing this, and she can imagine the other doing it. The neighbor across the street that has an easement along her property line, which is 5 feet from her house, may decide to do this and then she may have people traipsing up and down the side of her house. Her husband loves living along the lake, but that is when she would say they need to move to Marquette. Right now, she has a big red dumpster next to her driveway with no screening. She complained about noise in the middle of the night and having to explain to people that she has to go to work in the morning. She thinks property owners with rentals defer maintenance for a longer period of time. She urges the Planning Commission to not make Lakewood Lane and M-28 an investment property, non-family-friendly stretch of road. There will be empty properties in the winter, and more complaints and traffic. She knows that some are doing it, but doesn’t feel that’s reason to allow everyone to do this.

James Dunn, 3120 M-28 East – In 2005 they bought 3 lots together on M-28, which were zoned residential at the time. During the time that they were renovating it, the zoning was changed to Agriculture/Forestry. They are snowbirds, and just recently returned and found out that property owners on both sides are doing short-term rentals. They are also concerned about travel trailers on the adjacent properties. He is concerned that the property values will drop if there continues to be rentals of homes and trailers, and he may ask that his taxes be reevaluated and decreased. He is not against long term rentals, with the rentals being a month or more. He is concerned about the day-by-day and weekly rentals that potentially bring down property values.

Public comment was closed.

## **V. PUBLIC HEARINGS**

### **A. SBA Wireless Communications Tower, Site Plan 15-01 and Conditional Use 15-01**

Woodward said this is a proposal to construct a 199 foot self-support tower on parcel #52-02-108-040-00 (AF district) which is currently used for agriculture, and is located just south of the M-28 and Cherry Creek intersection. The tower will accommodate Verizon Wireless antennas and provide space for three additional carriers. A Conditional Use permit is required. There is one setback in question. These are contiguously owned parcels. Taken together, the tower meets the setback requirements from parcel boundaries. However, the setback from the shared parcel boundary between the two parcels is only 128’. Our ordinance states that the tower should be setback 199’ from parcel boundaries. Woodward encouraged the Commission to listen to public comment, and to keep in mind that they are required to assume that public health and safety is adequately safeguarded if the facility meets the FCC regulations on emissions. Access and circulation patterns are good – they are using existing highway access and an easement over an existing path to get to the tower, which is about 500’ from the road.

Sikkema opened the public hearing.

James Dunn, 3120 US Highway M-28 East – he is curious about the coverage area for this tower. The applicant was not present to answer the question. Woodward stated that she had asked the applicant to provide this information but had not received it. During the hearing on the AT&T tower, they stated their tower would cover about 1 ½ to 2 miles.

Deborah Mulcahey, 633 Lakewood Lane – wanted to clarify that this was a separate tower from the one at Silver Creek. Woodward stated it was. She asked why the Township would allow multiple towers, when the original tower owner can be required to install additional equipment for different suppliers. She doesn't feel we should allow additional towers when there are existing towers that used, unless it will provide significant additional coverage.

Terrance and Pavia Donnelly, 910 Highland Drive – their property is located in a dead zone right now and she inquired about the location. Sikkema indicated it was about a mile south of the intersection of US-41, M-28 and Cherry Creek Road. She asked about the tower near Silver Creek Road. Sikkema indicated that tower was approved but has not yet been constructed. Ventura indicated that is an AT&T tower.

Doug Hall, 1181 Ortman Road – he feels that the only concern that some people might have is the continual propagation of these towers – he's concerned about the towers being single server towers and not allowing anyone else to use them. Woodward stated that this tower is being built by SBA, and then leased to Verizon, with room for three other carriers. The tower being constructed on Silver Creek is being built by AT&T, and there is room for other carriers there. Woodward has received a statement from Verizon on the research they conducted to see if the tower on Silver Creek would meet their needs for the customers that they serve, and it was concluded that it wouldn't meet their needs – the antennas are too low on the tower.

Sikkema closed the public hearing.

**B. Draft Charter Township of Chocoley Master Plan 2015 Edition**

Sikkema opened the public hearing on the Master Plan.

Deborah Mulcahey, 633 Lakewood Lane – she stated that her comments regarding the Master Plan, specifically in regard to rentals, should incorporate any and all comments made in September 2014 to the Planning Commission. She doesn't think the Township Planner or Supervisor sees any problems with short-term rentals. She addressed the condition of roads. Mulcahey strongly suggests that before Chocoley Township looks at putting one penny into future development of roads, that they look at maintaining existing roads. Page 86 of the Draft Master Plan, No. 13 reads, "Preserve road investments. Roads most recently reconstructed or resurfaced will receive a higher priority for capital preventive maintenance, occurring ideally not more than two years after the structural improvement to protect the initial investment." Mulcahey feels this is a negligent road policy. She doesn't think the Township is taking care of existing roads such as Lakewood Lane, which was identified by 112 people as needing improvement in the 2005 survey. She urged caution regarding the creation of public access from Lakewood Lane to Lake Superior from a legal and community perspective. Mulcahey would like to know why Lakewood Lane and lakefront properties have been singled out for use as rentals. If that's what the Township is going to do, they should open up all properties for rentals although she doesn't think it's a good idea because it's not consistent with the preservation of resources. Renters may exceed the capacity of the septic system and there are noise issues to be considered. Owners of rental properties need to educate their tenants on the rules. Mulcahey sees no problem with long term rentals. The

Planning Commission should educate the public with the Master Plan – she feels there are a lot of good ideas in it. Mulcahey urged the Commission to change regulations regarding fences for waterfront properties. In protecting the dunes, there should not be fencing in the dunes. Mulcahey indicated that she can see a lot of work was put into the Master Plan, but we have to be realistic. She read about creating a fire training facility and feels the need is education.

Doug Hall, 1181 Ortman Road – until today, he was not aware of the massive undertaking of updating the Master Plan. He spent a brief time reviewing it and suggested delay of approval. He would like a summary of the changes.

James Dunn, 3120 US Highway M-28 East – he came to the meeting tonight because he was unclear of all the changes. Dunn asked if the Master Plan was basically a guideline as to where the Township is going – are these the rules and regulations that will be in effect. Sikkema indicated that the Master Plan should be taken as the direction that the Township is heading – this is a guidance document. Dunn indicated he would like a written copy to review at the meeting, and also a summary of changes. Woodward indicated that there is a copy at the back of the room, and also one online. Dunn then indicated that one of the things he was concerned about was the number of trailers that can be parked in certain areas, and enforcement of the 90-day rule. How is this monitored? How many are allowed? He feels there are a lot of things in the Master Plan, and would like more time to review. He knows the Commission can't hold up the process for his needs, but he'd like to know more.

Mahaney asked both Hall and Dunn if they were aware or did they take part in the survey that was conducted in 2013 that was available to the residents on the Master Plan. Hall asked if it was online or a hard copy. Woodward indicated that a postcard was sent to all residents, indicating they could either take it online, or they could request a hard copy.

Ventura pointed out that this particular meeting to review the Master Plan has been advertised for at least 63 days, and there have also been several months of notice to the public about the Draft Master Plan hearing.

Bohjanen suggested that the biggest fear of the Master Plan is that it is an enactment. He indicated that what is done first is approve the Master Plan. Using trailers as an example, that issue would be addressed through ordinance changes. That is only one item of business that might come out of the Master Plan. That process would involve a public hearing and writing and rewriting and submission to the Board. If the Master Plan is adopted, it does not mean that all items are settled. The trailer issue is in the planning phase, not the adoption phase.

Hearing no more comments, Sikkema closed the public hearing.

## **VI. PRESENTATIONS**

None

## **VII. NEW BUSINESS**

### **A. Site Plan Review 15-01 and Conditional Use 15-01, SBA Wireless Communications Tower, PID #52-02-108-0040-00, 6135 US-41 South**

Bohjanen indicated that the information that was given about the signal on a cell tower only reaching 1½ miles cannot be true, otherwise there would be no cell service at all. He does not feel that two towers is propagation. In the city, there are many more towers. Bohjanen marvels that he has no cell service at his house, but he can drive 6 hours into rural Honduras,

pack his stuff on a mule, and go 3 more hours into the woods, and get cell service. He referenced rumors that landlines will be discontinued.

Sikkema discussed the difference between allowed wattage in the U.S. of 250 watts due to the FCC rules, versus 2500 watts in other parts of the world. Ventura indicated that 1½ miles may be the area for optimal reception including data downloads, whereas more distant areas may receive lesser quality coverage.

Sikkema mentioned the access easement over the adjacent parcel, and suggested a similar easement on that property to provide for the fall zone (required setback area). This kind of easement would also allow towers to be located on smaller parcels. It would be a low cost solution for the developer. Smith asked if this would be a restricted easement. Sikkema said yes. Ventura indicated that a title search would indicate that such easements were in existence. Smith asked how the Zoning Administrator would know about those restrictive easements for purposes of zoning compliance approval. Ventura said that the applicant for the AT&T tower said that today's towers are built so that they have multiple collapse points that break the falling tower in several places so that a 200 foot tower might fall within a 50 foot square area. Sikkema stated that in order to accept that, it would require a change in the zoning – our Zoning Ordinance requires a fall area. Ventura asked if the fall area has to be equal to the height of the tower. Sikkema indicated it does. So in this case, an easement would solve the problem.

Mahaney asked about exterior lights. Woodward indicated she doesn't yet have the lighting specs for the accessory building, which would need to be submitted before approval of the zoning compliance permit. Woodward indicated that on the AT&T tower there were no lights, not even on the accessory building.

Sikkema brought up that the Conditional Use Permit application appears to be signed by the wrong party – it should be signed by the owner of the property, not by the company putting in the tower. His impression is that if the Conditional Use is given to the people with the tower, you would not be able to hold the property owner accountable. Woodward will get signatures from the property owners who will hold the conditional use permit.

Ventura feels that Woodward has identified all the conditions that are needed – they are similar to the AT&T tower.

Milton felt that any further site plans review should require applicants to indicate zoning districts. Bohjanen questioned what WECS means – Woodward stated that it was Wind Energy Conversion Systems.

Meister doesn't see a problem with this tower, but in the future he would like more information on coverage area and need for more towers. Mahaney indicated that there was a comment from Verizon that they had considered co-location on the AT&T tower, but the tower was too low. If the Township wants to minimize the number of towers in the future, we might have to allow greater height. Sikkema indicated that there is a provision in our ordinance that states the tower has to be the minimum necessary height. Maybe these regulations conflict. Sikkema indicated that in urban areas, there is more co-location because of the difficulty in locating towers. In rural areas it is easier to find tower locations so they don't work together as much.

*Moved by Ventura, seconded by Mahaney, that after review of Application SP15-01 Site Plan Review and CU15-01 Conditional Use Permit; and review of the staff report dated 5/8/15; the*

*site plan for SBA Towers VI LLC and Verizon Wireless Personal Communication LP for wireless communication facilities to be located at 6165 US 41 South, parcel #52-02-108-040-00, as presented at the May 18 public hearing, be approved as presented having met all requirements of the Zoning Ordinance with the following conditions:*

- 1. All exterior lighting shall comply with Zoning Ordinance requirements.*
- 2. In no case shall the entire existing vegetative buffer between the lease premises and adjacent properties or the road right-of-way be completely removed.*
- 3. Permit approval is conditioned upon receipt of certification by a licensed professional verifying that the structural design of all wireless communication facilities will withstand wind speeds and icing under the worst conditions experience in this area.*
- 4. There shall not be displayed on the wireless communication facility advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.*
- 5. The wireless communication facilities shall be kept updated in compliance with all applicable federal, state, county, and local regulations as amended or changed during the life of the facility unless compliance is waived by the controlling agency.*
- 6. The wireless communication facility shall be operated so as not to interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.*
- 7. All wireless communication facilities shall be removed by the property owner or lessee within six (6) months of being abandoned by all users.*
- 8. The wireless communication facilities shall not be artificially lighted unless required by the Federal Aviation Administration, and shall be lit according to those minimum requirements.*
- 9. All wireless communication facilities shall be inspected after being constructed and then once every three (3) years for compliance with all ordinance, structural and operational requirements and shall be certified as in compliance by a licensed mechanical, civil, professional engineer or architect, or other professional competent in assessing the structural integrity of such towers, and said certification shall be submitted to the Township.*
- 10. Before a zoning compliance permit is issued, the Township will be in receipt of a letter from the Verizon Engineer indicating that feasible co-location is not available for the coverage area and capacity needs, and explaining why. The letter will also demonstrate a justification for the proposed height of the tower.*
- 11. The wireless communication facility shall meet or exceed the current federal and state regulations.*
- 12. Before a zoning compliance permit is issued, the Township will be in receipt of a legal easement executed on parcel #52-02-108-021-00 of sufficient area to accommodate a 199' radius from the tower which is to be located on the adjacent parcel.*

Milton asked if the intent of condition #12 is to prohibit the building of structures within that fall zone, limiting use of the property. Sikkema indicated a building restriction was not required – he intended the easement to identify a fall zone on the property. Ventura thought that the point of the easement was to prohibit development in the potential fall zone. Sikkema stated that is not a condition of the ordinance – the ordinance standard is intended to prevent the tower from falling onto someone else's property. Ventura asked about the purpose of the easement if it's not for public safety. Sikkema said the purpose of the easement is to let future owners of parcel #108-021-00 know about the fall zone executed through the



easement recorded on the deed. Ventura indicated that a new property owner may not be aware of the easement if no mortgage company was involved in a sale and a title search wasn't done. Smith was concerned the Zoning Administrator might not know of the easement encumbrance. Ventura asked for clarification that Sikkema is saying that the purpose of the easement is for notification, not for prescription, since the zoning ordinance does not address a building restriction within the required setback. He doesn't necessarily agree with not having a building restriction in the fall zone, but he will go along with the majority.

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

**B. Provide Comment on the City of Marquette Community Master Plan**

Woodward indicated that the Planning Commission had been sent notice of the availability of the City of Marquette's draft Master Plan for comment. She put together a draft letter of response which highlighted common goals, consistencies in the plans, and opportunities for collaboration in planning and ordinance development.

She also suggested including Sands Township in the jurisdictions identified in the following strategy: "Adjacent Planning and Zoning Changes in the Master Plans and/or zoning maps of Marquette Township, Chocolay Township, and Marquette County should be reviewed by the City ..."

Sikkema asked if a motion was needed. Woodward asked for additional comments or changes to the draft response letter. Bohjanen suggested that the letter be sent as written. The other Planning Commissioners agreed.

**VIII. UNFINISHED BUSINESS**

**A. Adoption of the draft Charter Township of Chocolay Master Plan 2015 Edition**

Woodward indicated that the 63 days public comment period is complete. Written comments were received from Alger Delta Cooperative Electric Association, Marquette County, and the UP Food Exchange. They were all positive. The Commission had previously discussed changes offered by Alger Delta regarding their rates, and had decided to incorporate them at the time of final approval. Woodward offered a revised document reflecting those changes. Additionally, the future land use map legends were revised to eliminate the Corridor Residential land use designation since that wasn't included in the final land use plan.

Woodward said the Commission has worked very hard on the plan for the last five years. The current plan was adopted 10 years ago, so there have been a lot of changes since then. The changes are highlighted in Chapter 1 of the plan, including a summary of the progress made toward the recommendations of that plan. The Township conducted a public visioning session in 2010, and public surveys in 2010 and 2013. The Planning Commission and the Township Board have spent many hours discussing the plan chapter by chapter for the last year and a half, with suggested revisions incorporated into the Plan as consensus was achieved on policy and strategy.

In summary, the document is based on a foundation of values relating to things like community character, healthy and liveable community, addressing critical systems, and moving towards a more sustainable and resilient community. Priority decision criteria were created to guide decision making for capital projects. The Master Plan is also meant to be a budgeting and implementation guide for staff, who will provide a progress report every year regarding plan achievements. The plan is also meant to serve as an introduction to new or prospective property owners who can learn about the historic and regional context, and about

the natural systems that make Chocolay such a wonderful place. Chapter 4 addresses community resilience, and contains a profile, risk assessment, and opportunity assessment for each topic of concern such as local government financing, transportation, water and wastewater systems, energy, food, public safety and health, recycling and solid waste management, the economy, recreation, and managed development and growth.

Chapter 5 is basically for residents, addressing resilience in the private sector. This chapter is meant to provide education on how people can be more resilient in their households or businesses. Chapter 6, natural systems, discusses climate change, natural hazards, and sensitive environmental areas.

If you only want to read one chapter of the plan, Chapter 7 is a summary of the data discussed in the rest of the plan. It contains the strategic plan, made up of a future land use plan, zoning plan, and strategies that are organized into administrative tasks, regulatory tasks, and capital projects. Chapter 8 rates all the capital projects of the plan according to the priority decision criteria. The Appendices contain all the maps and reference documents.

The Commission was directed to consider all the comments received and choose one of three actions: adopt the plan by resolution as distributed, adopt the plan by resolution with revisions, or table the plan for adoption at a later date. She also needs to know if the Planning Commission would like to her to respond to the comments received. Woodward suggested that the Commission add the written comments to the Appendices of the Master Plan.

Mahaney said he likes the Alger Delta revisions. Ventura said there is a typo in the sixth "Whereas" that should read 63 day. Bohjanen said he thinks they should move ahead with the document.

Walker indicated that since the resolution was 1½ pages long, it could simply be referenced, with the "Be It Resolved" portion read aloud.

Ventura stated a lot of time has been spent working on this, and it is not an edict – it is a plan / guide, so he verbally offered the resolution, reading aloud from the first "Now Therefore be it Resolved", and specifically noting the acceptance of the changes suggested by Alger Delta, and the inclusion of all written comments in the Appendices, as follows:

**CHARTER TOWNSHIP OF CHOCOLAY  
COUNTY OF MARQUETTE, MICHIGAN  
RESOLUTION OF ADOPTION  
CHARTER TOWNSHIP OF CHOCOLAY MASTER PLAN 2015 EDITION**

**WHEREAS** the Michigan Planning Enabling Act (MPEA), Act 33 of 2008, as amended, authorizes the Planning Commission to prepare a Master Plan for the use, development, and preservation of all lands in the Township; and

**WHEREAS** the Charter Township of Chocolay Planning Commission has supervised an update to the Charter Township of Chocolay Comprehensive Plan, adopted on August 4, 2005, to be called the Charter Township of Chocolay Master Plan 2015 Edition; and

**WHEREAS** citizens were given the opportunity to provide input for the development of the Plan via a public meeting held on September 22, 2010, and through widely distributed public opinion surveys in 2010 and 2013; and

**WHEREAS** the Charter Township of Chocolay Planning Commission, in preparing this Master Plan, has studied present and future conditions within the Township and neighboring jurisdictions, and has addressed future land use and development, the transportation system and other public

infrastructure and services, natural resources, and future zoning within a framework of community sustainability and resilience; and

**WHEREAS** the Charter Township of Chocoy Planning Commission and the Charter Township Board of Trustees have reviewed the draft Plan over the course of many meetings and provided comments for its refinement which have been incorporated into the Plan; and

**WHEREAS** on February 9, 2015, the Charter Township of Chocoy Board of Trustees approved the distribution of the plan to the notice group entities identified in the MPEA for review, and a 63 day public comment period was duly noticed and completed; and

**WHEREAS** all the required notifications and draft documents were distributed per the requirements of the MPEA; and

**WHEREAS** the Charter Township of Chocoy Planning Commission has duly reviewed the draft plan consisting of three introductory chapters; resilience analysis for community, private, and natural systems; strategic plan (including future land use and zoning plans); implementation plan; and 22 appendices containing maps and reference documents; and accepts this plan as a guide for development of the Township pursuant to the authority of the MPEA; and

**WHEREAS** the Charter Township of Chocoy Planning Commission conducted a duly advertised public hearing on May 18, 2015 to receive public comment on this plan; and

**WHEREAS** a set of Plan amendments were presented at the hearing as a result of public comment; and

**WHEREAS** Pursuant to MCL125.3843 the Township Board has not asserted by resolution its right to approve or reject the proposed Master Plan and therefore the approval granted herein is the final step for adoption of the plan as provided in MCL 125.3843;

**NOW THEREFORE BE IT RESOLVED** that the Charter Township of Chocoy Planning Commission does hereby adopt on the date listed below the Charter Township of Chocoy Master Plan 2015 Edition, along with the amendments attached to the minutes of the May 18 public hearing, and does direct the Secretary of the Township Planning Commission to deliver a copy of the adopted Plan to the Township Board and to the County Planning Commission and other notice group entities identified in the MPEA along with this Resolution as certification of the adoption of the Plan;

**BE IT ALSO RESOLVED** that this Resolution be published inside the back cover of each copy of the Charter Township of Chocoy Master Plan 2015 Edition to certify that all maps, charts and descriptive and explanatory matter therein are a part of the Plan as so signified by the signature of the Chairperson of the Charter Township of Chocoy Planning Commission on this Resolution.

The Master Plan shall be effective as of the date of adoption of this resolution.

The foregoing resolution offered by Planning Commissioner Bruce Ventura  
Second offered by Planning Commissioner Dr. Richard Bohjanen

Sikkema indicated that he has reservations about some parts of the plan, but none of those are enacted by this plan. He thinks there are a lot of great things in the plan, and he feels it is very well done. He doesn't support everything in it, but that is no reason for him to vote against it. The plan is a document that will guide the actions of the Township. He doesn't want to hold back the good things in the plan.

Meister indicated that everyone may have some reservations on certain things until the details are worked out, but the overall guidelines are good. Ventura stated that whether they agree or disagree with something today, circumstances may change in the future and revise impressions on how they use the guidance. He is in favor of the plan.

Roll Call Vote:

Ayes: Tom Mahaney, Eric Meister, Andy Smith, Bruce Ventura, Kendell Milton, Dr. Richard Bohjanen, and Andy Sikkema

Nays: none

The Chair declared the resolution adopted on May 18, 2015.

**B. Review potential revision of Ordinance #55 related to parking of vehicles and storage of vehicle parts**

Woodward stated that she had suggested some simplifications of the previous draft. Revisions were made to Section 4.D pertaining to parking in the front and side yard. It says that you are not supposed to park or store a vehicle in the front or side yard, except that all vehicles will be parked or stored on a driveway (width of driveway not to exceed 40 feet in width - no mandated surface type). Except up to 3 vehicles or trailers can be stored off the continuously connected driveway, as long as they are stored as far away from the property lines as feasible to maximize the open space adjacent to the property lines. The draft suggests that parking cannot exceed 50% of the total area of the front or side yard.

Section 5.C – Provisions of Section 4.D would temporarily be waived for vehicles that are for sale.

Section 7.C –At the last meeting it was discussed that it was okay to use semi-trailers for storage as long as they are substantially screened on the rear of the property.

Bohjanen feels that blight needs to be defined in the ordinance. He does not like Section 4.D very well because his driveway is 75 feet wide, and made out of concrete. He feels there is other ambiguity, such as in Section 4.D.1, "...such vehicles are stored as far from the lot lines as feasible in order to maximize the open area between the lot line and the vehicle." What is feasible? Does not like the standard regarding 50% of the yard – it could eliminate circle drives. On Section D.3.b it says, "If the front and side yard areas are completely screened from view of persons standing on adjoin roadways and the ground level of adjoining properties by a vegetated buffer at least fifty (50) feet wide, vehicles may be parked in locations other than the continuously connected driveway, and in that case, the area of the front or side yard used for parking can exceed fifty (50) percent." He feels 50 feet buffers on either side do not cover very many lots in Chocolay Township. Sikkema indicated that he had taken this to read that if you do have a large lot, and you do have vegetative buffers, then you really don't have to follow anything because it is screened off – it gives you more freedom. Woodward indicated that this would be a waiver of those conditions. Bohjanen indicated that his lot is 150 feet, and there are no requirements for buffers in their subdivision covenants, but there are buffers between most yards by choice, but none of them meet the 50 foot requirement. Sikkema indicated that then you would have to abide by no more than 50% of the yard being used for storage.

Ventura asked if by 50 feet, does it mean 50 feet width or length? Woodward indicated that is the depth. Meister asked if it meant that no more than 50% of your yard can be covered by vehicles. This means that circle drives aren't precluded, as long as the total area doesn't exceed 50% coverage. Smith said his driveway is 120' wide. Woodward indicated that the purpose was to keep someone from parking vehicles over their entire yard – we currently do not have minimum open space requirements for residential property. Woodward indicated that they would probably have to reword the 40 feet in width, so that it doesn't appear that they are trying to control the size of the driveway, just how much of the driveway is used for parking/storage of vehicles. Forty feet would basically allow you to park 4 cars side by side,

based on a typical size parking space. The intent is to try to control the number of vehicles in the front yard. Sikkema said that on a 50' lot, a 40' driveway would take up almost the whole lot. Woodward stated that it could read that vehicles need to be parked on the driveway that is continuously connected, and can't exceed 50% of the front and side yard area (leave out the driveway width). Sikkema said on a large lot, this still might mean many vehicles could be parked. Sikkema said "We're not necessarily trying to restrict the number of licensed vehicles, correct?" Mahaney asked if licensed meant operable. Sikkema restated that it was licensed and operable. Ventura indicated that they are trying to restrict trailers. Meister stated that was in a different section, with a maximum of number of 3 in the front yard. Ventura indicated that it is also a vehicle, so it falls into the rules that are being discussed.

Sikkema asked if there are other things in the Ordinance that would be more restrictive than saying you can't cover more than 50% of your yard. Woodward indicated there was nothing more restrictive than that.

Dick Arnold, 312 West Branch Road, said the old ordinance says no more than three vehicles. Any more than that has to be stored in an enclosed building. Woodward stated that currently you can have no more than 3 inoperable vehicles, but you can have any number of licensed and operable vehicles.

Deborah Mulcahey, 633 Lakewood Lane – asked about the definition of "driveway". At her house, she has a sand path used for driving. Also, the Township considers her front yard the area between the road and the house, but yet she cannot park in her back yard because of the dunes. Also, she has a larger buffer than 50', but if she parked between her house and the road the vehicles could still be seen. The other thing she questions is mobile homes – there are a couple of them on a property that also contains a home on the property. She wondered if they are regulated. Sikkema indicated that in Section 7.B they are regulated. Mulcahey also questioned the 90 days – who will be enforcing this?

Meister indicated that Section 3.L covers the lakefront properties – "properties with rear water frontage may consider the portion of the front and side yards that are at least one-hundred feet distant from the front property line to be a rear yard." Maybe that should apply to any property, not just waterfront properties.

Bohjanen stated that the assignment was to tour the Township and notice the problems. He sees a lot of people that have travel trailers, but very few were parked in an obtrusive way. It would be better to regulate unsightly vehicles or junk. He thinks there are about a dozen problem properties in the Township – most of it looks pretty good. You cannot regulate aesthetics – you can regulate health and safety. In Section 6.A, the lead paragraph states, "...does not constitute a nuisance or annoyance to adjoining property owners..." How can you regulate annoyance?

Doug Hall, 1181 Ortman Road – he has a driveway that leads up to the front of his house, and he is not able to park behind the house. He also has a 30' travel trailer. Sikkema indicated there is nothing in the ordinance that would prevent him from parking there. Sikkema indicated that the issue is that people are sometimes storing 3 or 4 on their property for other people.

Sikkema indicated that the problem occurs when the person with the four trailers is parking them on his neighbor's lot line – they are far away from the property owner's house. Woodward indicated that the draft ordinance addresses this in a couple of ways.

Debra Mulcahey, 633 Lakewood Lane – stated that she did not understand the original thought of this ordinance. One of her concerns is why would we allow someone to have three licensed and operational recreational vehicles or trailers. Sikkema indicated that there are lots of different trailer types. Mulcahey was wondering about travel trailers, and people living in those trailers. Woodward indicated that the zoning ordinance does not allow two dwelling units on the same property. Smith indicated that the current ordinance allows you to park as many trailers as you want as long as they are licensed. Meister doesn't think RV's are much of a problem in the Township.

Sikkema reiterated the things they originally felt needed to be addressed: the use of semi-trailers or storage containers for storage, people that allow relatives to park vehicles on their property, and retired agricultural equipment. He feels they should plan on two or three meetings to resolve this.

Bohjanen asked about Section 6.A which says that if it's less than 14 days, you can have two vehicles that are inoperable, but if it's more than 14 days, you can have three. Woodward explained that if they are temporarily inoperable, but not dismantled, they can be there for 14 days. For long term storage of inoperable without all the parts attached they must be stored in the rear yard, substantially screened. Bohjanen also pointed out on page 6, Section 10, "...regulations create any special or peculiar hardship ..." – he would like to scratch *peculiar* and put *particular*.

The Commission began to review the draft ordinance from the beginning.

Section 2: Purpose – Woodward indicated that this was a total rewrite, relating more to health and safety. Sikkema asked about the portion stating, "...parking on premises where the principal use is other than residential ...". The Commission discussed the determination of the principal use, and whether the rules should differ per zoning district. Woodward indicated that in Section 2, it states, "...These regulations shall not apply to parking on premises where the principle use is other than residential ...", so if it is principally a farm or business, it does not apply. Also, Section 2 and Section 4 say the ordinance applies to all vehicles and vehicle parts upon premises that are primarily used or zoned for residential occupancy.

Sikkema indicated that there are not a lot of people in violation. What they are trying to do is make sure the ordinance is up to date, such as addressing permanent license plates for trailers, and enforcement difficulties are addressed.

The Commission again addressed the ownership issue, but it was considered time consuming and difficult to enforce. Mahaney thinks we should address the ownership issue. Smith doesn't think ownership is an issue of concern – the buffers are more important. Mahaney said lot size matters. Screening was discussed.

*Smith moved, Meister seconded, to table discussion on Ordinance #55 to the next meeting.*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

Ventura encouraged everyone to focus on the purpose and then work through the details. Sikkema indicated he would like to be prepared to discuss the ordinance up to section 5 for the next meeting.

**C. Land Use Classification Table – Discussion**

Discussion was tabled. If time allows, this will be discussed at the next meeting. Woodward reiterated the assignment and explained the mixed-use designation.

**IX. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane – indicated that Sikkema and other members of the Planning Commission had reservations on the Master Plan. When they first moved into the community before 2005, they did a lot of due diligence, and were really surprised to find an automotive repair across the street from them. She feels that the Planning Commission needs to be mindful – there are people raising families here. There may be short term rentals, but just because something is being done now, is not a reason to allow it to continue. Just because something was allowed historically, doesn't make them legal now.

Dick Arnold, 312 West Branch Road – would like to extend an invitation to the Planning Commission to take a look at West Branch Road. There was mention of allowing semi-trailers in the back yard – what will this look like in the Township? It doesn't address how many and how long they can be parked. He thinks it will detract from backyard entertainment of the adjacent property owner. He thinks there should only be allowed one of each kind of trailer, and they should be owned by the resident.

**X. COMMISSIONER'S COMMENT**

Mahaney – it was nice to hear public comment – whether he agrees or not, it is good to have input from the community. The Master Plan is not perfect, it's a guide – a lot of time has been spent on it. It gives the Township a direction.

Meister – no comment

Smith – appreciates the calendar that Woodward is giving them to know what is happening on different complaints.

Ventura – thanked the audience for rational and well directed comments.

Bohjanen – He feels that the Master Plan is extremely ambitious.

Sikkema – thanked everyone for their work on the Master Plan, with special thanks to Woodward for a good job. Also thanked the audience for their comments.

**XI. DIRECTOR'S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:48 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, June 15, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary); Richard Bohjanen (Board), Kendell Milton, Tom Mahaney (arrived at 7:03 pm)

*Members Absent:* Bruce Ventura

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**May 18, 2015**

*Motion by Milton, seconded by Bohjanen, to approve the minutes as written.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

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

*Motion by Bohjanen, seconded Meister, to approve the agenda as amended as follows: addition to VI. Presentations - Land acquisition by the Nature Conservancy and others to be presented by Scott Emerson; addition to VIII.B New Business – Discussion of land acquisition by Nature Conservancy and others; deletion of VI. Presentations – Scott Hamm on Complete Streets.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

Scott Emerson, 255 West Main Street, spoke regarding a proposed Chocoday Bayou Nature Park. Emerson is here for discussion along with Jerry Maynard, head of the Chocoday Raptor Center, and member of the North Country Trails Association, Trout Unlimited, Ducks Unlimited, and the Nature Conservancy. This parcel was mentioned in the Township Recreation Plan, and is for sale. It is a very unique piece of property that the Nature Conservancy, the UP Land Conservancy, and others are interested in purchasing as a nature preserve and park called the Chocoday Bayou Nature Preserve Park. It's unique is because of its location – it is in the heart of the village of Harvey, in the densest populated area of the Township. It has multiple access points including Main Street, but also the North County Trail / Iron Ore Heritage Trail at Green Bay Street



and the Welcome Center. The parcel can also be accessed from the water trail and Chocoley Marina. Ecologically, it is a very unique area, because it is an ecotone, an interface zone. There is old growth white pine and upland UP forest. There are bog areas with cedar, larch and tag alder. There is also a swampy area, and an open water area at the Chocoley Bayou used on a regular basis by fishermen. Bird watchers frequent this area because of the wide variety of species as documented in an Audubon Society survey.

There is a very interested group including himself, Jerry Maynard, the Nature Conservancy, UP Land Conservancy, Audubon Society, Trout Unlimited, and Planning Commissioner Bruce Ventura, that are trying to put together funds for the purchase of this property. There is significant funding available to purchase the property immediately, if an appraisal can be done. This appraisal needs to be done by appraisers that the funders use, and thus is estimated to cost between \$3,000 and \$4,000. This is a unique opportunity to purchase a 13-14 acre parcel which is environmentally significant and has tremendous public access. He is asking that the Planning Commission and Township Board authorize the use of some discretionary funds to pay for the appraisal. He feels this would be a good investment in the future.

There would be minimal development, although future grants might fund trails such as a bog walk through the different biomes. This land is appurtenant to other established regional recreational facilities such as the DNR Iron Ore Heritage Trail and North Country Trail. He feels it would put Chocoley on the map as an eco-tourism location, and would certainly be beneficial to local businesses. There would be some economic impact.

Maynard indicated that all the organizations that were mentioned support this purchase, and the collaboration should make it easier to get funding. Once the appraisal, which is estimated at \$3,300, is done, then they can move forward with the grant process, but they don't have funding for the appraisal. The Township is not being asked to provide funds for the purchase, or for maintenance, which will be provided by the partner organizations.

Maheney asked about list price – Maynard indicated that it is currently listed at \$195,000, down from \$290,000, and the appraisal is expected to come in lower than that. It is thought that the price might be negotiable, especially if it is used for a park. Emerson pointed out existing trails, the proposed parking area, and different access points. The Welcome Center would also provide parking and pedestrian access.

Sikkema asked who would become the ultimate owner of the property – Maynard indicated that it could be the Township, or possibly the UP Land Conservancy, as this is too small for the Nature Conservancy (although they are very supportive). Sikkema asked if the proposal is for the partner organizations or the Township to own the property. Maynard stated that ideally, because of some grants that favor local government ownership, the Township would own the property. If it was not possible, the UP Land Conservancy could own it. Maynard indicated that there was an upcoming

meeting to discuss these things. Pete Mackin indicated that the County could possibly own the property.

## **VII. NEW BUSINESS**

### **A. Site Plan Review 15-02 Hendrickson Builders**

Woodward stated this is a site plan review for a parcel at 5023 US-41 S, for utilization of an existing building for a conditional use for a contractor shop / yard. There are also plans to expand the building. There are no proposed access changes involved at the site. At this meeting, the Planning Commission will review the site plan. The Commission will review the Conditional Use application on Thursday, June 25. The building conforms to standards as is, and as proposed.

James Hendrickson, prospective buyer, was available for questions. He is a residential builder looking not so much to expand, but to organize. He feels the building is big enough to house 90% of his equipment – it will be more of a contractor's shop than a contractor's yard. Future expansion would include a maintenance and wash bay so he can maintain equipment in house. He would also like to add an office in the future.

Bohjanen asked if there would be customer interface in that building – people coming in to consult on projects. Hendrickson stated that would be his ultimate goal – to meet with the customer in the office, rather than at their homes. He wants to establish a professional business location. Bohjanen indicated that he thought that was a good thing, because that impacts exterior appearances.

Milton inquired if there will be access to toilet facilities during the 12-month renovation. Hendrickson stated he does not have any inside facilities at this point.

Mahaney asked about accessory equipment, such as trailers – would they be parked outside? Hendrickson stated that occasionally small trailers would be parked outside, particularly in the off season, but typically most of the equipment is at the job site. He said there is a buffer between the building and the residential use.

Sikkema inquired who had put up the fences. Lee Blondeau, current owner, responded that the original fences were put up by someone else, and he added another 150' section on the east side recently.

Sikkema asked Hendrickson if he would be using the north and east side for storage of equipment or materials (the sides abutting residential areas). Hendrickson said that would be possible if he had something of value that would only be there temporarily.

Smith asked about the current Conditional Use Permit and how many vehicles are permitted. Blondeau explained that the original conditional use encompassed several parcels, with less intensive use of this parcel. This parcel was used for the storage of trucks and trailers, snow storage, and one row of truck parking. Smith asked if JB Hunt is using it – Blondeau indicated they are not.

Mahaney asked Woodward about a shared driveway. Woodward indicated that the

trucking company would continue to access the highway via an existing easement over this parcel. Mahaney asked if the Dry Dock would need any permission for access. It would not. Blondeau indicated that this parcel was split, with the remaining portion added to the trucking company parcel because it had no street frontage. Sikkema asked about the location of the 30 foot driveway within the easement, and if it's located on this parcel. Blondeau said he and Hendrickson agreed to change the alignment of the easement but it would encompass the existing driveway. Sikkema asked if that was going to happen – Blondeau affirmed.

Sikkema indicated he is concerned with maintaining a good buffer with the residential properties on the north and east sides. He asked if restrictions pertaining to maintenance of the buffer would be a problem. Hendrickson indicated it would not be a problem. Hendrickson suggested it could be restricted for use as employee parking or there could be a height restriction for storage. Sikkema indicated that it is more than visual – construction businesses start early in the morning, so noise could be more of a problem. It might be ok if it isn't used for equipment storage. Hendrickson indicated there is other storage space on the parcel, so he can keep his distance. His operation usually runs from 7 AM until 6 PM, with 90% of work done at the project location. In the winter, they would probably work inside the shop.

Mahaney asked if Hendrickson would be starting the remodel project right away. Hendrickson indicated it would be done this year, before winter. It is all contingent on the sale of the property. It is a simple addition that he'd like to start in the second half of summer, and it won't take too long. Blondeau indicated that Hendrickson is planning on making the building congruent with the design of the existing building.

Meister asked if the lighting would be extinguished at 11 pm – Hendrickson affirmed. Milton asked if a dumpster would be required – Woodward indicated that a dumpster would already be appropriately buffered by the fencing. Sikkema wants the issue of the access easement straightened out. He would also like a condition about the storage of equipment.

*Moved by Bohjanen, seconded by Milton, that after review of Application #SP15-02, a site plan review for applicant James R. Hendrickson for parcel #52-02-107-009-00; and staff report dated 6/10/15; the site plan dated May 2015 as contained within the June 15, 2015 Planning Commission packet be approved having met all requirements of the Ordinance with the following conditions:*

- 1. The lights on the west façade shall be extinguished between 11 pm and sunrise.*
- 2. The east fence will be finished so that the entire 8' tall façade shall be of solid materials.*
- 3. The driveway easement will be settled.*
- 4. The north and east side of the building will not be used for storage of motorized construction equipment.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**B. Discussion on Land Acquisition by Nature Conservancy and others**

Bohjanen, both personally and on behalf of the Township, feels that this project would be fitting with a lot of the criteria defined in the Master Plan and the Recreation Plan, with utilization by various ages and groups of people, available money, etc. It would score high according to the priority decision criteria. He feels that it is a prime opportunity. Bohjanen indicated that he was surprised to hear that they preferred that the Township own the property, but he agrees that would be the preferred scenario. He feels if the Township can own and maintain the property within the Recreation Plan it would be ideal, rather than have someone else in control.

Smith asked about the appraisal dollar amount – why is it so high? Maynard indicated that there are only a few people in the Upper Peninsula who can do this level of appraisal which is required for the grant money. The property is zoned R-1. Smith indicated that it must be a more in-depth appraisal. Sikkema asked if there was a residence on the southern parcel. Maynard indicated there was not. Emerson indicated the south parcel would provide access and vehicular parking. Mahaney asked about the terrain. Maynard stated there is a drainage basin between Hotel Place and the bayou that would probably need to have a boardwalk. Mahaney asked about other interest in this property.

Maynard indicated that there are probably some problems with development. The parcel (2.8 acres) fronting Main Street is probably developable but would not have water frontage. The back parcel (11.3 acres) has no street access. The back parcel has all the waterfront property, but has wetland issues.

Smith questioned the odds of obtaining the property if the Township approves payment of the appraisal. The response was that grant money is available, and the grant administrator indicated that this type of purchase would be an ideal use for the money. Mahaney stated that it sounded like the appraisal could get done, but the land could still be sold to someone else. Maynard said that is possible. Sikkema asked Woodward if she knew if it is unusual for the Township to pay for an appraisal on property they don't own, or if anything would prevent them from doing so. Woodward indicated that she did not have any prior experience with a situation like this in the Township.

Meister indicated that he thought it would be great for the Township to have this property, and he felt it was worth the risk of the \$3,300.

Sikkema asked Bohjanen what the Township Board would be looking for in regards to this parcel. Bohjanen indicated they would be looking for a vote of confidence from the Planning Commission and a request for funding.

Sikkema asked if there should be anything in the motion as to the final ownership of the property by the Township. Bohjanen indicated that it could be an item of

discussion by the Board, but until such time a final decision is made, it may be a moot point.

Mahaney asked about the timing of the purchase if the appraisal is completed. Emerson indicated he thought it would be pretty immediate because the money is available and the appraisal is the roadblock. Maynard said he'd like to see it completed this year. There are other possible grant sources, but they typically take a year to process. This money is available almost immediately and it could be topped off with other foundation grants.

Sikkema said he has seen situations in which money passed through the conservancy and then the property was resold to a local agency. But there will need to be an ultimate decision on who will negotiate the purchase and who will be the grantee. Smith asked if there was any way to tie the property up, such as with a purchase agreement, while securing the funding or the grant money. Maynard indicated that this would be discussed at the meeting that the organizations are having on Thursday, June 18.

Mackin indicated that the County is looking for opportunities to expand the County's role in area recreation, which is partially funded by timber sales in the County forest. He would like to discuss this at their next meeting on June 22. Woodward wondered if there would be a joint ownership opportunity, with the County taking care of maintenance. The Township could serve as the fiduciary in the grant process. Emerson asked if the County has funds available. Mackin indicated that the County has staff, which is the biggest asset. He did not know what kind of funds may be available. Emerson indicated that he did not feel there would be a problem of maintenance of the property with available volunteers. Mackin indicated that there also may be some funding available from the KBIC, and mentioned the idea of a Treaty Park since the Chocoday River is the treaty boundary.

*Bohjanen moved, and Meister seconded, that the Planning Commission submit a recommendation to the Board for consideration of the Township funding the appraisal costs so the UP Land Conservancy can apply for funds to purchase the two parcels for a nature park.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

## **VIII. UNFINISHED BUSINESS**

### **A. Review potential revision of Ordinance #55 related to parking of vehicles and storage of vehicle parts**

Woodward indicated that the highlighted portions are the changes discussed at the last meeting. (In these minutes, only significant discussion and text changes are documented.)

In the "Purpose" statement, Bohjanen mentioned the need for a definition of blight. The word "blight" only appears in the purpose statement. Bohjanen stated that he

doesn't feel the word "blight" is appropriate when referring to junk cars – he gets blight on his tomatoes, for example. Woodward suggested the word "nuisance". Sikkema asked if a decrease in property value would be covered by a "nuisance". He feels there are two things: (1) a person being able to enjoy their own property, and (2) being able to stabilize their property value. Bohjanen suggested the word "degradation". Woodward looked up the definition of "blight" in regards to land use, and found that in most ordinances, it is defined by a long list of qualifying conditions that constitute blight, not by a simple definition. The Commission decided to change the wording within the purpose statement (eliminating the word "blight") to read "and the improper or inappropriate storage or parking of vehicles can be unsafe, unsanitary, and unsightly, constituting a **degradation of** surrounding properties. In order to prevent such **property degradation** ..."

- A. "Agricultural Vehicle" – Sikkema questioned the definition of motor vehicle or conveyance or parts – would farm implements like a plow be covered by this? Bohjanen felt that the word "conveyance" would cover implements. Sikkema suggested, "... *motor vehicle or conveyance, **implement**, or parts* ...". All agreed.
- C. "Front Yard" – "... the nearest portion of the principle structure". Bohjanen felt this needed clarification, as this portion of the definition also appears in item L and N. Bohjanen stated that if you have an L-shaped structure, such as an attached garage that extends forward, there would be a portion of the property that does not fit into any definition. This could cause confusion. He feels if you just delete "**the nearest portion of**", it would work better. This change will be made in items C, L, and N.
- E. "Main Components Parts" – Sikkema indicated that this would be applicable to only motor vehicles which could be licensed. What about something like a mini-bike that you take the motor out of – it wouldn't cover that, because it is not covered under the Motor Vehicle Code. No changes were made.
- I. "Plow Truck" - Bohjanen had an issue with the portion of the definition that stated, "...from residential premises", as plow trucks could be used for commercial properties, as well. This definition was changed to, "...*used for the sole purpose of removing snow.*" Remove "**from residential premises**".
- L. "Rear Yard" – Remove "...**the nearest portion of**..."  
Bohjanen is concerned about properties on the lakeshore which have a house located on the dune with no usable "rear" yard, and whose front yard may not be 100' deep (pertaining to the statement, "*Provided, however, that properties with rear water frontage or front yards greater than one-hundred feet in depth may consider the portion of the front and side yards that are at least one-hundred (100) feet distant from the front property line to be a rear yard.*" It was decided that those who did not qualify under this would still have to follow the front and side yard parking provisions. Woodward pointed out that there are waivers

available from the front and side yard provisions for things related to terrain or topography, but this would not have the effect of allowing inoperable vehicles to be parked in the front or side yard. It was decided this was sufficient.

N. "Side Yard" - Remove "...***the nearest portion of...***"

The Commission discussed Section 4A, dealing with parking of vehicles in the right-of-way. Bohjanen questioned what is allowed per the referenced codes. Abandoned vehicles on highways were discussed. Sikkema said he thought the Township could pass a rule that is more strict than the State law. Sikkema also pointed out that many road right-of-ways are privately owned. The provision as currently written does not specify that the rule applies to inoperable vehicles. Milton said his entire driveway is in the road right-of-way, and Bohjanen said there are many properties like this. Bohjanen is not in favor of the wording in 4A, unless we add the words "unlicensed or inoperable". Sikkema said "unless those are allowed by the referenced codes". The Commission asked Woodward to contact Police Chief Zyburk regarding the content of the codes (what is a permitted vehicle?) and enforcement practices for vehicles parked in the right-of-way, whether licensed, unlicensed, operable, or inoperable.

Section D1 – Bohjanen thinks "open space" is pretty nebulous. Mahaney asked if three RVs could be parked in the front or side yard. The answer was "yes" as currently written. Milton likes a nebulous definition of "driveway". Sikkema didn't think there was much issue with front yard parking. Woodward said the issue is usually how near people are parking to the property line. Bohjanen said he doesn't know if it serves a function, and then said, "Why do people park on driveways and drive on parkways?" The Commission decided to eliminate this provision, and to require instead that vehicles shall not be parked or stored within the required structure setback. Woodward said it's hard to know exactly where the property line is when you're out in the field. Sikkema said the complaining neighbor would identify the property line. Woodward said most people don't know the location of the property line. Bohjanen said the complainer can have a survey if there's a question. Woodward pointed out that the effect would be to tie this ordinance to the zoning ordinance. Sikkema said the zoning setback table could be added to this ordinance. Woodward said she'd prefer that was not done, because then if one ordinance was amended, they would both need to be amended. She prefers to reference the zoning ordinance if the Attorney doesn't think this is a problem. Sikkema said the required setbacks don't necessarily have to be the same.

Section 4D3(b) – delete "**vehicles may be parked in locations other than the continuously connected driveway, and in that case,**".

There was a question about the 50' buffer. Smith felt that if the vehicles are completely screened by a fence, then there is no need to meet structure setbacks. The feeling is out-of-sight, out-of-mind. It was decided to reword the buffer requirement to match that in 7A2, thus – "The area of the front or side yard used for

parking can exceed fifty (50) percent if the front and side yard areas are **at all times substantially screened from the view of persons standing on adjoining roadways and the ground level of adjoining properties by a solid fence or wall meeting all requirements of the Charter Township of Chocelay Zoning Ordinance, or by terrain, landscaping, or other natural barriers of ample height and density so that the vehicles are barely discernable**".

**B. Land Use Classification Table – Discussion**

Motion by Mahaney, second by Milton, to table item 8B until the next meeting.

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**IX. PUBLIC COMMENT**

Pete Mackin, P.O. Box 904, Chocelay Township, secretary of the County Planning Commission. He is visiting Townships to see everyone in action, and appreciates all the work. He said the County Board unanimously commented that the Chocelay Township Master Plan is a great example and is inspiring. He would like to invite the Urban Land Institute or other larger planning organization for a County-wide event to facilitate more collaboration.

**X. COMMISSIONER'S COMMENT**

Mahaney said that the latest enforcement activity report indicates that Woodward is busy, especially with junk violations. He would also like to have packets a few days earlier so he would have more time to review them.

**XI. DIRECTOR'S REPORT**

Woodward informed the Commission about steps that staff is taking to implement the master plan. Strategies are being collaboratively discussed and incorporated into the budget, and progress will be reported in the annual report. She said she will report back on staff comments about priorities.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:05 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister



**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MINUTES  
SPECIAL MEETING**

Thursday, June 25, 2015 at 5:30 PM

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 5:30 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Bruce Ventura, Kendell Milton

*Members Absent:* Andy Smith (Vice Chair), Tom Mahaney

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

None

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

*Motion by Ventura, seconded by Bohjanen, to approve the agenda as corrected (correct day- showing Monday, change to **Thursday**)*

*Vote: Ayes: 5 Nays: 0          MOTION CARRIED*

**IV. PUBLIC COMMENT**

Mark Maki, 370 Karen Road – said vacation rentals have not been allowed in the Township since 1977. He handled inquiries from appraisers and realtors about weekly rentals of properties on Lakewood Lane and he consistently told them it was not allowed, and he never issued any permits. Maki said much of Attorney Roger Zappa's opinion is predicated on the idea that the Township can't completely prohibit this use in the Township. Maki feels the Township does provide for vacation rentals in the AF zoning district, and at one time, the Township did allow them as a conditional use in the WFR district, which was only in the Shot Point area. In 2008, the Township Planning Commission and Board changed the zoning district on Lakewood Lane to WFR, but the reference to resorts in those districts was deleted. Maki thinks Mr. Zappa should be invited to a future Board discussion to discuss possible enforcement of violations. He thinks that if the Township wants to have resort rentals, there will have to be an amendment to the zoning ordinance. Maki is not in favor of allowing residential resorts on Lakewood Lane. He contacted Marquette Township and the City of Marquette, and said in those communities you cannot rent a house in a residential area by the week because that's considered commercial.

Maki also commented on the recent decision on the Verizon communication tower. He said Section 13.2.b of the ordinance requires cohabitation instead of a separate tower. There are ways to get around that but based on the minutes he doesn't think the

Planning Commission addressed the requirements. Also the applicant is supposed to provide documentation regarding the height of their tower but he doesn't think this was addressed or that they provided alternatives. He doesn't feel that approval should have been given until they produced this. He also stated that the lease does not contain the minimum 20 acre lot size in the AF district.

The third item for comment was the Conditional Use for the contractor's yard. He discussed past permitting practices for the Blondeau Trucking operation. He questioned if the building met zoning requirements for height. He feels there should be access management review because there is a change in use from storage building to contractor's yard, and a land division was involved. There is a requirement for site review if these things happen. He hopes that outdoor storage will be addressed.

Maki's fourth topic is the Blondeau land split and the status of the groundwater contamination which could be an issue of concern. He wonders if the rear parking was previously approved. The current application indicates that there are no hazardous materials on site, but the previous application indicated there were, and he thinks this needs to be clarified. He is also concerned about how the Township monitors the groundwater because of the potential for leaking fluids. He does feel that Mr. Hendrickson's business will be a nice asset to the Township.

## **V. PUBLIC HEARINGS**

### **A. Conditional Use CU15-02, PID 107-009-00, 5023 US-41 South**

Woodward indicated that this Conditional Use was for reuse of a building that is currently used for storage, but is part of a previously approved conditional use for a contractor yard. Proposed use is contractor yard and shop with 90% of activity to be contained indoors or performed off-site.

Sikkema asked for comments regarding the Conditional Use permit. As there were none, the Public Hearing was closed.

### **B. Conditional Use Amendment #80, CU15-03, PID 107-007-20, 5025 US-41 South**

Sikkema indicated that this would be a change in the Conditional Use permit previously issued to Lee Blondeau for a contractor yard on land currently partially leased by J.B. Hunt Trucking. The original conditional use was approved with conditions, and these conditions will still be met, however the property boundaries have changed with the sale of a portion of the land for the proposed use in CU15-02.

Sikkema asked for comments regarding this Conditional Use. As there were none, the Public Hearing was closed.

## **VI. PRESENTATIONS**

None

## **VII. UNFINISHED BUSINESS**

None

## **VIII. NEW BUSINESS**

**A. Conditional Use CU15-02, PID 107-009-00, 5023 US-41 South**

Woodward reminded the Planning Commission that they had approved the Site Plan associated with this conditional use at the June 15 meeting. Draft minutes including discussion from that meeting were distributed.

Sikkema indicated that the original permit required maintenance of a 30-foot buffer. During site plan review, storage was allowed on the north and east sides of the building, encroaching on the buffer. The nature of the required buffer was discussed.

The original permit requires the maintenance of a 30-foot buffer, with indicated plants, where the use abuts residential property. Sikkema said if this condition is not renewed in the new conditional use it would be a change. Conditional Use #80 includes, "Approved plantings will be maintained throughout the duration of the permit." Sikkema thinks the intent was that the 30-foot buffer would not be used. He feels the new approval should address this.

Ventura asked Woodward if a buffer is required to be planted, or can it just be an empty space. In other words, does the Township's definition of a buffer require plantings? Woodward said that per Ordinance definitions, a buffer strip is *"a strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and / or sound barrier between properties, often between abutting properties and properties in different zoning districts"*. Woodward said within the commercial district, when a parking lot or outdoor storage area or a conditional use lies within 50 feet of a residential district, a planting screen or fence that interferes with the view is required. This property already meets the screening requirements with the existing fence and trees. Also, the Zoning Ordinance states that within the commercial district, no structure shall be maintained within 30 feet of a residential district. Sikkema asked if Hendrickson planned on building a structure in that area? Hendrickson indicated that he was not planning on building a structure there.

Sikkema asked what would be allowed in the 30-foot buffer strip? The Planning Commission previously approved the site plan with outdoor storage not to include motorized equipment, although not necessarily in the buffer. Woodward indicated there is a limitation on structures there, but she doesn't interpret a limitation on storage, although the Planning Commission can make this a requirement.

Sikkema asked if the intention was that everything in the previous conditional use permit would carry forward. Woodward indicated that would be true for the Blondeau conditional use amendment, however, this is a new conditional use for Hendrickson. Sikkema stated that the Planning Commission would then need to go through and decide on conditions for this new permit.

Sikkema indicated that the previous permit had 12 conditions, some of which may not be applicable anymore. He proceeded to read through the conditions.

1. *Blondeau Trucking maintains a 30 ft. buffer where it abuts residential property. TriMedia will provide Chocolay Township with an "as planted" plan*

*showing what was planted and where. Approved plantings will be maintained throughout the duration of the permit.*

- 2. That Blondeau Trucking is permitted to keep 25 trucks on site. (Sikkema indicated this is not applicable)*
- 3. Approved hours of operation will be from 5:00 AM to 9:00 PM.*
- 4. That Blondeau Trucking keep Chocolay Township apprised of their correspondence with the DEQ. (Sikkema said this is not applicable)*
- 5. During construction, the applicant should make sure that best management practices are placed onsite. Blondeau Trucking will need to fill out an application with the Marquette Conservation District for their Soil Erosion Control Permit.*
- 6. Blondeau Trucking will provide the Fire Department with a set of plans indicating where utility shut offs are located and where flammable / hazardous materials will be stored. All flammable liquids shall be kept in metal cabinets. Finally, the Fire Chief will tour the facility upon completion.*
- 7. If the Police Department determines that Blondeau Trucking is making too many left-hand turns after 7 AM, Chocolay Township will be allowed to revisit the issue.*
- 8. Once comments are received from the MDOT Corridor Committee, these comments will be reviewed by staff and TriMedia and incorporated into the plans.*
- 9. TriMedia will work with Chocolay Township staff and our Engineering Consultants, Mike Pond from STS to ensure that all Township concerns are met and to work with Mike Pond and our DPW supervisors through this process. (Sikkema thought it probably dealt with drainage from the site)*
- 10. That any lighting shall be designed to reflect light downward and away from adjoining residential properties in accordance with the requirements of Section 500 of the Zoning Ordinance.*
- 11. A zoning compliance permit shall be obtained from the Chocolay Township Zoning Administrator.*
- 12. A zoning compliance permit shall not be issued until all other necessary permits as required by Federal, State, and Local Agencies, are acquired.*

Sikkema asked the Planning Commission if they could see any of the above conditions that should be carried over. Bohjanen felt there should be a change on requirement #6 from “Blondeau Trucking” to “Current occupant”. Meister asked if the permitting process requires the Fire Department to be notified? Woodward indicated this is not required as part of the zoning permit, but could be a County Code requirement, or it might have been something that was recommended by the site plan review consultant. Meister indicated it would make sense for the Fire Department to know where these things are. Hendrickson felt it is a good thing for any business to contact the Fire Department – they would then know what to expect if they were ever called to that site. Sikkema suggested #6 be changed from “Blondeau Trucking” to “Hendrickson Builders”. Ventura indicated that instead of

specific companies, it could be changed to “Owner” so this would not have to be changed again. Everyone agreed.

Sikkema asked about thoughts on Condition #1. Ventura indicated that by looking at the photographs that Woodward provided there appear to be trees inside the fence around three sides of that area, so there is a buffer, which may be more than 30 feet in width. Ventura stated condition #1 could be included with a name change as in #6. Sikkema stated that a buffer is only needed on the east and north sides. Blondeau sought to clarify the buffer requirements – if only 30 feet is involved, it leaves 10 feet on each side of the building (since the building is set back 40 feet). Milton said the “buffer” includes a fence, so he thinks Hendrickson should be able to use the area as he sees fit. Ventura stated that as long as whatever is being stored doesn’t project above the fence height of 8 feet, there should be no problem, unless there were odors. Meister wondered if they can just require the applicant to maintain the current buffer, while including the prohibition on the storage of motorized equipment as approved in site plan review. Sikkema asked if there was any possibility an exhaust system would be added for mill work. Hendrickson indicated that he had only considered venting an HVAC system, but that wouldn’t negatively impact the neighbors. He sees the logic of restricting outdoor storage over 8’ tall because of the fence on both sides. Right now Hendrickson has no plans to use the 30 ft. space, but there may be some future use. He thinks he could use it and keep the peace with the neighbors. .

Sikkema asked if Hendrickson would have a problem with a condition that prohibited noisy exhaust systems on the north and east sides in the buffer area so it doesn’t detract from the neighbor’s property. Hendrickson indicated that the building currently has no heat, and one of the heating systems that he is considering is an infrared heating system, ceiling mounted, with exhaust. Sikkema indicated this was not much noisier than a high efficiency furnace; he’d be more concerned about a dust collection system. Hendrickson said he would agree to not putting any noise producing systems on the north and east sides of the building. Ventura indicated that there are some dust collection systems that sit inside with only a bag outside, so it can be done.

Sikkema asked how #1 should be re-written. Meister indicated you may want to say “Maintain current fence and buffer ...” and then include the noise conditions that Sikkema had suggested. Sikkema asked if something should be in there about not storing motorized equipment on the north and east sides of the building. Meister indicated that this had already been a condition on the Site Plan. Woodward indicated that she had already included this as a condition in the proposed motion.

In the recommended motion, former #6 condition as revised could become proposed condition 2e; former #1 condition as revised could become proposed condition 2f; no storage over 8’ tall can be added at the end of proposed condition 2d; noise and fumes can be addressed in proposed condition 2g. Ventura stated 2g could read “noise, dust and fumes shall be contained on the site”; there is similar wording in the

City of Marquette. Meister asked if they address noise level. Ventura stated you could measure decibels, but he hasn't seen any ordinance that uses this. Milton indicated that you could say anything above "ambient levels". Woodward indicated that she had understood the Commission's intent was to prohibit noise, dust, or fumes from being discharged into the buffer areas. Ventura thought it would be a good idea to preface it by saying these things are environmental hazards, which signifies a level above the ambient or what may be expected. Meister indicated that it's a commercial property, so there are going to be things that make noise. Sikkema indicated that was not the concern he brought up – he was thinking that if you put in a dust collector, you may want to put it on the other side, even if it may look better on the east side. Woodward suggested that the requirement deal with directing noise, dust, and fumes away from the residential area. This was agreeable to the Commission and applicant.

Permitting for things such as vents and dust collectors was discussed, along with other former conditions. Only former conditions 1 and 6 were deemed applicable.

*Moved by Bohjanen, seconded by Ventura, that after review of Application #15-02, a conditional use for applicant James R. Hendrickson for parcel #52-02-107-009-90 at 5023 US 41 South; and staff report dated 6/19/15; the conditional use of contractor shop and contractor yard as presented at the June 25, 2015 special meeting be approved having met all requirements of the Ordinance with the following conditions:*

- 1. The conditional use will be developed according to the site plan dated May 2015 as presented and approved with conditions at the June 15, 2015, Planning Commission meeting.*
- 2. Permit approval is conditioned upon satisfaction of all site plan review conditions as follows:*
  - a. The lights on the west façade shall be extinguished between 11 pm and sunrise.*
  - b. The east fence will be finished so that the entire 8' tall façade shall be of solid materials.*
  - c. The Zoning Administrator shall be presented with the legal agreement addressing access for parcel #52-02-107-007-20 and the recording of this agreement with the Marquette County Register of Deeds.*
  - d. The north and east sides of the building shall not be used for storage of motorized construction equipment.*
- 3. Permit approval is also conditioned upon satisfaction of the following:*
  - a. Outdoor storage on the north and east sides of the building shall be less than 8 ft. in height.*
  - b. Owner will provide the Fire Department with a set of plans indicating where utility shut offs are located and where flammable / hazardous materials will be stored. All flammable liquids shall be kept in metal cabinets.*
  - c. Owner maintains a 30 ft. buffer where it abuts residential property.*

*d. Noise, dust, and fumes shall be directed away from residential properties.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

**B. Conditional Use amendment #80 CU15-03, PID 107-007-20, 5025 US 41 South**

Woodward indicated that a portion of one parcel previously approved as part of this conditional use has been split off. The conditional use would continue as previously approved, but with a slightly smaller land configuration. If the conditional use meets all the original conditions of approval, it should be re-approved.

Bohjanen said that it seemed like it was just a case of tying up loose ends of the revised property description. Ventura said it seems that Blondeau Trucking has met all the conditions of approval as previously discussed, so there is no reason to use the change in property shape as a denial.

*Moved by Ventura, seconded by Meister, that after review of Application #CU15-03, an amendment of conditional use #80 for applicant Lee Blondeau for parcel #52-02-107-007-20 at 5025 US-41 South; and staff report dated 6/19/15; the conditional use of contractor yard as approved at the May 12, 2008 meeting, having been found to meet all original and required conditions of approval, be amended with a revised legal description with the following condition:*

- 1. Dust will be managed so as not to negatively impact the adjacent residential uses.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 6:30 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, July 20, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Tom Mahaney, Bruce Ventura, Kendell Milton

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant), Brad Johnson (DPW Foreman), Gary Walker (Township Supervisor)

**II. MINUTES**

**June 15, 2015**

*Motion by Meister, seconded by Bohjanen, to approve the minutes as written.*

*Vote: Ayes: 6 Nays: 0 Abstain: 1(Ventura) MOTION CARRIED*

**June 25, 2015 (Special)**

*Motion by Ventura, seconded by Milton, to approve the minutes as written.*

*Vote: Ayes: 6 Nays: 0 Abstain: 1(Smith) MOTION CARRIED*

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

*Motion by Ventura, seconded by Bohjanen, to approve the agenda as written.*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

**A. Complete Streets – Scott Ham, Marquette County Health Department, Community Outreach division**

Scott Ham, Health Educator at the Marquette County Health Department. One of his responsibilities is fulfilling a “Building Healthy Communities” grant, which is through the Michigan Department of Health and Human Services. One of the goals of the grant is to provide local municipalities with funding for planning new projects that meet the criteria for “Complete Streets”. “Complete Streets” is a movement and concept to include all forms of transportation, especially non-motorized transportation, and to promote projects that might not happen otherwise. It normally includes projects such as sidewalks or widened shoulders to accommodate activities such as biking and walking.



The grant provides \$3,000 per municipality on behalf of the Marquette County Health Department. The money would need to be used for a Complete Streets project such as improving pedestrian access to businesses and residential areas. Mahaney asked if matching funds were needed – Ham indicated they were not. Ventura asked about the time frame for receipt – Ham indicated that this grant cycle expires September 30. Mahaney asked about what other municipalities are planning to do with the money. Ham indicated that Marquette Township already has a Complete Streets ordinance. Their project is to expand access to Northstar Academy so students can walk or bike – they needed some money for the planning process.

Woodward asked if this money could be used for planning a project. Ham said yes – it can be used for engineering, architectural planning, etc. The grant needs to be tied to some type of legislation, ordinance, or plan adopted by the Township, such as a Complete Streets ordinance, resolution to include Complete Streets elements in future projects, or policy/project in the Master Plan. The Health Department would need to have something on paper to show the grant underwriters.

Sikkema indicated that the Master Plan has references to Complete Streets in its transportation section. Ventura asked if the money could be used for planning connectors for pedestrian bike trails, as well as paths alongside streets. Ventura indicated that the Master Plan recommends connecting areas, which are not connected now, with trails. Ham said yes – the purpose is to encourage cardiovascular health, with exercise as part of people's daily routine.

Sikkema indicated that the Master Plan has identified a number of projects that could be implemented, such as extensions of existing bike trails. He feels the money could help with project planning, if the Township could obtain other funds through such sources as enhancement grants.

Ham indicated that the projects do not need to be completed by September. Once the projects have been identified and a Memorandum of Understanding executed, the funds could be accessed whenever needed.

Sikkema asked Woodward to put this item on the August agenda.

**B. Silver Creek Recreation Area planned improvements – Brad Johnson, Chocolay Public Works**

Brad Johnson, Department of Public Works Foreman, updated the Planning Commission on happenings at the Silver Creek Recreation Area. Over the last 4 – 5 years, he has been working with Marquette Little League in an effort to get them to utilize the Silver Creek ballfield. With a change in leadership, they are now in a position to use the field. Improvements were needed to bring it up to Little League standards, such as covered dugouts, pitcher's mound, clay pile around home plate, improved infield and outfield. When Little League came to talk with Johnson in February, Johnson indicated that the Township did not have the money to make the improvements. Little League lined up workers and donations to complete the

necessary changes to accommodate league play and tournaments. They plan to do more work this fall, such as sod, irrigation, gates on the dugouts and field entrances, new backstop, permanent benches in the dugouts – all at no cost to the Township. They will pay for the power necessary for an LED scoreboard, announcement booth, and concession stand. They are also planning on replacing the existing bleachers with 4-tier safety bleachers. Little League is asking for a 10-year agreement with first choice of use. We would then waive the fee.

Other future work at Silver Creek includes the tennis courts –there are 2,435 lineal feet of cracks. Johnson has contacted a couple of contractors about a product called “Crack Armor” for cold climates – a floating fiberglass mesh that lays over the crack and is guaranteed for 5 years. The nearest place that will install this product is based in Minnesota. The cost is about \$49,000 unpainted – including paint it’s \$65,000. Johnson is currently looking at other options for repair.

Johnson indicated that he is considering reconfiguring the current 4 tennis courts to include 2 tennis courts, a full basketball court, and 2 batting cages and 2 bullpens for Little League use. Little League would be willing to pay for the batting cages and bullpens to be used by the District.

There is increased use of the Silver Creek Recreation area for disc golf, soccer, and Little League. Johnson wants to improve the playground in the future with grant money to meet new playground safety standards. With the increased use, improved access (new entrance) and traffic flow is needed. It is a tight area for two way traffic.

Johnson provided the Planning Commission with visuals of the current driveway. The Township owns properties at either end of the park along Silver Creek Road, and has another 66’ utility easement in the middle across from Willow Road. Johnson suggests talking to the landowner to the right of the easement to see if the Township can get a driveway easement through there, as this would also improve access for emergency vehicles. He also suggests rerouting/straightening the driveway and making it a one-way. Johnson would like to eventually add bathrooms near the soccer field – this is near where the AT&T tower will be going in, so there would be some clearing. He also suggests another well be added. He would be doing a prefab outhouse, which would be closed down in the winter. There should be no problem hooking into the sewer. The new well could also be used to supply irrigation to the soccer field. The well that is currently supplying this area is 45 years old and needs to be rehabbed. Johnson also indicated that he would like to add a pavilion to that area.

Smith asked if the landowner had been contacted on the driveway easement. Johnson indicated he had not – he wanted to run the plan by the Planning Commission first before proceeding. Sikkema asked how large the parcels are and if anything is currently on them. Johnson indicated the easement is being used by adjacent property owners as a driveway. Ventura asked about ownership of the sewer easement – Johnson indicated that the person to the right actually owns the

property. Smith asked about the western Township-owned parcel adjacent to Sands Township – Johnson indicated that creating a road through that parcel would disrupt a large portion of the disc golf course.

Johnson also indicated he wants to open a ski trail at the park this winter. The one on Kawbawgam was destroyed with the clear cutting last year.

Sikkema asked if there was anything that was needed from the Planning Commission. Johnson indicated his purpose was to keep them informed and to solicit suggestions from them.

Mahaney asked if additional parking was needed with upgrades to the ballfield. Johnson indicated he would like to create parking on the east parcel adjacent to Silver Creek, and another row near the soccer field. Also, if the road was one-way, it might accommodate angle parking.

Meister asked if this was a priority over Beaver Grove field. Johnson said “yes”, due to the Little League desire to fund park improvements.

Smith asked if the disc golf holes could be moved to another area to accommodate a road. Johnson indicated there is not enough land to do this.

Mahaney said he liked the idea of reducing to two tennis courts and things that would satisfy the demand and be easier on the Township budget.

Johnson said the new surface for the basketball court would be similar to that used on the court at St. Michael’s Church, which has held up well for 10 years. The fenced space for the bullpens and batting cages will probably have indoor / outdoor carpet with a net over the top.

Mahaney asked if there was potential for conflict in use of the ballfield. Johnson indicated that it is too small for softball, so Little League is the ideal use.

Sikkema indicated there are new thoughts on playgrounds, so Johnson may want to look into creative and rustic play areas containing moveable things kids can use to build things. Johnson indicated that he is also looking into things that are low maintenance because of staff time and resources. Sikkema said we should consider what the modern family wants.

Milton asked if the bullpens and batting cages will be open to the public. Johnson indicated they would not be, due to liability issues. The main reason they will be installed is so the League can accommodate district tournaments.

The Planning Commission felt that Johnson is on the right track in going forward with improvements to the Silver Creek Recreation Area.

## **VII. NEW BUSINESS**

- A. Site Plan Review SP15-03 – Dollar General, PID #106-004-00, 4067 US-41 South**  
Woodward indicated this is a pretty extensive site plan review on a proposed commercial use for a property that contains a vacant residence. This property is

zoned for commercial only use, and is 1.15 acres. The proposed development meets the required setbacks. The main concern is that the Access Management Overlay District Standards cannot be met on this parcel, and focus should be on improving access conditions through a shared access arrangement or interconnected driveways with adjacent uses. The Commission was provided with the minutes from the meeting where a parking variance was granted. Revised site plans were submitted on day of meeting (July 20). Woodward would like the applicant to point out the site plan changes. The last sheet in the new site plan shows the truck circulation, which had not been shown on the original plans. Woodward pointed out that Lee Blondeau is still the owner of the adjacent property to the south with which a shared access arrangement would be negotiated.

Andrew Rossell, AR Engineering – represents both the seller (Freeman and Halvorson) and the potential buyer (Greg Oleszczuk, President of Midwest V, LLC, the development company), and Scott Knowlton (Midwest's general counsel). Rossell is the civil engineer who prepared the site plans. The plans were recently revised with mostly housekeeping items and are considered to be 95% complete.

The plan is for a Dollar General with a Prototype F footprint, which is 9,100 sq. ft. with a corner entry on the southwest corner. There are 30 spaces for parking along the front and side. As part of the parking variance, they have added 3 banked spaces along the south side in case there is ever a need for more parking. The retention basin is located on the north side of the building. All the storm water will be directed by catch basins into the retention basin. Rossell reviewed the plan for truck circulation. There is no loading dock, only double doors for receiving. In this same area, there is a fully screened dumpster on a concrete pad.

Dollar General's original plan as submitted to MDOT was to have the drive closer to the location of the existing drive. After meeting with MDOT and the Corridor Advisory Committee, Dollar General changed the plans by moving the drive as far south as possible and reducing the width of the drive. Dollar General is still in compliance with MDOT's suggested turn radius. Dollar General is center grading the parking lot so that water flows to the retention basin. There is also a slow release outlet in the structure to the right-of-way. The proposed well is indicated on the site plan with a W in a circle, and they have submitted for a well permit. They plan to tie into the sanitary sewer line. Stormwater will be retained on site with no runoff.

One of the topics at ZBA was snow storage – with the design as is they would be able to push most to the retention basin.

Lee Blondeau, 2001 N. Traci Lane – asked if Dollar General is planning on raising the elevation of the lot. Rossell indicated that the only thing that might be raised is the building pad. Blondeau asked if the retention pond for the overflow would be flowing towards the right-of-way. Rossell indicated that once it would get to a certain elevation it would start flowing into the MDOT right-of-way, into the storm system.

Rossell stated that Dollar General had looked at different options for the drive, such as coming into the store off Corning, but that would present problems with the property owners there, especially with the intermix of traffic. He has had several discussions with MDOT, and as far as he can tell, they are comfortable with the placement of the driveway.

Mahaney asked if MDOT had approved the driveway placement. Rossell indicated that technically MDOT cannot approve it until the site plan has been approved. His feeling is that when it went to the Corridor Advisory Committee, the site plan was "blessed". Woodward indicated that she had received a letter from the Corridor Advisory Group, dated July 16, 2015. The letter read thus, *"Due to the proposed commercial drive proximity to the existing signalized intersection at Silver Creek Road, the group suggests the following: (1) The Developer / Applicant pursues shared / combined access with the property to the south and shows proof of an unsuccessful effort to gain approval, and if Chocolay Township subsequently approves all necessary variances for a site plan with a direct access drive to US-41, it is recommended the two-way-left-turn-lane be converted to have a dedicated left turn lane meeting MDOT standards and storage requirements for northbound US-41 left turns to Silver Creek Road. This will prevent conflicting left turns between southbound US-41 traffic turning to the proposed business and northbound US-41 traffic intending to turn left onto Silver Creek Road. The storage requirements and subsequent markings may or may not leave room for SB left turns into Dollar General. Additionally, MDOT should reevaluate storage needs at the signalized intersection in the event of increased volumes on Silver Creek Road in the future, and make changes to increase storage as needed. There should be no expectation of direct left turns permitted into this site (proposed Dollar General) now or in the future."* Rossell asked if they could obtain a copy of this letter.

Mahaney asked if the shared driveway had been discussed with the adjacent landowner. Rossell said that the real estate broker indicated they made an effort to contact the landowner. In the process, the real estate broker talked with several people, and felt there was issues with the cross parking arrangement to the south, and the use of that drive. Sikkema asked what Rossell meant by "there was an effort made to contact". Does this mean a message was left on a phone or a letter was sent? Rossell said he could contact the broker to find out exactly what type of contact was made. Sikkema asked if any effort had been made after the ZBA meeting. Rossell indicated there had not been, because at that time he felt MDOT had made it pretty clear that they accepted the placement of the driveway. Sikkema explained that MDOT and Chocolay Township will not issue permits until they confer to make sure they are consistent. Rossell indicated that the Dollar General site plan had first gone before the Corridor Advisory group in May. Sikkema said he originated that group, and he used to work for MDOT. He said that almost every business in the Township works off a shared driveway. This is a strategy used in access management to try to minimize the number of driveways, and to make

conditions as safe and convenient as possible for the people of the Township. Sikkema asked what is different about Dollar General that makes it so they cannot make a shared drive work. Rossell explained that Dollar General has over 12,000 stores, and the only way they will share access is if they own it. Dollar General wants the control for liability and maintenance concerns. Sikkema wondered why other businesses (i.e. Holiday Gas Station or McDonald's) would not have those same concerns – what makes Dollar General so unique that they cannot do what everyone else is doing? Mahaney felt that Dollar General should take a look at the Township and see how things are being done here. Knowlton indicated the uniqueness may have to do with the use of the property to the south – Dollar General is a retailer that is being forced to share access with a trucking company. Ventura indicated that there are only 15 trucks, at the most, that would use the access each day – they go out in the morning and come back at night. That is all they are allowed to have, according to the Conditional Use permit they were issued from the Township. Ventura does not see how the truck traffic impacts this site. Knowlton indicated that the use of the trucks is inconsistent with general retail. Sikkema said Gordon Food Service also has a trucking company that uses the same driveway. He indicated those are not good arguments for the Planning Commission to go against their zoning requirements. Ventura stated that the lay of the land is conducive to a shared drive. Smith stated that the trucks are not moving in and out continuously throughout the day. Knowlton indicated it's a tough sell to the company, that this isn't going to change, it's going to be like this forever – the likelihood of Dollar General agreeing is remote. Oleszczuk said they respect the Township's position, and would like to get it done, but they must operate within Dollar General's parameters. They know of situations like this where the truck traffic has damaged the drive. The retail customers are inconvenienced by this, and there would be dangers in the winter associated with incompatible use. He can't control what happens on the adjacent property. A future use may be even more incompatible. That's why Dollar General does not allow shared access, unless it is under the most extreme conditions. Ventura said he feels this is an extreme condition, due to the volume of traffic on US-41, with the intersection being 130 feet away from the proposed driveway, and a left turn across two lanes of traffic. Overlay district parameters take precedence over having a direct driveway that close to an intersection. This is why the overlay district was created – for the safety of the people using the highway and the safety of the community, not for the convenience of a store. Sikkema indicated it would be hard for the Planning Commission to approve, as this driveway is going to be nearly 200 feet short of the requirement, and at a busy intersection. Dollar General is going to be located on a highway with lots of truck traffic – but they can't make that work in the driveway? Sikkema feels there should be an attempt made – this is a great addition to the Township, and he doesn't want to see it go away, but he doesn't feel that the Township should give up its principles and standards of the Ordinance. He knows of other companies who have changed their thought process, such as Holiday Gas Station. Ventura said those

businesses are busier than ever. Knowlton stated that he agreed there is value to a shared driveway, and he doesn't feel that the Township should throw away its values, but the reality is that if the shared drive is required the deal probably goes away. Sikkema said he'd hate to see that, but he can't say that's ok. The development would support the community greatly, but he does not feel that Dollar General has an open mind in being a good community partner. Ventura said they want people to get in and out of the property safely.

Knowlton indicated that they'll work on it, but the reality is that Dollar General is going to ask for restrictions on the use of Blondeau's property for perpetuity. Sikkema said shared driveways are standard now. Oleszczuk said the Planning Commission has every right to feel that way, but they haven't pursued this option to a large degree because of Dollar General's restrictions. Shared access makes it very restrictive for both parties. Sikkema stated that he did not want it to seem that the Planning Commission or Township is anti-business or anti-Dollar General. Knowlton stated that he did not want the Township to view Dollar General as anti-safety or anti-community, but it is company protocol. Meister indicated that he feels a shared driveway would be beneficial for Dollar General – in a recent driving experience involving this location, the traffic conditions would not have allowed him to turn into the existing driveway to the proposed site – he would either have had to turn around or keep on going and get what he needed at Snyder Drug. Sikkema indicated that the proposed driveway, if approved at all, would have to be a right in, right out driveway – there would be no left turns in or out according to MDOT.

Rossell indicated that they had already explored all those options and thought they had MDOT support of a modified plan. He said the gas station to the north has 3 curb cuts, the trucking company has their access and the restaurant to the south has their own access – maybe further south there is more shared access, but not in this particular area. Sikkema indicated those were all constructed before Access Management Zoning was implemented. In this case, the opportunity is there, and he would hope that Blondeau would be cooperative in working this out. Rossell indicated they will be sure to get Blondeau's number before they leave.

Ventura said that a simple connection could be created in the southeast corner of the parking lot, where there are banked parking spots, to an area not even used by the trucks but by the residential builder who has proposed to locate there. Rossell said the driveway would have to be as close as possible to the highway for their semi truck to maneuver. Ventura asked him to consider that if there was a driveway in the southeast corner, they would be able to back the truck right in without having to do a double back and forth – it would be a simpler maneuver than what is proposed.

Oleszczuk indicated that any plan has to be brought before the tenant and the tenant's legal team must agree with it. Dollar General will not even consider the property if there is a chance that a larger retailer or competitor will go into a property associated with it. This would limit an adjacent property owner. He said Rossell put

together a workable plan with MDOT. Sikkema indicated that MDOT permits driveways – local governments manage access.

Woodward asked about the access for the Dollar General in Negaunee – Knowlton indicated that they do have their own access, but they have barriers against cross access.

Bohjanen said there were concerns about the trucking business and the number of left turns and the potential hazard, and a limitation was placed on the number of turns, and there was the option to revisit the use in the future if there were problems. Now the proposed shared driveway would have the usual trucking flow, plus that for Hendrickson Builders, plus all of Dollar General's traffic. Limiting left turns might be helpful for access concerns, but limiting left turns may not be so good for Dollar General, but that's their problem. He feels the safety issue is more encompassing than Dollar General and their patrons, it impacts the general public that is passing by at the same time, as well. Sikkema agreed – if there are people waiting to make a left turn on Silver Creek you may create a shield situation where people have to guess if they can safely get out of the parking lot. These are things that you try to limit with driveway spacing.

Knowlton indicated that he will work with Blondeau and Dollar General. He wondered what happens if they are not able to reach an agreement. Sikkema said that MDOT would then become involved – they would notify the Township and the Corridor Group that they were modifying the pavement markings to make an exclusive left hand turn onto Silver Creek Road, which would not allow people to make a left hand turn into Dollar General. Sikkema indicated that you would still be able to make the left into the potential shared driveway.

Sikkema asked about sales per hour – Rossell indicated that their peak hour traffic is 11-12 cars per hour. Knowlton asked if the Planning Commission would consider granting approval with a condition of shared access. This would make them feel more comfortable knowing that they were down to the last issue.

The potential motions provided by Woodward were discussed. Woodward reminded the Commission that written documentation of the findings is required by the Access Management Standards. Bohjanen asked about 3 of the required parking spaces that are within the 50' setback from the right-of-way. Knowlton indicated that shared access may change parking layout. Oleszczuk said that they would like to have all letters of documentation that are available, noting they had not received the MDOT letter. Woodward said it was all available online last week, but she would give them a copy of the packet materials. Sikkema asked if the plan would need to go back to the Planning Commission if there was a significant change in the parking. Woodward stated that if there is a need for a waiver from standards, they would need to come back for final approval. This could serve as preliminary approval. Parking layout was further discussed. Sikkema indicated they would write the motion to include up to 6 or 8 spaces within 50 feet of the right-of-way for the misplaced parking.



Woodward asked how the potential parking and access change would impact snow storage. Rossell indicated it could be pushed to the retention basin. He feels they will probably be hauling some out anyway.

Mahaney asked about the photo that was provided of a Dollar General store with the storage of shopping carts outside. The applicant indicated that was not necessary. Meister said he had noticed on the landscaping plan that some of the plants were for Zone 5, and the survival rate would not be good for those plants. Mahaney asked about the outside lighting. Woodward indicated that they would need to submit the required specs before they got their Zoning Compliance Permit. Woodward asked the applicant about the security lights that were indicated on the elevation plans, but not listed on the photometric plan. Rossell indicated that the security lights are not included – they are using only wall packs.

*Moved by Sikkema, seconded by Ventura, that after review of Application #SP15-03, a site plan review for Midwest V, LLC for parcel #52-02-106-044-00, 4067 U.S. 41 South; and staff report dated 7/13/15; and the site plan dated 7/20/15, that the development as proposed be approved with the following conditions:*

1. *Developer must successfully negotiate shared use driveway with the adjacent property owner south of the proposed development for the following reasons:*
  - a. *The access to the site does not meet the requirements of Sections 5.3R3) and 5.3R7);*
  - b. *The Ordinance in Sections 5.3R8) and 5.3R9a) authorizes the requirement of a shared driveway or service drives as the only option when direct access consistent with the referenced standards cannot be achieved;*
  - c. *The Ordinance in Sections 5.3R11) requires that “Where a proposed parking lot is adjacent to an existing parking lot of similar use, there shall be a vehicular connection between the two parking lots where physically feasible”, and applicant has not supplied such connection or submitted evidence that such a connection is not physically feasible;*
  - d. *The applicant has submitted no evidence that adjacent development renders adherence to these standards economically unfeasible or that there is no other reasonable access due to topographic or other considerations, or that the standards have been applied to the maximum extent feasible to justify a waiver per Section 5.3T;*
  - e. *The US-41 / M-28 Corridor Advisory Team advises that the developer / applicant should pursue shared / combined access rather than direct access to US-41;*
  - f. *The Planning Commission believes that the absence of shared access or property interconnections poses a likely negative impact to the safety of vehicular traffic; and shared access and property interconnections would result in improvements that are more closely aligned with the goals of Section 5.3.*
2. *Approval is conditioned upon MDOT approval;*

3. *The signage and lighting will meet all requirements of the Chocoday Township Zoning Ordinance, with additional information as needed being submitted to the Zoning Administrator and necessary permits obtained;*
4. *No more than six (6) parking spaces can be constructed within the 50 foot right-of-way setback requirements per Section 5.3Q3) at the northwest corner of development.*

Vote: Ayes: 7      Nays: 0      MOTION CARRIED

**B. Preliminary concept meeting on potential development of parcels #114-003-00, #114-001-00, #114-001-10, and #114-001-20 as a retirement community / RV park – Paul Smith**

Woodward indicated that Paul Smith has approached her several times with his desire to build a seasonal housing development for people 55 and older, possibly with an RV park as well. During their conversations, Woodward and P. Smith had discussed several options for development. Today she was notified that P. Smith had sold a portion of the 160 acre parcel south of the Chocoday River to someone else, essentially creating a land division. Woodward is currently researching this to see if this was a legal split or not, and to determine how it will affect the buildability of the parcels. Woodward said P. Smith seems to prefer the option of developing the parcel as a mobile home park, which would require rezoning to multi-family residential. She asked P. Smith to come to the Planning Commission to get input on the preferred mechanism to pursue in association with this development plan. The only option that wouldn't require a rezoning is the Rural Cluster Subdivision. All other options that she included in the staff report would require a rezoning.

Sikkema asked for clarification of the existing zoning district and permitted uses. Woodward said the parcel is in the AF district, which allows a rural cluster development subdivision as a conditional use. Woodward was not certain how many units he could build with that option, as he would have to subtract the area used for roads and wetland areas. If the entire 240 acres made up of 4 parcels was developable, he would need to preserve 120 acres in perpetuity for non-development, and could probably get about 54 units on the other 120 acres, which is a density of 2.2 acres per unit. These could be developed on smaller lots with Health Department approval. Regarding other options, Planned Unit Developments are not allowed in the AF district. Right now the multi-family residential district is scattered across the Township similar to spot zones. It would not be unreasonable, based on current land use configuration, to rezone these parcels to a mobile home park. Mobile home parks also need to go through State licensing procedures.

A. Smith indicated that he did not know for sure how much of the land is developable, as approximately 140 acres are wetlands. Sikkema indicated that a Rural Cluster Development would allow you to put a higher density on the developable acres. The Commission asked Woodward for clarification of the calculations related to Rural Cluster Development Subdivisions. Wetlands can be used as part of the reserved open space, but are subtracted during the calculation

for allowed number of units.

Woodward asked P. Smith how many units he envisioned building. P. Smith indicated that he had not really established a number. He figures he could get approximately 120 lots for RV's in the high ground. Sikkema asked if P. Smith was looking more at doing something with RV's. P. Smith indicated he would like to do RV's and modular homes. He would like to be able to offer the homes for under \$100,000. He would also like to be able to offer overnight parking for RV's. Meister asked if P. Smith would be offering units for people to live year round. P. Smith indicated that would be an option. Sikkema asked P. Smith what he is referring to when he is talking about "modular" homes, as there is a distinction between a modular home and a double-wide trailer trailer – the trailers would be licensed. P. Smith indicated he was looking at modular homes – he will have a sample by the end of the month, as one is being built right now.

Mahaney asked if P. Smith specifically wanted a mobile home park. P. Smith indicated that he wants to have modulars on the first ½ mile, and RV parking on the second ½ mile. Mahaney asked if people would be able to leave their RV there year round. P. Smith indicated they would be able to do this. Mahaney asked if there was access to the golf course. P. Smith indicated there was. His plan is to keep the area private as a retirement community. Meister asked if P. Smith was planning on putting in some type of buffer between the golf course homes and the RV park. P. Smith indicated he was planning on a buffer of 700'.

Sikkema asked if P. Smith had talked with the golf course about the proposal. P. Smith indicated he had sent some letters, but has not received answers yet.

Sikkema restated what he feels that P. Smith is proposing – permanent homes and then more of a transient / resort area. Meister asked if campgrounds are allowed in the AF district. Sikkema indicated that campgrounds are allowed in the AF district with a Conditional Use permit. Sikkema asked P. Smith if he envisioned having more than 48 modular homes. P. Smith didn't think so – he wants to put 2 modular homes per acre – something like they have at The Bluffs in Gladstone. Milton asked if one well would service more than one house. P. Smith responded it would. Mahaney asked if people can stay one or two nights, as well as staying year round. P. Smith responded that there are a lot of people who travel around and live in their RV. He feels that people in the south, such as Texas, would like to be up here in the summer months, rather than fighting the extreme temperatures there. P. Smith also feels like there are plenty of activities to offer, such as access to golf and RV trails.

Sikkema clarified with Woodward that the area allowed for RVs would be a permitted Conditional Use, but then the other parcel phase would be residential homes. Woodward agreed. Sikkema then asked that if something is zoned WFR, would they need to connect to the waterfront. Woodward indicated that they currently would not have to be waterfront property to be in the WFR district. Sikkema asked what the adjacent golf course is zoned. Woodward indicated that the parcels around the golf

course are currently zoned R1. Sikkema indicated a preference for rezoning to R1 zoning like the adjacent parcels, which has a 25,000 sq. ft. minimum lot size. Woodward indicated that if it was rezoned to R1, P. Smith could do a PUD incorporating both the RV park and homes. Sikkema indicated that the problem would be that he has to have access to a public road at the front. Sikkema also stated that if it was zoned R1, P. Smith could do a site condominium with a master deed – he could do what he wants to do on a private road.

Sikkema asked P. Smith if he was familiar with site condominiums. There is a master deed, and each lot is a sub-deed. Each person owns their lot, but it is attached to the master deed. It stays as one parcel. P. Smith indicated that they wanted to keep access to age 55 and older, and Sikkema indicated that would be possible. P. Smith also stated that he wants to retain property control. Sikkema indicated that was also up to the time that a Homeowner's Association would manage it. P. Smith indicated that he wants to keep property control so that it will be kept as a retirement village without children.

The Commission discussed rezoning a portion of the parcel to R-1 and retaining the remainder in AF as needed to accommodate the various uses. Meister asked if P. Smith was planning on selling or renting the lots for the modular homes.

Sikkema indicated to P. Smith that he feels there are some options to accommodate the development. He feels it is a good way to keep the senior population in the Township. It would give snowbirds another option for maintenance free living.

Sikkema asked about access – would it all go through the easement at the golf course? P. Smith indicated that his parcels also connect to BU Road, which is a seasonal County road. He does not want people to be able to come in one road and drive out the other. He does not want a gated community, but he also does not want through traffic.

Sikkema asked what P. Smith was looking for from the Planning Commission. P. Smith stated he does not want to put any more money towards the project if it's not something wanted in the Township.

Meister indicated he thought it was a good idea, and that it works with the Master Plan. Mahaney thinks it's a great idea. A. Smith thinks it's a great idea. Ventura stated there could be water concerns, but does think it would be a good idea. Ventura indicated that if P. Smith decided to go with the site condominium, there is an expert in Marquette that deals with this type of development. P. Smith indicated he wanted to stay with modular homes. Woodward pointed out that the term "site condominiums" makes it sound like you are building condominiums, but the term refers to the mechanism for development.

P. Smith indicated he wanted it to be like the development in Gladstone. That development was discussed. Sikkema asked if multiple zoning districts are allowed on one parcel. Woodward indicated there currently parcels with multiple zoning

districts.

Milton expressed concern was that the Health Department may determine there needs to be an operator for the wells. This was discussed.

Bohjanen indicated he thought it was doable, and that the nuances needed to be decided by P. Smith. Sikkema said depending on where he wants to put the various elements, that would decide the best zoning district to accommodate it. Mahaney said it's a good use of the property.

Woodward indicated that what she heard the Planning Commission tell P. Smith is that some of the land could be rezoned to R1 and some could stay as AF – this will drive the types of decisions that he will be able to make. P. Smith indicated that he will continue looking at his options for how to go forward on this project.

## VIII. UNFINISHED BUSINESS

### A. Review potential revisions of Ordinance #55 related to parking of vehicles and storage of vehicle parts.

Woodward indicated that she highlighted the changes she made in the ordinance based on what was decided at the last meeting. She had also researched State law regarding parking in the right-of-way. The police only deal with vehicles parked on the paved portion of the right-of-way in most cases, unless there's a clear vision issue. The applicable standards from the Michigan Vehicle Code and the Uniform Traffic Code were provided. She feels that if the Commission wants to regulate parking on the unpaved portion of the right-of-way, they would be able to. Basically, State regulations don't prohibit this.

Sikkema indicated that from his past experience, those two codes only deal with the improved portion of the roadway, such as shoulders and travel lanes, and possibly a ditch. If a complaint is received about a vehicle in the right-of-way, the local planner notifies the County Road Commission or MDOT, and the road agency directs the police to address it. The police then direct the citizen to remove the vehicle. In his experience the only thing he ever found that could be utilized in the unimproved portion of the right-of-way relates to litter – if people were parking junk on the right-of-way, the State Police would possibly issue a ticket for litter. The Commission decided not to change Section 4A.

Bohjanen questioned the wording of Section 4.D.1, "*Vehicles shall not be parked or stored within the required zoning ordinance setback for structures*", as to clarity. This was changed to read, "*Vehicles shall not be parked or stored within the required zoning ordinance setback for structures **and the property lines.***"

Bohjanen does not like the idea of putting a number on the quantity of trailers allowed in the front or side yard. After discussion, no change was made.

Section 7.C was changed to read, "*Semitrailers and similar types of vehicles, **or containers designed to be carried on those vehicles,***..."

*Moved by Ventura, seconded by Bohjanen, that after review of the potential revisions made to Ordinance #55 Vehicle and Trailer Parking and Storage, that a Public Hearing be scheduled for the August meeting.*

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

**B. Land Use Classification Table – Discussion**

Woodward asked if anyone had done their follow up on the item. She also indicated that if they wanted, they could submit their input to her for compilation of the final results. Woodward would especially like to have the Planning Commission go over the uses for the AF district. A citizen had planned on being at this meeting to discuss a use that is not currently designated in the ordinance that relates to agri-tourism – such as using a farm structure for weddings.

Sikkema questioned changing zoning classifications. Meister thought it was important to address recommended changes along the corridor relating to mixed-use. Woodward explained that she has not suggested changing all zoning classifications – most of the districts in the draft matrix relate to current zoning districts, just with a different name that relates to the future land use areas of the master plan. For example, the RW (Residential Waterfront) is equivalent to the current WFR, RV (Residential Village) is equivalent to the current R2, RN (Residential Neighborhood) is equivalent to the current R1, RR (Rural Residential) was discussed as a separate Rural Residential category for some smaller parcels in the AF district, AF is unchanged, etc. Sikkema sees no reason for change. Woodward indicated that the most important thing about this exercise is thinking of the different uses and where they fit into the Township – some of the uses are not covered by the current ordinance. Mahaney asked what was being accomplished by doing this. Woodward explained that they are accomplishing clarity – so that citizens can better determine what is allowed. Bohjanen stated that he would like some clarification on a statement made by a previous Zoning Administrator to the effect of, “if something isn’t listed as permitted, it is prohibited”. He feels it would be close to impossible to address every possible use. He feels that this is what this exercise is to accomplish.

Bohjanen suggested that maybe it is time to go through each district and find out if any of the uses need to be different. Bohjanen would like to review the Zoning Ordinance one zoning district per month until done. Sikkema asked what should be worked on first. Meister suggested the Commercial district. Smith suggested the R2 district out by Foster Creek. Sikkema indicated that these were both very specific things. Ventura indicated that he would like to look at the corridor area. Milton would like to go one district at a time – one each month. Sikkema indicated that what Woodward has is a broader view. Ventura suggested that the Planning Commission look at one district per month, and then go to the complete matrix that Woodward has laid out. To go through the whole matrix at one time tends to be overwhelming. By doing one at a time, it may take a while, but it will be easier.

Sikkema suggested that at the next meeting they focus on commercial and industrial district uses. The amendment process was discussed. Woodward clarified with Ventura that he was suggesting to consider current uses in the commercial and industrial districts, and compare to the list of other uses that are possible and see if changes are needed. Woodward asked the Planning Commission to keep their copy of the matrix.

**IX. PUBLIC COMMENT**

Pete Mackin – wanted to update the Planning Commission on the status of the County helping with the project to acquire the land on Chocolay Bayou for a nature park. They will not be able to help with the project as he had hoped.

**X. COMMISSIONER'S COMMENT**

Mahaney was pleased to see there may be some potential development. Milton was glad to see that someone wanted to give us money. Bohjanen indicated to the Commission that the Board did approve the payment for the appraisal of the Bayou property to facilitate the acquisition.

**XI. DIRECTOR'S REPORT**

Sikkema asked if there was a way that Woodward would be able to date the report as to when the violations occurred – Woodward indicated that she highlighted the newest but the highlighting did not show up very well.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 10:24 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, August 17, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:02 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Tom Mahaney (arrived at 7:22 pm), Bruce Ventura, Kendell Milton

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

**July 20, 2015**

*Moved by Ventura, seconded by Bohjanen, to approve the minutes as corrected – page 3, 4<sup>th</sup> paragraph, change “The is increased use” to “There is increased use”. Ventura commented the minutes were very thoroughly done and reflect all discussion items.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

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

*Motion by Meister, seconded by Milton, to approve the agenda as written.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Site Plan Review SP15-04 – Alder Storage, PID #121-071-15, 6590 US-41 S**

Woodward said this is a site plan review for an expansion to a mini-storage facility. The development, consisting of two buildings with access from S. Big Creek Rd, was first approved in 2000. Those two buildings were constructed with alterations, including a change in access location to US-41. In 2007, the conditional use was modified to include two additional buildings; however, only building #3 was constructed at that time. The applicant now wishes to build the previously approved building #4, however, the site plan is now expired. The applicant has not proposed any changes to the original site plan or conditions for approval. However, based on site measurements collected during an inspection, Woodward does not believe the original site plan can be achieved while maintaining the required 100' setback from the small waterbody. She addressed this concern in the suggested motion, along with the previously approved condition requiring a 20' separation distance between buildings #3 and #4.



Woodward presented the staff analysis comparing the development to zoning standards. Other concerns, besides waterfront setback and building separation, include traffic circulation (particularly using an informal dirt path around building #3 in the buffer area), retaining or extending existing buffer areas, outside lighting, and a requirement to obtain a County Soil Erosion permit before the Zoning Compliance Permit is issued.

Sikkema addressed the 30' buffer from the original approval. He doesn't believe the language indicates that the entire 30' width is required to be maintained as a vegetated buffer; he thinks a road could be located within that buffer area, but not a building.

Milton asked for clarification on a mention of building #5. This was a mistake in the application – the application is for only one additional building, for a total of 4.

Bohjanen said that if the applicant rotated building #4 by 90 degrees, it would comply with all spatial requirements. Woodward's measurements were discussed.

Ventura asked if the waterbody is a natural or man-made feature. Woodward said that the previous decision body made an interpretation that it was a waterbody as defined in the Ordinance, and therefore subject to the 100' waterfront setback requirement, and said she felt consistency was important. Ventura said he does not consider this man-made feature to be subject to the waterfront setback provisions, and he suggested the applicant could revise the dimensions of the pond to achieve the required setback. Bohjanen said the point was well-taken, and the placement of the building would not adversely impact the pond. Sikkema said he felt the proposed building location would result in a lesser disturbance to the natural area, and Milton said it would result in less pavement as well. Vegetation and topography were discussed. Sikkema asked if the Planning Commission is allowed to modify the 100' setback requirement – Woodward said her opinion is that the Zoning Board of Appeals would have to grant a variance from that requirement. Ventura asked about the mean high water mark of the pond. Meister agrees it's unfortunate, because the extra 6' separation isn't going to make a difference for the pond/borrow pit.

Sikkema discussed the suggestion that the existing lights should be shielded. He asked for comments on the suggested motion. Meister suggested changing condition #1C to say "Revisions to include a **change in building dimension** sufficient to preserve a minimum of 100' setback from the water's edge ...".

The Commission decided not to address the informal dirt drive that is within the 30' buffer area in the conditions for approval.

The remaining recommended conditions were accepted, with a change to #4 to read, "The 6' tall fencing and required plants as approved in the 2007 plan shall be extended as far south as necessary to **substantially screen** the new structure from the residential area."

A motion was made as below. During discussion, the Planning Commission decided to add an additional option in item #1, that the applicant can seek a variance for the 100' waterfront setback requirement from the Zoning Board of Appeals. The Planning Commission also added the words "licensed surveyor **or engineer**" in #1.

*Moved by Meister, seconded by Bohjanen, that after review of Application SP15-04 Site Plan Review; and review of the staff report dated 8/10/15; the site plan dated*

7/27/07 for additional improvements to Alder Storage located at 6590 US-41S, parcel #52-02-121-071-15, be approved with the following conditions:

1. The applicant will present a site plan, prepared by a licensed surveyor or engineer, indicating one of the following options:
  - a. Confirmation that the placement and configuration of building #4 as presented, including the 30 feet separation from building #3 and 40 foot building width for building #4, will achieve a minimum of 100' setback from the water's edge of the existing pond and minimum of 30' setback from the west property line.
  - b. A revised placement for building #4 (with specified dimensions) that will achieve a minimum of 20 feet separation from the existing building #3 as approved in 2007, and a minimum of 100' setback from the water's edge of the existing pond and minimum of 30' setback from the west property line as required by the Zoning Ordinance.
  - c. Revisions to include a change in building dimension sufficient to preserve a minimum of 100' setback from the water's edge of the existing pond, and minimum of 30' setback from the west property line as required by the Zoning Ordinance.
  - d. Or obtain the necessary variance from the 100' waterfront setback requirement from the Zoning Board of Appeals;
2. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the approved plan, however, the existing vegetated buffer within 30' of the west property line shall not be disturbed;
3. The 6' tall fencing and required plants as approved in the 2007 plan shall be extended as far south as necessary to substantially screen the new structure from the residential area;
4. The applicant shall obtain a County Soil Erosion permit before being issued a zoning compliance permit;
5. All new lighting or replaced lighting shall be shown to be in compliance with the current ordinance before a zoning compliance permit will be issued;
6. Existing lighting shall be shielded from the adjacent residential area;
7. Alder Storage Properties shall maintain the landscape areas that are shown on the plan dated 7/27/07;
8. Alder Storage Properties shall clean-up said property upon completion of construction including removal of brush, trees, debris, etc.

Vote:      Ayes: 7              Nays: 0              MOTION CARRIED

B. Complete Street Project Recommendation for Health Department grant

Woodward summarized the criteria for the Building Healthy Communities grant as sent to her by Scott Ham. The grant stresses policy-making or implementation of projects related to new non-motorized pathways. She feels we have the necessary policy in the Master Plan to support such projects. It is anticipated that the grant would help with design/construction documents for the project.

Sikkema said he thought the project to connect the businesses on the west side of US-41 to the existing bike path would be useful. Smith was concerned about the grade change from the tunnel to the right of way. Sikkema said there are two options: 1) use

the existing Village street adjacent to the tunnel to get to road grade, 2) go across the top of the tunnel (but this would be questionable for space). Meister said that in keeping with a walkable community, the ability to get to those businesses would be beneficial. Ventura said he would also support this as a first priority.

Meister asked if there is an existing easement for potential public access to Lake Superior, as he feels this would be a priority. Woodward said that in the original Hiawatha Shores plat there were two road easements, but that land may now be privately owned, potentially requiring negotiation/purchase. The entire lakeshore is abutted by private property, so this could be controversial. Accordingly, the waterfront access would be limited to the shoreline area because of private ownership. Ventura said he prefers the US-41 project, as Lakewood Lane residents can access the Iron Ore Heritage Trail at several existing locations.

*Moved by Ventura, seconded by Mahaney, that the Planning Commission recommends that the first priority project to be submitted for a "Building Healthy Communities" grant as facilitated by the Marquette County Health Department is the planning and design of a non-motorized connection along west side of US-41 from the northern-most business parcel south to the existing pedestrian tunnel accessing the main urban pedestrian/bike paths.*

Vote:      Ayes: 7              Nays: 0              MOTION CARRIED

## **VIII. UNFINISHED BUSINESS**

Because interested parties were in the audience, the Planning Commission agreed to move agenda item VIII.D to VIII.A.

### **A. Update on Site Plan Review SP15-03 - Dollar General, PID #106-004-00, 4067 US-41 South access negotiations**

Woodward received correspondence from Scott Knowlton, General Counsel for the development company involved in the proposed Dollar General. In the correspondence, the company asks the Township to internally reconsider the stand-alone access. Woodward suggested possible Planning Commission actions to include 1) No response, since there is no formal request for reconsideration by the Planning Commission; 2) Ask Staff or a Commissioner to prepare a response reflecting the Commission's thoughts since a response was requested, which could include informing Mr. Knowlton that thoughts remain unchanged in keeping with findings as expressed in the motion for approval, and offering alternative solutions; or advising Mr. Knowlton to bring his clients in for a meeting to reconsider the site plan and proposed access.

Lee Blondeau, 2001 N. Tracie Ln – In his discussions with Dollar General, Dollar General proposed that they own the frontage currently owned by Blondeau, with the adjacent uses to be accessed via easement. However, then they were informed about the Ordinance requirement for all new parcels to front on a public or private road. He wondered if there is a variance process for this. The Planning Commission asked him to negotiate shared use for that driveway and he did – Dollar General will buy it, they will all use it. Woodward clarified the Ordinance requirements – lots of record can be accessed via easement, but new lots must have direct frontage. Dollar General's purchase of the frontage attached to the Blondeau parcel would make the newly

formed Blondeau parcel nonconforming. Blondeau is concerned this will negatively impact negotiations, and he would like to see new development on that parcel. Opportunities don't come along very often.

Laurie Freeman, and Sally Halvorson, property owners of 4067 US-41 S, said that they have a piece of property that is basically land locked if no access is allowed. They asked for help. Their impression is that Dollar General doesn't want to pay the price established by Blondeau for the highway frontage.

Woodward said there are four options: 1) new property owner would not require ownership of the Blondeau access, and would utilize an easement for access (then both parcels would still have frontage on the public road), 2) create a private road meeting County Road Commission standards to access all parcels, 3) create a public road to access all parcels, and 4) keep the existing stand-alone access but connect the parking lots between adjacent parcels to give people the option of using the safer access over the Blondeau parcel.

Blondeau's plan was to install a curb between his easement and the Dry Dock Bar, and for the Dollar General driveway to be placed back far enough to allow a sign on the front portion of the property to advertise the use on his parcel. The property owners pointed out the tax benefits for the Township.

Mahaney pointed out the safety concerns associated with the existing stand-alone access. Smith asked for further clarification of the Township frontage requirements. Woodward clarified. Sikkema asked about the process for creating a private road. Woodward said the road, meeting County Road Commission standards, would come before the Planning Commission for approval. Smith said a 66' wide easement with 80' cul-de-sac at the end would be required by the County.

Sikkema further pursued the option of making it a private road – he thinks the driveway would meet County Road Commission standards. The costs could be shared by the adjacent property owners. Options were discussed with the property owners, who said Dollar General doesn't want their customers to be circulating with truck and bar traffic. The owners said it seems their only option is to have Blondeau create a private road. Ventura said it's not the only option – most companies negotiate access via easements, without ownership requirements, such as the agreement between Holiday Gas Station and Snyder's. It would be simple if Dollar General would accept an easement, as Blondeau has said he is willing to negotiate shared access.

Smith asked if the Township has the ability to waive the Corridor Committee's recommendation and MDOT recommendation and approve a driveway on US-41. Sikkema said it's our Ordinance we would be waiving – MDOT would not be involved in that. The Corridor Committee gives the Township recommendations. Meister discussed the MDOT recommendation for the driveway, if the Township allows direct highway access, including the Corridor Committee's recommendation about a dedicated left turn lane onto Silver Creek Road, which may also result in a prohibition against direct left turns into the subject parcel. Mahaney wondered if Midwest LLC approached the owners of Quiznos regarding shared access. He said it seems that Midwest has not fully pursued their options. The distance of the Holiday driveway from the intersection of M-28/US-41/Cherry Creek Road was compared to the distance of the subject property driveway from the intersection of M-28/US-41/Silver Creek Road. Sikkema said the Silver Creek Road intersection is busier than the M-28/US-41/Cherry

Creek Road intersection, and the proposed driveway is closer to the Silver Creek Road intersection than the Holiday driveway is to their intersection.

The possibility of a variance from road frontage requirements was discussed; in that way, Dollar General could own Blondeau's road frontage.

The property owner asked if they could rezone the property to residential, and use the existing driveway. Sikkema said they could make the rezoning request, and the driveway issue wouldn't come before the Board because it wouldn't be a change in use.

The Commission discussed their response to Midwest LLC and Mr. Knowlton. Ventura made a motion as below, including options 1-4. Smith urged another option including direct access via right-turn only. Sikkema said this would also have to be acceptable to MDOT, and he doesn't think that's the best solution. Mahaney said they should exhaust the other options. Sikkema would support a variance from Ordinance frontage requirements to allow Dollar General to own the access. Smith said that the only way the first four options can be achieved is through successful negotiations with Blondeau. He supports a fifth option, as below. Sikkema asked Ventura if he accepted the revised motion with the addition of the 5<sup>th</sup> option. Ventura asked if there was a second to his motion. Mahaney seconded the motion. Ventura agreed to amend the motion at Smith's request, adding a fifth option, but with a caveat that the first four options should be pursued first. Mahaney rescinded his second to the motion. Smith offered a second to the amended motion.

*Moved by Ventura, seconded by Smith, that the Planning Director draft a letter to Midwest LLC, for signature by the Chairman, stating that the Planning Commission position remains unchanged, and the desire is for Midwest LLC to develop the property in a safe way through one of the following options:*

- 1. Utilize shared access with adjacent property via easement.*
- 2. Direct access via a new public road.*
- 3. Direct access via a new private road meeting County Road Commission standards.*
- 4. Apply to the Zoning Board of Appeals for a variance from the frontage requirements of the Zoning Ordinance, allowing the developer to own the access and provide access to adjacent property owners via easement.*
- 5. Allow direct access to the subject parcel via right turn only; with the caveat that the first four options must be pursued first.*

Vote:      Ayes: 5              Nays: 2              **MOTION CARRIED**

Woodward said that if the applicant pursued option #5, they would have to return to the Planning Commission for a revised site plan review approval. This was affirmed.

- B. Final draft Ordinance #55 Vehicle Parking and Storage – revisit before public hearing  
Woodward said the Attorney input was summarized in the staff memo, and incorporated into the draft, with the exception of his comment regarding the omission of the "one inoperable vehicle that is under restoration for the purpose of a hobby" clause. If the Commission wants to add that back into the Ordinance provisions, she suggested adding it as item #2 in Section 6A, with the current item #2 to become item

#3. Section 6A(2) would read, "One inoperable vehicle that is under restoration for the purpose of a hobby may be stored outside, provided all requirements of Section 4 are met." Sikkema was concerned about the amount of time such vehicle could be stored outside. It was decided to revise Section 6A(2) to read, "For a period not to exceed one year, one inoperable vehicle that is under restoration for the purpose of a hobby may be stored outside, provided all requirements of Section 4 are met." Bohjanen suggested a possible extension upon demonstration of progress. Woodward was skeptical about her ability to determine progress on car repair. However, the Ordinance already has a waiver provision. It was determined this would suffice.

Bohjanen didn't like the proposed syntax change in Section 5 A, B, and D, resulting in a sentence beginning with "Provided however ...". It was decided to accept the changes as indicated by the highlights except that the ". Provided" would be changed to ", provided".

*Moved by Bohjanen, seconded by Milton, to approve draft Ordinance #55, The Charter Township of Chocolay, Marquette, MI, Vehicle and Trailer Parking and Storage Ordinance as changed, and to hold a public hearing on the proposed draft at the September meeting, with corrections to include grammar in Section 5 and the addition to Section 6 as discussed.*

Vote:      Ayes: 7      Nays: 0      MOTION CARRIED

Sikkema recommended discussing item E before proceeding to items C and D. This was agreed.

E. Trustee Maki faxes of 8/4/15 and 8/6/15 for discussion

Sikkema said the Planning Commission had received two communications from Mr. Maki, one dated August 4, the other dated August 5 and received on August 6. He said the Commission is under some obligation to respond to written requests within 14 days, so he sent a response signifying that he would request that the items come up for discussion, with the possibility of being added to the meeting agenda. He said it isn't clear how or if the Commission has to respond. He did respond with an acknowledgement. He asked the Commission if they want to discuss it.

Sikkema introduced the topics of the August 6 information request, along with findings. It was determined there was no need for site plan review for the enlargement of the Silver Creek Church parking lot according to site plan review standards, as this was an expansion that did not result in an increase over 20 percent. A series of lists were requested by Mr. Maki; for the first three items, no such lists are maintained, nor did the Supervisor request the generation of those lists. The fourth list of zoning violations was provided to Mr. Maki in the same manner as provided to the Planning Commission monthly. Mahaney said this was available on the website as well, and Woodward said the information is summarized in the Board update every month.

The lot size for the communication tower approved for Verizon Wireless was discussed – the lot upon which the tower is placed exceeds the minimum lot size requirement of 20 acres. Mahaney said that Mr. Maki's interpretation must be that the leased area constitutes a new lot, however it doesn't. It is not required that the leased area meet the minimum lot size requirement.

The Planning Commission was not asked to take action on a revised Silver Creek

Recreation Area access.

Meister asked if Mr. Maki had received the staff responses. Woodward said Gary Walker had directed her to respond to the fax that was sent to the Township Board and Planning Commission, and that response was sent to Mr. Maki along with a response from Gary Walker and Andy Sikkema. Sikkema said he can draft a letter to Mr. Maki referencing that response and any new responses, should the Commission feel the need to address any of the issues.

The contents of the August 4 communication to the Planning Commission were discussed. The first item asks for information dealing with the approval of an accessory building on the Blondeau parcel in 2006, and the groundwater contamination on that parcel. Item two is in regard to the Verizon Tower leased area size, as already discussed. The third item is a question about why the property north of Lakewood Lane was changed from R-1 to WFR in 2008. Sikkema said he didn't think any of the current members were on the Board in 2008. The fourth item is in regard to a suggested revision of the Planning Commission minutes of 6/25/15.

Sikkema could envision no response to the third item other than reviewing the minutes pertaining to zoning changes in 2008. Bohjanen asked if that was a result of a zoning ordinance change. Sikkema affirmed. Bohjanen posed the answer, "Why was it done? It was part of a zoning revision." Woodward said she had reviewed the minutes, and found confirmation of the change, but no associated reasoning. Sikkema said the old minutes are available to anyone, and the Commission has no more information than Mr. Maki in this regard. The Commission asked Woodward to refer Mr. Maki to the appropriate minutes where the change was referenced if known.

Regarding item #1, Woodward said there was no information about building height contained in the application, plans, and memorandums for the Blondeau building at the time of approval in 2006. However, she said this is irrelevant as the building is now a principal structure conforming to height requirements. Formerly the lot may have been considered to have multiple principal buildings. The Commission asked Woodward to check with the DEQ to see if there are any outstanding issues on the Blondeau property.

Sikkema asked for confirmation of Mr. Maki's exact words as reflected in the 6/25/15 minutes regarding WFR vs LSR. Woodward said the minutes reflect what was actually said. Sikkema said they should respond that the minutes from public comment are correct as written. He suggested that he would work with Woodward to draft a response to both letters. The response to the August 6 letter would reflect the previously prepared response from staff and the Township Supervisor.

*Moved by Bohjanen, seconded by Ventura, to have a letter drafted by the Chairman and staff to respond to Mr. Maki per the discussion.*

Vote:      Ayes: 6              Nays: 1              MOTION CARRIED

C. Land Use Discussion – "C" Commercial & "I" Industrial zoning districts

Woodward encouraged the Planning Commission to consider updates to the use provisions of the Zoning Ordinance to address problems of clarity and omissions, resulting in increased expenditures of time, citizen confusion, lack of consistency, and complicated process. She gave examples of the difficulties as presented in the staff memo. Woodward suggested that when the Commission is ready to move forward

with zoning ordinance amendments related to master plan implementation, they had three options to proceed as follows:

1. Amend Section 4 Use Standards without changing current zoning districts or rezoning parcels.
2. Amend Section 4 Use Standards while changing zoning district names to reflect mixed-use options, without rezoning all parcels that are indicated for mixed-use.
3. Amend Section 4 Use Standards while changing zoning district names to reflect mixed-use options, and also rezoning all parcels that are indicated for mixed-use (all at once or in phases).

The Commission had agreed to discuss the land uses allowed in the Commercial and Industrial zoning districts at this meeting.

Sikkema posed the question whether residential should be allowed as a principal or accessory use in the Commercial district. Meister said the commercial frontage is too valuable to let it be converted to residential, so he'd prefer residential uses as accessory to commercial. For example, apartments could be above or behind commercial uses. Sikkema said it would generate supplemental income and double the use of the property, making the development more viable. Bohjanen envisions two levels – the corridor would be commercial with accessory residential, and the adjacent residential area could be residential with accessory commercial. This would enable the outward expansion of the commercial district while not depriving people of their places to live. Sikkema asked if some commercial properties might become viable for multi-family uses – allowing greater density and affordable housing. This might retain residents going through life changes by making rental properties available. Bohjanen prefers multi-family to be located in adjacent residential areas. He doesn't understand why duplexes are allowed on the small lots in Harvey (R-2 district), but not on bigger parcels in the R-1 district or the countryside. He thinks that needs to change. The corridor and neighborhood mixed-use areas make sense to him. Meister sees residential as having the same effect as storage buildings, taking away prime commercial space. He thinks they should be allowed, but located with an increased setback. Bohjanen said he envisions an overlay district where all the residential is 10 feet off the ground, and commercial is in the space in-between. He said many old communities have ground floor commercial and upper floor residential. Sikkema said it's also important that the downstairs not turn into underutilized commercial, being vacant because there is no demand. That space could be repurposed for apartments, although he still envisions residential as an accessory use.

Sikkema asked how to go about the changes per Woodward's suggestion. Meister prefers option #3, but with rezoning in phases. Bohjanen asked about potential public reaction to proposed zoning changes. Woodward suggested sending a letter to property owners who might be impacted by proposed changes to obtain their input. Or this could be done through a special meeting to which they are invited. Sikkema said it would be good to know why some underutilized properties are not being redeveloped. Mahaney thinks it's related to the speed of traffic through Harvey. Sikkema cautioned against requesting a speed survey, because it would likely result in an increase in speed limit. Ventura said Marquette Township is developing like crazy even with highway speed. Mahaney said we don't have the larger parcels available. Ventura



agreed, but said he thinks the bigger limitation in Harvey is the lack of public water supply. Smith agreed in reference to fire suppression requirements.

Sikkema said people want to see Harvey more vibrant, so either we need bigger businesses to serve as regional draws, or need to develop more local-serving businesses. The assembly of larger parcels might infringe on existing residential areas. Meister said the mixed-use option makes smaller lots more viable with supplemental income. Smith cited the reuse of the residential building for Iron Bay Computer as a good example.

Blondeau asked if the Township offers tax incentives. Bohjanen said the Board discussed a DDA district years ago, but it wasn't a popular idea. It would mean reinvesting incremental tax revenues. Woodward said the proposed corridor study would involve a feasibility study for a corridor improvement district. Sikkema asked if the corridor study should be done before revising the zoning ordinance. Woodward said that would be the ideal process; however she was asked to put together recommendations for a temporary fix while more comprehensive fixes were being considered. The Commission asked Woodward to research the amount of money it would take to develop such a corridor development plan, and to develop recommendations for changes to Section 4 based on the discussion.

D. Discussion of potential zoning ordinance revisions pertaining to future development along the Harvey corridor

At the April 20 meeting, Woodward had expressed concern about the number of potential properties that could be redeveloped, and the lack of appropriate regulations for buffers and screening for uses that would involve exterior impacts. The Commission asked her to draft ordinance revisions for the prime redevelopment area that would incorporate a mix of uses and improve the pedestrian environment, with special attention to buffering of outdoor storage, display, or sales areas.

Woodward proposes to revise the existing Access Management Overlay District to address these issues, because most potential redevelopment properties would be contained within that District. The District regulations have a well-crafted, transparent process which would keep applicable regulations together in the same portion of the Zoning Ordinance. Woodward also strongly recommends revising the 50' setback requirement of the Access Management Overlay District, which has the effect of making most existing properties noncompliant, and results in a large area of vacant space between the road and the development since the right-of-way is so large. Allowing buildings closer to the right-of-way would create new development more in character with existing development, a more accessible pedestrian environment and more pleasing public space, and make businesses more visible to passers-by. The current setback requirements limit development potential.

She wants feedback on the recommended approach so she can write some sample regulations pertaining to front yard landscaping, parking lot screening, screening of outdoor storage, parking lot connections for non-motorized infrastructure, etc.

Sikkema said he agrees with this approach and the revised setbacks to reduce building setback and encourage parking on the side and rear. Meister agrees. Sikkema said the intent was always that municipalities would revise the access management standards to address community aesthetics. Woodward will continue to work on recommendations. Bohjanen thinks the façade is also important – a nice

appearance may not require trees. Woodward said she will promote filtered views and screening.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

Ventura said Bohjanen's comments regarding facades are well taken and could be addressed with form based codes or hybrid codes. Meister said they need to address the minimum lot size for PUD development and allow PUDs in the AF district. Sikkema said that's a good point and it should be put on a to-do list.

**XI. DIRECTOR'S REPORT**

Woodward mentioned the budgeted training for webcasts and the Citizen Planner Program. Sikkema is interested in the Citizen Planner program, and possibly Bohjanen. Woodward will see when the training will be in Marquette again, and check on the length of the webcast and send information to the Commissioners.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None discussed.

**ADJOURNMENT**

Sikkema adjourned the meeting at 10 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY

## PLANNING COMMISSION MINUTES

Monday, September 21, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Tom Mahaney, Bruce Ventura

*Members Absent:* Richard Bohjanen (Board), Kendell Milton

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant), Gary Walker (Township Supervisor), Steve Lawry (Township Manager)

**II. MINUTES**

**August 17, 2015**

*Motion by Ventura, seconded by Mahaney, to approve the minutes as corrected (page 4, 3<sup>rd</sup> paragraph in motion, 4<sup>th</sup> line down, addition in bold "... planning and design of a non-motorized connection along **the west side of US-41** ...").*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

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

*Motion by Meister, seconded by Ventura, to approve the agenda as written.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Randy Hubinger, 214 Riverside Road – provided written and verbal information to the Commissioners related to constructing a privacy fence along their side lot line. The Zoning Ordinance Section 18.2 (D)1.d provides that a 6' privacy fence cannot be placed any further toward the road than the front of the house. Waterfront houses are often placed near the water, and therefore a privacy fence would not be allowed in most of their yard. They would like to put up a privacy fence to screen their lot from their neighbor's, which is a rental property. The fence would still be located 40 feet from the road. He would like to see the Ordinance changed to accommodate these kinds of situations.

Public Comment closed.

Sikkema asked if the information provided could be added to the agenda. Woodward indicated it could. Sikkema asked for motion to put this item on agenda – none was made.

## **V. PUBLIC HEARINGS**

### **A. CU15-04, PID 123-011-00, 488 Mangum Road, Chiodi, Recreational Use**

Public comment was opened.

Sarah Monte, 201 Green Garden – she is about one mile away from the Chiodi farm through the woods. Monte loves what is happening with the farm being open for events. She does not feel that there has been any problem with noise or traffic. Monte stated that thinking of this as recreation not totally accurate because this is a working farm – a better term would be agri-tourism. She thinks it is a great way to expose people to agricultural systems, and the proposed use is fitting for the district. This creates a different venue for people who do not want to have a wedding in a basement or hotel. She feels that it is good for all the farms in the area. As a nearby farmer, she appreciates the increased interest in agriculture that results from people visiting Chiodi's farm. Monte stated it is an excellent use of a farm that is a little bit non-traditional, but still fits within the zoning requirements. It should be encouraged as part of the County's Master Plan which has stated that we should focus on agriculture in all aspects.

Debbie Mahin, 774 Greenfield Road – she applauds these excellent entrepreneurs. It is really difficult to make a living, and they are doing it because of their great idea. She is also a small entrepreneur – she has a food truck and horse-drawn wedding carriage which she would like to bring to their events.

Charlotte Dameworth, 550 Mangum Road – they have been there since 1969. She agrees with everything the other two have said. She and her husband fully support Chiodi's and all they do on their farm.

Bob Mahin, 774 Greenfield Road – he reiterates everything that has been said. This young family has done a wonderful job with upkeep of the farm and it enhances the community. Part of the charm of Chocoy Township is the old farms, and he feels that Chiodi's have done a beautiful job and he hopes they can continue this use.

Sandra Peterson, 401 Green Garden Road – she also supports this use. Her son and daughter-in-law were one of the first couples married there. This supports the use of local food and the hiring of local people.

Tom Ballreich, 447 Mangum – wanted to know if his property tax will go up or down if this gets approved. Sikkema stated that the Planning Commission is not involved in taxes and that would be a question for the Assessor.

### **B. Proposed amendments to Ordinance #55 Vehicle Parking and Storage**

Dick Arnold, 312 West Branch Road – this is the third time he has come before the Planning Commission on a change in the Ordinance, and each time it gets worse. Arnold cited Section 4.C states "*Vehicles over 8 feet tall should be stored at least 10 feet from the lot line*". Then in Section 4.D.1 it states that "*Vehicles and vehicle parts shall not be parked or stored within the required zoning ordinance setback for structures and property lines.*" He feels there is a conflict between these two

provisions. Another concern is Section 4.D.3 which states, “*The designated enforcement officer shall have the authority to grant a waiver from this Section ...*”. Arnold doesn’t feel that this should be possible – that’s what the Zoning Board of Appeals is for. He doesn’t like Section 7.C that allows for the parking of up to 3 semi-trailers on a property for residential use. He feels this means that every place on M-28 would have 50 foot semi-trailers or container boxes parked in their yard and it doesn’t make sense to him. He stated that even though they are supposed to be parked in the back yard, backyards are where people hold get-togethers. He also wondered why the Planning Commission proposed that fully operable agricultural vehicles can be parked in residential areas.

## **VI. PRESENTATIONS**

None

## **VII. NEW BUSINESS**

### **A. CU15-04, PID 123-011-00, 488 Mangum Road, Chiodi, Recreational Use**

Woodward stated that this is a request to use what is principally a farm and a residence for the owners for a temporary seasonal recreational use involving a farm accessory building and portion of the grounds. A recreational use is a conditional use in this district. This is a 20 acre conforming lot of a size which also meets the minimum requirements for a recreational use. The surrounding properties are mostly vacant farms and forest lands. There are no site plan concerns in relation to soil, floodplains, wetlands, or terrain. The nearest residence is approximately 1,300 feet away with a forested separation. Woodward reviewed the staff use analysis for categorization of this use based on Ordinance provisions. Woodward also stated that she had consulted with the Township Attorney regarding this land use classification, and they are in agreement. It is anticipated that this will be a low intensity use in comparison with some of the other uses allowed in the AF district, such as race tracks, contractor yards and shops, and kennels. Woodward stated that this is basically a short term rental of a farm structure and portion of the farm grounds. Public assembly is not clearly addressed in the zoning ordinance. This use is clearly accessory to the principal use of farm.

Woodward reviewed some recommended conditions for approval involving exterior lighting, on-site parking, potential future parking lot screening, and required amount of public parking in relation to occupancy, etc. The Zoning Ordinance requires 0.35 parking spaces per occupant for various public assembly uses, but occupancy is hard to determine when people are using open space on a farm. The applicant has stated that he currently has room for about 90 parking spaces, so when using the above formula, that would accommodate approximately 257 occupants, and so far he has not had that number of people. Woodward also suggested that the issue of noise be handled per the Noise Ordinance, and the hours of operation be set to coincide. Woodward recommended that the Planning Commission require that the property owners make sure that the clients are adequately served with public facilities and services meeting Health Department requirements, and that before

commencement of use they will provide proof of compliance with the other applicable regulations and statutes.

Ventura asked if Chiodi had determined the maximum capacity of the barn. Chiodi stated that they are limited to about 150 – 170 for safety and exit requirements.

Sikkema asked if Chiodi had contacted the Health Department for review of the facility. Chiodi indicated he had not, because they do not provide drinking water or food, and porta-potties are provided for a charge.

Chiodi indicated that the concept started with friends and neighbors coming out to have an event. Then other people started calling. The reason for coming to the Planning Commission is to make sure that they are following the laws and ordinances and have approval, especially since the Township has no “special event” permit available at this time.

Mahaney asked Woodward if what Chiodi is doing is considered illegal. Woodward stated this was a tough question, since people do have events and gatherings on their properties without permits, but this is a more frequent occurrence. Woodward agrees with Chiodi that there is a need to get things “ironed out” so the characteristics of this use and the conditions under which they can operate are clear. Mahaney asked if this is currently prohibited under our Ordinance. Woodward indicated that she thought there was strong support for the idea that it is a use that is permitted in this zoning district. Sikkema indicated that he struggles with this, based on the fact that the people that come there use it for recreational use, but the owners use it for commercial use. Woodward indicated that there are a lot of commercial uses allowed in the AF zoning district. Chiodi indicated that was why they were here, to see how they could be “labeled”. There is a demand for this activity, and they want to know how they can do this for the community. Even if the barn wasn’t there, people would still be using the facility, as they spend most of their time outdoors when the weather is good. Chiodi compared the use to Gitch-Gumee, where the owner has a business for people to pursue recreation.

Mahaney asked about the size of the largest event held there. Chiodi stated about 200 people.

Sikkema asked how many events had been held this past year. Chiodi indicated about 12. Sikkema questioned this based on information on the website, and this was further discussed, as some events were concerts. Sikkema indicated that he just wanted people to understand the level of intensity, and he asked for a projection on the number of events per year. Chiodi replied there would be no more than 25, based on the number of weekend days between May and October. There are 2,100 working hours per year, and they would be open for 150 hours potentially. He figured this was less than 10% of working days per year. It’s a seasonal use, and since that’s their home, that’s all they want it to be. If there was a permitting system for individual events he would have taken that route.

Mahaney asked about potential numbers of people attending each event. Chiodi indicated that they like to keep them as small as possible, so possibly 200. Mahaney asked if he was planning on enlarging the events. Chiodi stated he did not know – but he is open to yearly review. Mahaney asked Woodward about placing parameters on Conditional Uses.

Sikkema asked if the Conditional Use runs with the property. Woodward indicated yes, if the use continued to meet the same conditions as specified. Sikkema clarified that if the property was sold, it would stay with the property and new owners, not with the old owners.

Sikkema asked Woodward how she or the attorney came up with “Recreational Use”, as that needs to be tied to recreational structures, and there are no real recreational structures as defined in the Ordinance in this case. Woodward said that Recreational Use/Structure is interpreted as meaning Recreational Use or Recreational Structure. Sikkema reiterated that the recreational use is for the renter and their guests, but it is a commercial use for the permanent owner. Woodward pointed out that the Recreational Use is intermittent. Woodward further explained that land use classification relates more to what is actually happening on the property than to the impact to the owner. Sikkema asked if that means that someone could be in the AF district and put in a bar, and consider it recreational. Woodward indicated that use is not intermittent. Sikkema argued that you would close at night, and then open the next day. Woodward indicated that there would not be the same standards for a bar as for this use.

Meister indicated that he thought this use is related to agri-tourism. People go there because it is a farm, and they want their event on a farm. Sikkema indicated that agri-tourism is not mentioned in our zoning, but it is mentioned in our Master Plan.

Sikkema asked Chiodi if he felt like he was running a business – Chiodi indicated that he felt like he was running many businesses, with the farm being the primary business. He said that agri-forestry is a commercial use, historically from day one. 1974 is the first time that Chocoma had zoning. Prior to that, people were running commercial farms. Chiodi indicated that he could log his 60 acres and not get a permit, and that would be a commercial venture. Chiodi also indicated that they could be viewed as a park, such as Lakenenland or Gitch-Gumee.

Meister indicated that he felt it was better if they do have a Conditional Use, because that way it would not have to be allowed everywhere in the AF. Sikkema indicated that there are really no criteria to judge where this type of use should be. Ventura indicated that he feels there are criteria in that they have to look at how close the neighbors are and how they will be impacted. He said they’re also talking about a present event, not a future event.

Ventura indicated he had looked over the list of criteria that Woodward had recommended. He feels they are reasonable. As far as the lighting, dusk to dawn lights can be irritating to neighbors, but if they are shielded properly they are fine.

The report from the County Road Commission suggest there be no vehicle parking on Mangum Road, Woodward made that recommendation, and there is room for parking on-site. Chiodi has identified the parking area and the ingress and egress points. Woodward had commented on the frequency of use and the effect on groundcover, which has been addressed in a recommendation for future vegetative screening. Woodward suggested a specification on 0.35 spaces per occupant for parking requirements, which would allow for 257 occupants at maximum, so he feels that the parking being provided is adequate. The hours of operation should be satisfactory for both the family and the neighbors. The question largest in Ventura's mind is that the property owner will insure that clients are adequately served by public facilities. He asked Chiodi about the provision of porta-potties, and if there was some type of formula for this. Chiodi said they are rented and emptied as needed, but he would check with the Health Department. Ventura indicated that this would be covered in the next condition as Woodward suggested – that the applicant provide proof of compliance with all applicable standards. Ventura indicated that the Planning Commission needs to look out for public safety, health and welfare.

*Moved by Ventura, seconded by Meister, that after review of Application #CU15-04 for applicants Jeff and Kristin Chiodi for parcel #52-02-123-011-00 at 488 Mangum Rd; and staff report dated 9/8/15; the conditional use of recreational use, specifically the hosting of occasional seasonal public gatherings as an accessory use on a parcel primarily used for agriculture and a single-family dwelling, having been found to meet all required conditions of approval, be approved with the following conditions:*

- 1. All exterior lighting (both existing and new) shall be approved by the Zoning Administrator as being in conformance with the applicable standards of the Zoning Ordinance before a Zoning Compliance Permit is issued; and*
- 2. All parking for the proposed use shall be provided on-site, with no parking allowed on Mangum Rd; and*
- 3. If use increases in frequency so that the ground cover of the designated parking area is compromised, and it becomes necessary to use something other than vegetative cover for the parking area, the applicant shall provide a vegetative screen between the parking area and the roadway sufficient to significantly screen the parking lot from view while not obscuring clear vision of the access points; and*
- 4. On-site parking shall be provided at a minimum level of 0.35 spaces per occupant; with the number of parking spaces designated for this use not to exceed 90 as shown on the site plan (90 cars would accommodate 257 occupants per this formula); and*
- 5. The hours of operations shall not exceed 7 am to 11 pm, with the majority of guests to depart by 11 pm; and*
- 6. The property owner will ensure that their clients are adequately served by*



*essential public facilities and services meeting health department requirements; and*

- 7. Before commencement of the use, the applicant will provide proof of compliance with all other applicable statutes, regulations, and ordinances and proof that they have obtained all other necessary licenses or permits to the Zoning Administrator; and*
- 8. Failure of continued compliance with those federal, state, or local statutes, regulations, and ordinances as they existed at the time the conditional use was issued may result in Planning Commission review and revocation of the Conditional Use Permit.*

Vote: Ayes: 4 Nays: 1 (Sikkema)

MOTION CARRIED

### **VIII. UNFINISHED BUSINESS**

#### **A. Recommendation on the adoption of amendments to Ordinance #55 Vehicle Parking and Storage**

Woodard indicated that last month a few changes were made, and those have been incorporated, and at that time the Planning Commission had agreed to go forward with a public hearing.

Sikkema addressed the concerns of D. Arnold that were stated in the public hearing. Sikkema asked about the section dealing with the three semi-trailers. Woodward indicated that they could not be used for storage. Ventura referred them to Section 7.C, which states “*Semi-trailers and similar types of vehicles, or containers designed to be carried on those vehicles, even if currently licensed and operable, shall not be used as storage containers (with or without wheels) on any premises primarily used or zoned for residential occupancy unless they are located in the rear of the property and are at all times substantially screened from the view of persons standing on adjoining roadways and the ground level of adjoining properties by a solid fence or wall meeting all requirements of the Charter Township of Chocoday Zoning Ordinance.*”...) Sikkema explained that states they can have them, but they must be in the back yard where neighbors cannot see them.

The next comment concerned Section 5.D, “*Fully operable agricultural vehicles may be parked, stored, maintained, or placed upon premises that are primarily used or zoned for residential occupancy if all requirements of Section 4 are met, provided however that such vehicles and associated parts or attachments shall be parked or stored only in the rear yard. The rear yard restriction does not apply on premises used exclusively for agriculture or forestry activities.*” Sikkema indicated this would mean if you are in a residential area, they would need to be in the rear yard and substantially screened from the road or adjacent properties. If you are in the AF district, this would not apply. Arnold asked who would decide – Sikkema indicated that first it would go to the Zoning Administrator, and then to the Township Supervisor. Arnold questioned how many vehicles you could actually have on your

property – it could be filled up.

Woodward mentioned Section 4.C and Section 4.D.1 which Arnold feels are conflicting. She explained they are not in conflict, and the prevailing section would be that which is more restrictive.

Sikkema asked for any more suggestions. Smith indicated that he felt they had covered most things. Ventura stated that he feels that the Planning Commission has made substantial improvements.

*Smith moved, and Ventura seconded, that after holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve the draft changes to Ordinance #55 Vehicle Parking and Storage as written for the following reasons:*

- 1. More clear purpose statement highlighting the relationship between health, safety, and general welfare and the types, location and condition of vehicles parked or stored on properties primarily used or zoned for residential occupancy; and*
- 2. Limitation on the area of the front and side yards that can be used for the storage of vehicles and vehicle parts, and provision for more separation between such storage areas and the property lines; and*
- 3. Limitation on the number of trailers that can be stored in the front yard, and provision that additional trailers be stored in the rear yard and substantially screened from view; and*
- 4. Regulation of the use of RV's for temporary living quarters, and the use of semi-trailers or similar containers for storage; and*
- 5. Provision from improved enforcement in cases where license plates are obscured from view.*

Vote: Ayes: 5 Nays: 0 MOTION CARRIED

**B. Mixed-Use zoning districts draft amendments for "C" district**

Woodward stated that last month the Planning Commission had discussed possible updates to the Use Provisions of the Zoning Ordinance to address the mixed use options that had been discussed in the Master Plan. The other recommendation was to modify the provisions of the Access Management Overlay District to address the aesthetics and buffering for potential development in the Harvey area. The Planning Commission agreed this could be addressed by revising the Access Management standards. She was not able to create draft changes for this meeting. The other topic discussed was whether to proceed with the corridor study to get input from the residents before adopting changes. Woodward recommended adopting use changes as soon as possible to improve the opportunity available to property owners in this corridor for implementation of mixed-use development. Woodward drafted

use changes for the commercial district.

The Planning Commission had discussed allowing dwellings as secondary to commercial use, as they did not want valuable commercial land to be converted to residential use.

Woodward suggested dwellings that are above the ground floor or behind the commercial use as a permitted principle use. She also addressed civic assembly uses and outside sales, merchandising and dining areas. Also addressed are light indoor assembly and packaging uses. Type I and Type II Home Occupation are added to the list as permitted principal or conditional uses respectively. The Planning Commission had discussed the placement of storage buildings and low-intensity uses involving larger equipment behind other uses. Woodward suggested a 150 ft. setback for these uses, unless they are entirely screened by another building. Woodward added ground floor residential as a conditional use with multiple family only if located on the same lot as a commercial use. Woodward added daycare facilities as a conditional use.

Ventura asked about Item 10 Outdoor Civic Assembly as a principal use, but it's listed as a conditional use. Woodward stated that would refer to places that are used only for outdoor gatherings such as concerts as the only use. Accessory Outdoor Civic Assembly is suggested as a permitted principal use.

Sikkema asked why a day care would be a conditional use, rather than a permitted use. Woodward explained it was for considerations of compatibility with adjacent uses.

Sikkema then asked about the permitted principal use of indoor animal care and boarding. He is okay with the animal care, but not sure on the boarding – possibly a conditional use. Woodward indicated that this could refer to a vet or an animal groomer – the boarding would all be indoor.

Sikkema asked about crematoria being added to funeral homes. Woodward indicated there were probably other regulations that would apply to this. Woodward had done some research on this and was not able to find anything on evidence of a nuisance impact.

Meister pointed out this is a first draft, so there will be some changes made. Mahaney asked about breweries.

Sikkema asked about options for public input on the suggested changes. Woodward indicated that there could be a Special Meeting where we would invite the impacted property owners. Township Manager, Steve Lawry indicated that Chocolay Township is a member of Chamber of Commerce, and they may be able to do the outreach for us. Sikkema also stated that without a Planning Director, the process may be delayed. Lawry indicated that, if possible, a candidate would be going before the Board at the October meeting. This would still mean a November starting date. Lawry indicated that if they think the Mixed-Use policy is close, it could go to public

hearing. Sikkema did not think the Planning Commission would be comfortable doing that – he would like to get something out to the business owners to see what their thoughts are. Sikkema also did not think it was wise to tackle this until a new Planning Director has been hired so they can hear the input.

*Ventura moved, and Mahaney seconded to table discussion until the new Planning Director has been hired and had time to acclimate to the position.*

*Vote: Ayes: 5 Nays: 0 MOTION CARRIED*

Ventura also indicated that he did not want to lose this – he wanted to make sure that after a new Planning Director is hired and up to speed that it gets back on the agenda.

#### **IX. PUBLIC COMMENT**

Tom Ballreich, 447 Mangum Road – his wife had written a comment letter on the Chiodi property, and he wanted to make sure that the Planning Commission had been given the opportunity to review it. Sikkema indicated that they had received the letter.

Sikkema then discussed the request by Randy and Amy Hubinger, 214 Riverside Road, on construction of a fence. He wondered if this would be a Zoning Board of Appeals matter. Woodward indicated that she felt it would be better resolved through a zoning ordinance amendment that would allow equal treatment for similar situations. With the ZBA, there are very specific standards for adopting variances which may not be met. Sikkema's feels that it would be more of a ZBA decision because of the front yard / back yard issue on lakefront property. Woodward said a ZBA interpretation could be considered in this regard, but this is usually done when the language is vague, and in this case, the language is very clear what is allowed.

Sikkema indicated that if they did a Zoning Amendment, all residential waterfront would need to be notified – Woodward indicated that if it is over 14 properties they would not need to be notified individually – notification would be done through the newspaper. Sikkema didn't feel that was very fair.

Woodward indicated that through a zoning ordinance amendment, they could make such fences in front of waterfront homes a Conditional Use requiring Planning Commission review – their standards are a little more flexible. Woodward indicated this would just require a change to the "Fence Section" of the Zoning Ordinance. Sikkema indicated that this would take some time – possibly 6 months.

Meister indicated that this is the Master Plan, so it probably is something that needs to be worked out. It will take time to do, and there are lots of other things to be working on.

Sikkema indicated to Hubingers that they could take it to the ZBA, as it could be spring before the Planning Commission is able to tackle it. Woodward will leave the letter and a note for the new Planning Director.

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

Meister thanked Woodward for all the high-quality, excellent work that she had done. He

is sorry to see her leave.

Smith thanked Woodward and was sorry to see her leave.

Sikkema was sorry to see Woodward go. He was glad to see the list of accomplishments in her resignation letter, as sometimes you tend to forget what has been accomplished.

Ventura thanked Woodward for the things that were “outside of the box” or “inside a garden fence”.

Mahaney enjoyed have Woodward at the Township, and stated he has learned a lot from her, and it will be hard to fill her shoes.

Woodward expressed that she will miss them, also.

#### **XI. DIRECTOR’S REPORT**

Woodward indicated that she had put information in the packet on the Citizen’s Planner program. It will start on September 29 from 6 – 10 PM. This is in the budget and a good opportunity.

Sikkema and Ventura asked about the grant for the trail. Woodward stated that she had sent memos to the Board to see what they would like to do. The option they chose was to construct the trail by Cherry Creek School. Part of this decision was based on the possibility of being able to get additional money from the Safe Routes to School funding. Woodward also indicated that the Township had received more money from the grant than originally anticipated.

#### **XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

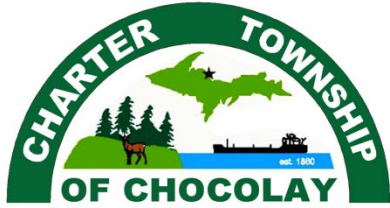
#### **ADJOURNMENT**

Sikkema adjourned the meeting at 8:35 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister



**Planning Commission**  
**Charter Township of Chocolay**

5010 US 41 South  
Marquette, MI 49855  
Phone: 906-249-1448 Fax: 906-249-1313

**There are no minutes for the meeting on October 19, 2015.**

**The meeting was cancelled.**

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 16, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Bruce Ventura, Kendell Milton, Tom Mahaney (arrived at 7:03)

*Members Absent:* None

*Staff Present:* Thomas Murray (Planning Director/Zoning Administrator), Dale Throenle (Community Development Coordinator), Steve Lawry (Township Manager), Suzanne Sundell (Administrative Assistant)

**II. MINUTES**

**September 21, 2015**

*Motion by Ventura, seconded by Meister, to approve the minutes as written.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

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

*Motion by Bohjanen, seconded by Ventura, to approve the agenda as amended (deletion of "Item VIII.C Update / discussion on Dollar General Access" as petitioner had asked to be removed).*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Jon LeGalley, 132 Brewer Drive stated that he would like to comment on the Smith property by Chocoday Downs. He brought along a petition that was signed by many of the neighbors against the changing of the zoning from Residential to Rural Development. He feels doing this will bring in lower income houses, which would reduce the property values of current homeowners. There is also a water table issue, and the fact that they may be building a road right by hole #1 of the golf course. LeGalley does not see a need for it – the Township has Gitchee Gumme Campground a couple of miles away which is never full, and there is Silver Creek Trailer park which has open pads.

Ron Bennetts, 116 Chocoday Downs Dr. – (handed out a letter to all Commissioners). Bennetts is concerned about his property value. If a road was to come through the area, there would be increased noise and travel, especially with large trailers. There are also concerns about sewage from the potential drain field that will need to be put in to support this. He feels there would be a number of homes along the headwaters of the Chocoday River that would be affected by this. There are already issues with the drinking water in

that area, so this would also need to be addressed. Restated that the big concern is property values – Bennetts does not feel something like this is needed or something that the homeowners in the area want.

Candee Varvil, 144 Brewer Drive – she was one of the first to build in that area. Part of the reason for building there was that she felt it was going to be a very nice, upscale sub-division, with single family homes and condos. Varvil has the same concerns about the decrease in her property value. Varvil stated that she has traveled a lot during the winter, and has stayed at many of the 55+ campgrounds and mobile home parks. The reason you don't see them up here is because people have tried them, and they have failed. She feels the type of places that people want to go to have clubhouses with amenities, such as dining, dancing, swimming pools, etc. She feels this would not be added to Smith's property, as it would not make sense. Varvil encouraged the Commissioners to drive down that road at night, or for that matter during the day, when someone would be teeing off there. Varvil also wondered about the access, as she thinks the easement was only granted to the Barbierre family. Varvil foresees many problems, especially related to the campground portion with people in and out. Most people who do camping in the U.P. do not stay in one place for two – three months at a time. Varvil would envision that people showing up there would only be staying a night or two, which would add to the traffic.

April Koski, 127 Brewer Drive – Koski is highly opposed to having a mobile home park in their community. Koski feels that she lives in a pretty upscale neighborhood in Chocolay Township. With the mobile home park, traffic would increase and the value of the homes would decrease.

Henry Bothwell, 110 Chocolay Downs Drive – Bothwell is a relatively new resident in Chocolay Township. They bought their house a couple of years ago on the golf course, as it was a quiet community with a great environment for him and his family. Bothwell is concerned about the traffic and the easement. The easement was designed for residents and members of the golf course. Bothwell is not supportive of the Smith proposal. He hopes that the Commission will look at all the issues. His understanding is that nothing has been submitted by Smith, as yet. Bothwell feels that this would dramatically alter the intent of a no outlet road, and a departure from the original intent.

Public comment was closed.

## **V. PUBLIC HEARINGS**

### **A. HO-15-02, PID 117-062-00, 168 Sandy Lane, Schlorke, Home Occupation**

Tom Murray opened by explaining the application. This is a pretty straightforward request for a Type 2 Home Occupation to use one of the bedrooms in her single family dwelling to operate a medical Qigong treatment room. The area to be used is 170.5 sq. ft. There have been no calls or communications received at the Township office. Murray has given the Planning Commission the Ordinance Requirements for Home Occupations in his Staff Analysis.



Sikkema asked the applicant, Tammy Schlorke, if the operation was contained within the home. She stated it was. Sikkema asked how many clients per day would be expected. Schlorke indicated there would be 2 – 3 clients per day. Schlorke explained that she does medical Qigong, which focuses on the entire person – mind, body, spirit, emotions. The sessions usually last 1 ½ - 2 hours, so she would anticipate approximately 10 clients per week.

Mahaney asked if this is a new business or is it an existing business. Schlorke indicated that she had looked at a couple of places in Marquette for leasing, but they did not give her the quiet and calm that was needed for her clients. Schlorke started about a year ago seeing clients in Marquette, and then did a trial in her home to see if this would work.

Mahaney asked if the business was expected to grow. Schlorke indicated that if it did, she would not anticipate that it would be more than 15 clients per week total. She would only be doing the sessions 5 days per week.

Sikkema asked Schlorke if there would be a problem if there was a limitation on the number of clients to be seen per week. Schlorke indicated it would not be a problem, but she would like to be able to grow to 15 clients per week, if possible. This would be a comfortable number for her.

Sikkema opened the floor for public comment – hearing none, public comment closed.

**B. HO-15-03, PID 118-007-00, 428 Cherry Creek Road, Stanley, Home Occupation**

Murray opened that this request is for an accommodation of a Type I Home Occupation with a very small portion of the home being used as an office and minimal food deliveries. An additional correspondence memo from Scott Stanley, which was received just prior to the meeting, has been placed before the Commission. There is also correspondence in the packet from Doug and Celeste LaBar, in opposition to the Food Truck.

All the food preparation will be done in the truck, with the truck proposed to be parked in the driveway. Murray has not seen the truck in operation yet, but there is a barbeque operation located on the back of the truck, which is why the truck is extended by an extra 3 ½ feet. The curing of the meat will be done in the truck, and this has risen some concern with residents. There is a requirement in the Ordinance that states no fumes shall be detected outside the property lines. Murray has some concern that depending on the wind direction, the fumes will leave the property lines.

Sikkema opened public comment.

Doug LaBar, 415 Wildwood Drive – LaBar and his wife are concerned about the fumes and possible noise. They are concerned that the smells and food waste will attract insects and vermin.

Frida Waara, 309 Lakewood Lane – Waara is the Real Estate Agent for Scott

Stanley / Keith Kepler. Waara has done some pretty intensive chats with the potential homebuyers, and she wanted to point out that this is not a barbeque operation, it is a smoker operation. The operation is contained in an insulated environment, which is where meat is for an 8-hour period while the smoke rotates. The cooking aromas are very minimal, and they are operating within the truck. The real reason for being before the Planning Commission is because the truck is 28.5 feet long, and the longest allowable is 25 feet. The extra 3.5 feet is the smoker operation that is contained on the truck. Waara also pointed out that the prospective homeowners have been looking to relocate back to the Upper Peninsula because of family, and she has been working to find a home that suits their needs for family and business.

Public Hearing closed.

## **VI. PRESENTATIONS**

None

## **VII. NEW BUSINESS**

### **A. HO-15-02, PID 117-062-00, 168 Sandy Lane, Schlorke, Home Occupation**

Ventura indicated that this seems like a pretty straight forward home occupation use, with little or no impact to the surrounding neighbors. There would not be any traffic impact. The house sits back from the road, so is pretty isolated.

Bohjanen also stated that due to the nature of the business, the three cars that would be there during the day would not all be there at the same time, as this would be a one-on-one practice.

Sikkema asked if there should be a cap on the number. Meister indicated that he would not want to limit it any more than anyone else, such as barber or beauty salon businesses.

*Moved by Bohjanen, seconded by Ventura, that after review of Application #HO-15-02 with attachments for applicant Tammy L. Schlorke located on parcel #52-20-117-062-60 at 168 Sandy Lane be approved as presented per the staff report dated November 16, 2015 for a Type II Home Occupation consisting of a Qigong treatment room.*

Ayes: 7      Nays: 0      MOTION CARRIED

Ventura also indicated that given the nature of the treatment that Schlorke provides, he does not feel there would be a need to put a cap on the number of clients per day.

### **B. HO-15-03, PID 118-007-00, 428 Cherry Creek Road, Stanley, Home Occupation**

Murray pointed out this is almost a variance – the Ordinance does allow for a 16,000 G.V.W. truck, with a maximum of 25 feet in length. The proposed food truck is 18,500 G.V.W., with a length of 28.5 feet. Murray pointed out the proposed location

(which is in the driveway) of the truck on the screen display. Murray had asked the applicants about alternate parking, but the access and elevation of the property would prevent parking anywhere other than adjacent to the garage.

Sikkema indicated that Section E.2 of the Ordinance states, "*All work areas and activities associated with the home occupation shall be located either inside the dwelling or in an accessory building.*" He feels that if they are working inside the truck, this would not be consistent with the Ordinance. Sikkema also cited Section E.1, which states "*Restaurants ... are prohibited as home occupations in all districts.*" Sikkema indicated that catering is a permitted use, and this was more likely to fall under that category, as they would not be serving food out of their house.

Regarding the size of the truck, Sikkema referred to Section 6.11.C, which states "*Any larger commercial vehicles or equipment, or more than one (1) vehicle as specified in Item B above requires review and approval by the Township Planning Commission under the Home Occupation provisions of the Ordinance.*" Sikkema indicated that this would not be a ZBA or variance issue.

Ventura indicated that it is also stated in the Ordinance that there should be no evidence of the Home Occupation as viewed from the street, and this would obviously be viewed from the street, with the truck parked in front of the garage, 30 ft. off the street.

Bohjanen indicated that he thought the concept of no evidence would be like signs, where this would be no different than someone working for Swick's Plumbing and Heating and keeps his van parked in the driveway. Sikkema indicated that it would be the same for someone that did carpentry work at his home, and parked his company truck in the driveway. The only thing different with this one is that some of the work will happen in the truck. In this case, you would have to disregard the portion that says all activities will be inside the dwelling or accessory building.

Ventura also discussed the portion of the Ordinance that relates to no odors leaving the property. It does not say whether it is pleasant aromas or noxious fumes, just odors detectable to normal senses.

Sikkema asked if the applicant was in the room – Scott Stanley's wife responded. She indicated that the smoker was run by propane, with a couple of pieces of wood added. There would be very minimal fumes, and no charcoal would be used.

Mahaney asked about home deliveries of their supplies. Mrs. Stanley indicated that this has not all been worked out yet.

Ventura asked how many pounds of meat would be worked with in a day or week. Mrs. Stanley indicated that she had no idea.

Mahaney asked if the smoker is contained in the truck. Mrs. Stanley indicated that it was. She explained that the smoker looks like a refrigerator – it is fully contained and insulated. Keith Kepler (father-in-law) also stated that there is just a tiny bit of wood put in for flavor – the heat is from propane.

Ventura questioned the Conditional Use application – the name on the first page shows the owner as Patricia Laine, but is signed by Keith Kepler. Ventura wondered how this all fit together. Murray explained that the actual truck belongs to Scott Stanley, the property is currently owned by Patricia Laine, and Keith Kepler is the father-in-law who is financing the property. Ventura questioned who is actually getting the permit. Murray stated that Stanley would have the actual permit.

Sikkema stated that this has come up before, and it was decided that the person getting the permit should sign it as agreeing to the provisions of the permit.

Celeste LaBar, 415 Wildwood Drive – she is concerned about the aroma / odor that they would have to smell daily.

Mahaney asked for clarification of the application – it looks like the homeowner, Patricia Laine, is applying for the permit, but yet someone else is operating the business. Mahaney stated that this would be non-transferrable, so would they need to apply again. Murray stated that if the application is approved, the owners and operators will be one and the same, because the sale would take place immediately. Ventura stated that if the permit is approved, the Planning Commission would need to put a condition on it to straighten out the permit. Sikkema asked if the Conditional Use Permit is what is needed to be able to park the truck there. There seems to be two different things going on – one deals with the approval for parking the truck and the other is a Home Occupation, so there needs to be a Home Occupation permit. It was decided that Stanley would also need to fill out a Home Occupation application. Murray stated that the information on the Home Occupation and Conditional Use were similar and will suffice for now.

Sikkema stated that the approval of a Home Occupation would deal with the office inside, and then there is the issue of the oversize truck, which is just an approval.

Mahaney asked for clarification on if the Planning Commission was just approving the truck parking now. Murray stated that this is for permission to park the truck, along with a Home Occupation that is somewhere between a Type I and Type II. Sikkema indicated they would be looking at approving a Type II Home Occupation, along with the parking for an oversize truck. Mahaney asked if the Home Occupation could be approved without the actual application filled out. Sikkema indicated that it could be a condition of approval in the motion. Bohjanen stated that the information is all on the Conditional Use application, and would just need to be transferred to the Home Occupation application.

Sikkema indicated the Planning Commission will deal with the Home Occupation first, and then with the oversize truck.

Sikkema stated that this would not be an accessory building, even though it had been suggested that it was a “movable” accessory building. Smith felt this would be the same as building cabinets in your garage and then putting them in your truck every day. Mahaney questioned if there was a cooking odor – it may not be

offensive, but if you have it on a daily basis it could become offensive. Mrs. Stanley indicated that there was a Plan B, that if the odor became offensive they would have to look into cooking during the day. The only problem is that it can only reheat once, so it could only be used the next day, whereas if you are cooking at night it is ready for that day, and could still be reheated the next day.

Ventura stated he was torn because the woodstove that he heats with at home probably puts out more smoke than the truck would, and his neighbors may consider it offensive, but it is legal.

Bohjanen suggested that since there is a Plan B, the Home Occupation could be approved with a condition.

Sikkema stated that the only reason this is coming up is the cooking aspect – the fumes that may or may not be there, and the fact that it is not contained in an accessory building or within the dwelling. Meister indicated that catering is allowed as a suggested use for Type II Home Occupation.

Mahaney asked if the long term plan is to continue to park and cook in the driveway. Mrs. Stanley indicated that is what they are planning, rather than a brick and mortar building. They would also want to keep it a family business. Kepler indicated that Stanley is not sure if there will be noticeable odors – there will only be a little wood put in, it is propane cooking, and the truck is really well sealed.

*Moved by Bohjanen, seconded by Milton, that after review of Application #HO15-03 for applicants Scott Stanley and Keith Kepler for parcel #52-02-118-007-00 at 428 Cherry Creek Road, having been found to meet all required conditions of approval be approved with the following conditions:*

- 1. The 28.5' commercial vehicle be parked as close to the existing garage as possible to ensure maximum clear vision on Cherry Creek Road.*
- 2. In the event there are substantiated complaints that unacceptable odors are occurring from the cooking / meat smoking operation, the Home Occupation permit would be revised to not allow cooking or meat smoking on the premises.*
- 3. Approval is contingent on appropriate application for Home Occupation by Scott Stanley.*

Ayes: 5      Nays: 2 (Sikkema, Ventura)      MOTION CARRIED

Meister suggested that vehicle size be addressed in the Ordinance at some point.

**C. Silver Creek Road extension to County Road 553**

Murray stated that this item is for review only. Sands Township is looking to extend Silver Creek Road from Teaching Family Homes to M-553. The proposal is to improve it with a gravel based road according to County requirements. This

would be good for both Sands Township and for Chocolay Township as a second outlet. Dale Throenle explained the aerial photo and where the roads would be.

Sikkema thought it would be a road built to County standards, and then be maintained year round. Ventura questioned how this would affect Teaching Family Homes, with buildings on both sides of the road.

Steve Lawry, Township Manager, stated that this goes from Teaching Family Homes to M-553, and he prepared this based on a request from the Sands Township Supervisor as a courtesy for any comments or concerns as they go through the planning steps for this project. One of the concerns from the Police Chief was the speed limits. There may be a need to do a speed study on the proposed road to see if it warrants posting lower speed limits. The proposed road crosses land owned by Sands Township, Marquette County, and a portion crosses the Heartwood Forest property. Sands Township and the County already have a 100 - 150' easement across the two parcels that Heartwood Forest owns. Sands Township does want to make sure that it is maintained as a gravel surface to discourage cut through traffic from M-553 to US-41 and to control speeds. The other factor is that Sands Township budget would not allow them to pave. Sands Township has had preliminary discussions with the Marquette County Road Commission engineer, and if built to Road Commission standards the Road Commission would be willing to accept ownership of that road with the gravel surface on it.

Smith asked if the current speed limit on Silver Creek Road is 35 mph. Lawry stated he had not heard back from the Chief, but felt there were no posted speed limits over there. **If there are no posted speed limits, the speed limit is 55 mph.** Ventura indicated that it was posted 35 mph by the Sands Fire Hall. Lawry indicated that most of the road is not in Chocolay Township, so it would not be under our jurisdiction, but it would be much easier to get it posted before the road is complete. Lawry indicated that there were some curve issues and grade issues, as well as setbacks from the roadway.

Lawry indicated what he needed from the Planning Commission were any comments that they may have. The same offer will be made to the Township Board on their December 2 meeting, and any comments made by the Planning Commission will be forwarded to them.

Sikkema indicated his concerns would be the Township residents that live on Silver Creek Road – he feels that the Township should hold a Public Hearing, conduct a survey, or both to find out what the residents think. The need is probably there more for Sands Township, than for us.

Lawry indicated that this is more of a courtesy from Sands Township – the Chocolay Township residents will probably not see much use for it, unless they were going to the ski hill. He feels that Sands is looking for this mainly for safety concerns, especially with firefighting and location of the fire trucks. There may also

be police concerns.

Sikkema asked about keeping it gravel – was this a Chocolay Township concern or a Sands Township concern. Lawry indicated that it was a Sands Township concern, and he felt that County Road 480 would still be the route of choice, as the proposed extension would be longer, curvier, and more of a problem to drive.

Sikkema stated that it might be a benefit to Chocolay Township to have the road paved. It would not only give Chocolay another access out, but it might alleviate some of the traffic on Silver Creek Road when going to Marquette. Sands may want to consider this when going through their study.

Lawry pointed out that there are two forest management parcels that the road would go through, and if the properties are sold, a developer may potentially push for paving. Lawry also indicated there were other potential outlets, such as Timber Creek, which is behind the Sands Fire Hall.

Smith indicated that he grew up on Silver Creek Road, and likes the idea of having another outlet. He doesn't see why it would generate more traffic on Silver Creek Road, or the worry about a cut across road, as not everyone would be cutting across at the same time. The majority of people using it would be traveling to the ski hill, or people that lived at the Crossroads to get to US 41. Smith is for the road. His first concern would be speed limits on the road.

Milton indicated that he thought this was long overdue.

Bohjanen likes the idea.

## **VIII. UNFINISHED BUSINESS**

### **A. Update on the adoption of amendments to Ordinance #55 Vehicle Parking and Storage**

Murray stated there will be more review on this at the next Township Board meeting on December 2.

Sikkema indicated that in the November 4 draft minutes of the Township Board that there were public comments that prompted the need for questions in writing. Also, on page 8, the Township Board will be reviewing questions prepared on this decision at their next meeting, and then make a decision to either continue or send it back to the Planning Commission.

Bohjanen indicated that it was agreed at the Board meeting that there would be specifics answered in response to D. Arnold's comments, but looking through past meetings it appears that these have been addressed many times. These questions / comments will go back to the Township Board for further comment.

**B. Update on access to Smith parcel**

Murray indicated that this is strictly informational. The first item is a communication from Kendricks Bordeaux law office stating there is no easement. The following piece of information was brought to the office by Andy Smith for his father, which is a letter from O'Dea, Nordeen and Burink, P.C. to Laura Katers-Reilly of Kendricks Bordeaux. It is not necessary to make any decisions on this. Murray feels that this is for the attorneys to work out, and then we can begin to review the property if there is a proposal.

Sikkema asked if there were things that the property owner could do for development that would not require approval from the Planning Commission.

Murray indicated that at this point, there should have been a Zoning Compliance permit and a Grading permit, both of which have not been applied for. These would have covered the pad that is placed on the property, the wells, the grading, and the stumping.

Sikkema questioned how much work has been done on the property.

Murray indicated that the area was cleared of trees a number of years ago, and the stumps are being piled now for burning. There are minimal roads put in that are not entirely passable, and a couple of test wells have been put in. The test holes for the septic (PERK test) have been dug. Murray indicated that there has not been any formal proposal given to the Township as yet.

Bohjanen asked if there is some effort being made to make sure they are in compliance with the current zoning. Murray indicated that he had not been on the property yet.

**IX. PUBLIC COMMENT**

Jon LeGalley, 132 Brewer Drive – expressed concern about a conflict of interest for Andy Smith, as he is Paul Smith's son and sits on the Planning Commission. He feels A. Smith should not have a vote or say in this issue.

Candee Varvil, 144 Brewer Drive – had a question about the easement, and her understanding that it was only for the property that Barbierre's owned. Sikkema indicated that was a legal issue between the property owners, and the Planning Commission would not be involved. Murray indicated that as soon as he knows more he will be keeping the Planning Commission informed. Varvil indicated that it seems like a lot of work and expense if he doesn't even have a way to get to the property.

Unnamed person – wondered if there was access to Mangum Road from this property. Murray stated there may be possible access on Gordon Road off of Kawbawgam Road – possibly County Road BU.

A. Smith indicated that if there was any voting action on the Smith property issue, that he



would be abstaining from the vote.

**X. COMMISSIONER'S COMMENT**

Mahaney – none

Smith – none

Ventura – wanted to comment that Tom Murray is filling in, and came in the middle of the process concerning the food truck – glitches are understandable.

Milton – none

Bohjanen – none

Sikkema – thanked both Tom Murray and Dale Throenle for stepping up as the Township is working to fill the vacant position.

Steve Lawry, Township Manager, wanted to clarify that before Murray started, he was the one filling in and had suggested the applicants with a food truck fill out the Conditional Use permit. Murray indicated that all the same information would have been required.

Sikkema asked for an update on the Planning Director / Zoning Administrator position. Lawry indicated that we are running a couple of parallel courses right now – the Board of Trustees has authorized Tom Murray to fill the position temporarily on a part-time basis for up to 6 months, while the Township continues to advertise. Murray is familiar with Chocolay Township, and has done this type of work for the City of Marquette. While Murray is here he is working with Dale Throenle on the procedures as well, so Throenle would be one of the candidates looked at. There may also be some changes in staffing in-house to see what would provide the best option.

**XI. PLANNING DIRECTOR COMMENT**

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 8:30 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, December 21, 2015

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Bruce Ventura, Kendell Milton, Tom Mahaney

*Members Absent:* None

*Staff Present:* Thomas Murray (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

**II. ELECTIONS**

*Motion by Smith, and seconded by Mahaney to nominate Sikkema for another term as Chair.*

*Vote Ayes: 7 Nays: 0 Motion Carried*

*Motion by Meister, and seconded by Sikkema to nominate Smith for another term as Vice - Chair.*

*Vote Ayes: 7 Nays: 0 Motion Carried*

*Motion by Mahaney, and seconded by Smith to nominate Meister for another term as Secretary.*

*Vote Ayes: 7 Nays: 0 Motion Carried*

**III. MINUTES**

**November 16, 2015**

*Bohjanen questioned at the bottom of Page 1 where it refers to the "headwaters of the Chocolay River". It was confirmed that this was taken off the audio tape.*

*Motion by Bohjanen, and seconded by Ventura, to approve the minutes as written.*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

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

*Motion by Ventura, and seconded by Bohjanen, to approve the agenda as written*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

**V. PUBLIC COMMENT**

None

**VI. PUBLIC HEARINGS**

Combined with New Business

## **VII. PRESENTATIONS**

None

## **VIII. NEW BUSINESS**

### **A. ZA-0001-15, 141 Maple Road, PIN# 52-02-018-035-00**

#### **Staff Introduction**

Murray recapped the Staff Analysis. Included in the packet materials are the application and cover letter, 5 pages of survey information, legal descriptions of separate parcels along with a combined legal, information from Marquette County Health Department, site and soils evaluations, and PERK test. There is also a communication from Township Manager, Steve Lawry, regarding the Marquette County Road Commission right-of-way. This right-of-way is an “over and across” right-of-way, which means the right-of-way could possibly move a little bit over the years. Milton indicated that the road will commonly follow the section line, with the section line being a theoretical thing, so it could possibly wander off the section line. Murray went on to explain the maps that were included in the packet, including the wetlands map. Murray reiterated that the staff analysis talked about the proposed building site, and proposed use of the property. Murray indicated that this should not be part of the decision – after the decision is made, the property owner can use the property for any one of the permitted uses in the district.

Murray indicated he had received two phone calls asking questions about the rezoning, but neither one was opposed.

Murray stated that, if approved, the information would then go to the Marquette County Planning Commission as a courtesy for their comments, and then to the Township Board for first and second readings.

Sikkema asked if the rezoning was specifically requested to allow for the combination of the two properties into one parcel. Murray indicated that the building setbacks in the AF and the WFR district are different, so the same zoning would provide for consistency. Sikkema also stated that this would be of benefit if the applicant would ever want to build an accessory structure.

#### **Public Hearing**

Nathan Hoffman, 625 Lakewood Lane – Hoffman is the owner of the property. Hoffman indicated that the primary reason for wanting to combine the parcels is setbacks. By combining the parcels, they would be able to move their house up the hill, which would allow a better view. Mr. Brown is the largest land owner of surrounding properties. According to an email received from Brown, the two parcels had been combined at one time and then split. A copy of Brown’s email was given to the Planning Commission, voicing support of the parcel combination. Hoffman has also been in contact with the Marquette County Road Commission regarding snow removal. The previous owners had a “handshake” agreement. Hoffman is working with the County to get a legal easement. The driveway skirts around the plow truck

turnaround, so the easement would allow the County to move snow, and would also allow Hoffman to move it elsewhere. He has talked with neighbors, and has not received any negative comments. Hoffman has done a considerable amount of work on the property. He also has a Soil Erosion permit to make sure that the potential build site was okay.

#### Discussion

Mahaney stated that it looks pretty straight forward.

Meister indicated that the property in AF is a non-conforming lot, with only 2.75 acres, so this would be a bonus in eliminating a non-conforming parcel.

Hoffman also indicated that all three test sides for septic were positive.

Ventura indicated that he also thought the request was pretty straight forward. He feels that the Staff Analysis is right on. It makes sense to combine the parcels.

*Moved by Ventura, and seconded by Bohjanen, that after conducting a public hearing, review of the staff analysis, application for rezoning case #ZA-001-15 for 141 Maple Road, the Planning Commission finds that the proposed rezoning **is consistent** with the goals of the 2015 Master Plan, and hereby recommends that the Township Board **approve** ZA-001-15 as presented.*

Ayes: 7            Nays: 0            MOTION CARRIED

Milton questioned if Hoffman would be providing a plow turnaround, and if so would it be at the top or bottom of the hill. Hoffman indicated that it would be at the top of the hill. This is where Hoffman is willing to give a legal easement. The driveway will come in on the 2.75 acres. Hoffman indicated that there are several options that could be explored.

#### **B. Discussion – #35 Firearms Ordinance**

Murray indicated that this was brought to him by the Township Supervisor. The Ordinance appears outdated, with the biggest problem being in Section 3 (f) referring to the old zoning districts and LS-R (Lake Superior – Residential), but does not include the new zoning of WFR (Waterfront Residential). LS-R included just Lake Superior – Lakewood Lane. WFR also includes the parcels along Kawbawgam Lake, which were AF before the rezoning. The restricted firearm zone would include the Kawbawgam Lake area, which is a popular duck hunting area. Lake Levasseur is not designated as WFR, so you would still be able to hunt there.

Murray stated that the map indicates that only parcels zoned AF would be able to discharge firearms. Murray had also given the Ordinance to the Police Department, and they indicated that it did not include pneumatic guns. Pneumatic guns are not like they once were – they are extremely high powered. The only other changes in the Ordinance would be correcting a few typographical errors. Murray indicated that this was just at the discussion stage, and he was looking for comments from the Planning Commission.

Sikkema indicated that the Ordinance does not prohibit the use of guns, but prohibits the guns within 500 feet of any building. Murray indicated that there is also a provision in the Ordinance which states that consent of property owner is needed.

Sikkema indicated that Section 4 (a) and (b) that the first one is a general statement, and the second refers to the Restricted Zone.

There was much discussion concerning pneumatic guns, such as paintball guns and pellet guns used for pest control. Murray stated that the only time the police would get involved is when you start shooting across someone else's property.

There was some concern about Kawbawgam Lake being in a Restricted Zone and the number of people that duck hunt there. Sikkema pointed out that a shotgun with birdshot is not prohibited.

Sikkema indicated that State Law should be checked regarding the 500 foot restriction – he thinks the State only requires 450 feet – to be consistent. Bohjanen also stated that maybe a better indicator of the type of weapon would be a “muzzle velocity” (i.e. a BB gun has a muzzle velocity of 100 feet per second, versus a rifle that has a muzzle velocity of 800 feet per second or more).

Sikkema also indicated that there are residential properties that are zoned R-1 and R-2 and have 40 acres, but you would not be able to shoot a handgun or rifle.

Ventura indicated that he has had experience with persons shooting across his property, but other laws would be able to take care of that problem – things such as game laws – shooting geese with a pneumatic gun. Ventura also indicated that some of the pneumatics of today have a muzzle velocity approaching that of a 22 cal. short. Murray indicated that it will also go through siding and penetrate into the OSB, as he had an experience with this.

Meister also indicated that he did not want to put a restriction on a PUD plan. Murray will rework the wording.

The Planning Commission decided that if there are no complaints on pneumatics, there would be no reason to change the ordinance to include pneumatics at this time. Murray will make zoning changes, check on State Law for restrictions, and make clerical corrections.

**C. 2016 Meeting Schedule – review and approval**

The Planning Commission was given a copy of the meeting dates for 2016 – 3<sup>rd</sup> Monday of the month at 7:00 PM.

**IX. UNFINISHED BUSINESS**

None

**X. PUBLIC COMMENT**

None.

## **XI. COMMISSIONER'S COMMENT**

Mahaney – none

Meister – none

Smith – none

Sikkema – none

Ventura – extended Holiday greetings

Milton – none

Bohjanen – none

## **XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

The Planning Commission addressed the correspondence that had been received from Trustee Maki, for comments from the Planning Commission and response by Murray and Sikkema. Sikkema indicated that some of these items may have been dealt with before, and some things are not a Planning Commission issue. Bohjanen indicated that many of the things that are on the list require research.

Issues:

### **1. Our previous Assessor granted several land division which were not in compliance with the State Land Division Ordinance and the Township Land Division Ordinance.**

The Planning Commission does not have any involvement with this.

**I am also requesting a complete list of all land divisions approved since 1997.**

Does this list exist? The information may be available for specific parcels. It was determined a list does not exist. Questions on specific parcels can be looked at.

**I also think that land divisions approval should be done by the Township Board.**

The Planning Commission has no control on this. Murray indicated that he thinks what Trustee Maki is referring to are lot splits for platted lots, and these are approved by the Township Board.

### **2. Access Provisions**

Sikkema indicated that this happened before the current Planning Commission. Ventura questioned the four lot access on an easement. Murray indicated that it could be done. The Planning Commission determined that this was just a statement and no response was needed.

### **3. Contractors Yard in AF Zoning District**

This has been addressed previously – just a statement, no response required.

### **4. Contractors Yards and Mini-Warehouses**

This has been addressed previously – no response required.

**5. Flashing Signs**

This is an enforcement issue. Staff has been asked to review. The five signs include Togos / Michigan Made, Wetmore Hydroponics, Moyle buildings, Welcome Center, and the computer repair shop. Murray has talked with all businesses, and this has been resolved.

**6. Display the Zoning Ordinance Map**

There are two located in the Township Hall Meeting Room – and there would also be one shown on screen if need in a presentation.

**7. Ordinance #55 – Junk vehicles**

Smith indicated that this was discussed by the Planning Commission for a number of months. There was a question as to why Trustee Maki did not show up with public comment during that time. On the leakage, we can only take action if you know about it.

**8. Groundwater Contamination**

Ventura indicated that this had been responded to – there was some type of device put in to skim off the oil on the water.

**9. Enforcement of Planning Commission and ZBA Decision**

This is not a Planning Commission job.

**10. Vacation Rentals**

The Planning Commission does not do enforcement.

**11. Zoning Ordinance Violations and Nonconforming Uses**

**a. Does the Township have a list of zoning violations that it is working on?**

Yes, there is a list

**b. Does the Township have an inventory of nonconforming uses?**

This does not exist.

Murray will look at previous correspondence and put something together. He will put together a short letter to let Trustee Maki that the fax has been received and discussed for Sikkema to sign.

**ADJOURNMENT**

Sikkema adjourned the meeting at 8:10 p.m.

Submitted by:

---

Planning Commission Secretary  
Eric Meister